

# ERISA Checklist

1. **Do you offer ERISA Health & Welfare benefits for your employees?**  YES  NO  
*(i.e. health, dental, vision, life, AD&D, employer-paid LTD and/or STD, severance insurance policy, Wellness/EAP, and/or voluntary benefits that are pre-taxed under a 125 plan)*
2. **Do you have an ERISA plan document?**  YES  NO  
*If yes to #1 above, ERISA Title I requires that the Employer/Plan Sponsor must have a written Plan document in place even if they offer one or more of these benefits to only 1 employee or 2000 employees.*
3. **Do you have an SPD (Summary Plan Description)?**  YES  NO  
*ERISA requires that all participants receive an SPD. Participants can be awarded \$110 a day penalty assessment for each day he/she fails to receive an SPD after requesting one in writing.*
4. **If yes to #3, have you distributed the SPD to each participant within 90 days of his/her first day of coverage?**  YES  NO  
*Most Employer/Plan Sponsors assume that the explanation or certificate of coverage from the insurance carriers meet these requirements. They do not. A separate ERISA SPD must “wrap” around the certificates to meet ERISA documentation requirements.*
5. **Have you ever amended your ERISA Plan Document/Summary Plan Description?**  YES  NO
6. **If yes to #5, did you provide an SMM (Summary of Material Modification) to your employees?**  YES  NO  
*ERISA requires an SMM be distributed to all participants when there is a material change to the benefit plans such as carrier change, eligibility change, benefit structure change, etc.*
7. **If you have over 100 enrolled participants in any benefit, have you ever filed a Form 5500 with applicable schedules?**  YES  NO  
*ERISA imposes an \$2,140 (adjusted) day penalty for each day this filing is late. Penalty exposure is very large as they are cumulative for each late or unfiled from 5500, each plan and each plan year.*
8. **If yes to #7, have you ever completed and distributed a SAR (Summary Annual Report) Report)?**  YES  NO
9. **Have you ever been subject to a DOL audit?**  YES  NO  
*Audits can be triggered through a DOL investigation reported through other agencies (IRS), through review of form 5500 filings and most often through employee reporting or lawsuits.*
10. **Have you ever had an employee file a claim for violation of his/her ERISA rights?**  YES  NO
11. **Do you have other ERISA plans such as a 125 plan with FSAs (flexible spending accounts) or HRAs (health reimbursement accounts)?**  YES  NO  
*Health FSAs and HRAs are also ERISA plans and must meet the same documentation and filing requirements.*
12. **If yes to #11, do you have separate ERISA plan documents and SPDs and have they been assigned ERISA plan numbers?**  YES  NO

Did you check YES to questions: 1, 9, 10 or 11 or NO to questions: 2, 3, 4, 5, 6, 7, 8 or 12?  
If so then you may be in violation of Title I of ERISA that governs Health & Welfare Benefit Plans.



Administrative Solutions, Inc. can help today! ▶ ▶ ▶

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