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Recent Rulings for Multiemployer Plans

Washington, DC

Final Rule for Multiemployer Plans' Financial Reports

Effective April 1, 2010, the Department of Labor (DOL) now requires multiemployer plan sponsors to provide any financial and actuarial reports upon request to plan participants, beneficiaries, employee representatives, and contributing employers. If the multiemployer plan sponsors fail to provide this information, they will risk a civil penalty of not more than \$1,000 a day for each violation.

Some of the reports which, upon request, must be provided within 30 days are:

- Any recurring actuarial reports given to and held by the plan for 30 days or more.
- Any quarterly, semiannual or annual financial reports prepared for the plan by any plan investment managers, advisors or other fiduciary which have been in the plan's possession for at least 30 days.
- Any application for funding relief to the US Treasury Secretary regarding minimum funding standards.

Also required:

- If the requested information cannot be provided within 30 days, plan sponsors must notify the requestor of the delay.
- Furthermore, the final rule states that a plan's summary plan document is an appropriate manner for notifying the plan's beneficiaries and participants of their rights when requesting information.

Provisions of the Rule

The DOL's final rule includes "reasonable charges" for the plan to provide the requested information. These reasonable charges include postage and no more than \$.25 (twenty five cents) per page for copying. The rule generally does not require disclosure of any individual and proprietary data.

The rule also imposes or requires the requestors must wait at least 12 months after the initial request and receipt of documents to ask for them again. There is a mandatory six year limit for any "aged documents" that may require research going back decades.

In addition, the rule also requested comments for model language to update the statement of ERISA disclosure rights.

If you would like to see the final rule, click here: [Federal Register / March 2, 2010](#)

If you have any questions or need further information, please contact us at info@calibrecpa.com or toll-free at (866) 464-2839. ■

EBSA Ruling Enforces \$1,100 Daily Penalty on Underfunded Multiemployer Pension Plans

Under a final rule published in the February 26, 2010 Federal Register (75 Fed. Reg. 8796), a \$1,100 per day civil penalty could be imposed by the Department of Labor's (DOL) Employee Benefits Security Administration (EBSA) on any multiemployer

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pension plans with a critical or endangered funding status that fail to institute mandatory funding improvement and rehabilitation plans. This rule was initially proposed on September 4, 2009 (74 Fed. Reg. 45,791) and no changes were made to it.

The final rule explains how:

- penalty amounts are determined;
- a penalty may be levied; and
- the administrative hearing procedure for plan sponsor's appeals of assessed penalties.

In addition, the rule offers procedural criteria for department and plan sponsor filings. It also states that liability for the penalty is "joint and several." This indicates that any trustee of the plan can be held accountable for the full amount no matter what role the trustee played in causing the violation to happen.

Under Section 502(c)(8) of the Employee Retirement Income Security Act (ERISA), civil penalties assessed by the DOL were added by the Pension Protection Act (PPA). These penalties are related to violations of ERISA Section 305, which outlines additional funding rules for multiemployer plans in critical or endangered status.

The EBSA's final rule will be enforced by March 29, 2010 for plan years beginning on or after Jan. 1, 2008.

To see the final rule, click here: [Federal Register / February 26, 2010](#)

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About Calibre CPA Group, PLLC

Calibre CPA Group, PLLC was founded on a commitment "to provide services of a superior calibre." We believe this is accomplished through personalized attention and an in-depth understanding of our clients' operations. Our firm is staffed with over 80 employees who provide value-added audit, accounting, tax, and consulting services to the tax exempt community.

Our professionals presently serve as independent auditors to over 100 multiemployer benefit plans, 46 single-employer plans, and one public employee retirement system. The employee benefit plans we audit represent a broad spectrum of Taft-Hartley and ERISA plans, including both defined benefit and defined contribution pension plans, retirement, health and welfare, apprenticeship, education, and training funds.

Calibre CPA Group is a member of the American Institute of Certified Public Accountants (AICPA), the AICPA's Employee Benefit Plan Audit Quality Center, International Foundation of Employee Benefit Plans, and KS International, an association of accounting firms around the world who provide business, consultancy, and taxation services.

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