

# Instructions for Form 5500

## Annual Return/Report of Employee Benefit Plan

### Penalties

Plan administrators and plan sponsors must provide complete and accurate information and must otherwise comply fully with the filing requirements. ERISA and the Code provide for the DOL and the IRS, respectively, to assess or impose penalties for not giving complete and accurate information and for not filing complete and accurate statements and returns/reports.

Certain penalties are administrative (i.e., they may be imposed or assessed by one of the governmental agencies delegated to administer the collection of the annual return/report data). Others require a legal conviction.

#### **Administrative Penalties**

Listed below are various penalties under ERISA and the Code that may be assessed or imposed for not meeting the annual return/report filing requirements. Generally, whether the penalty is under ERISA or the Code, or both, depends upon the agency for which the information is required to be filed.

One or more of the following administrative penalties may be assessed or imposed in the event of incomplete filings or filings received after the due date unless it is determined that your failure to file properly is for reasonable cause:

1. A penalty of up to \$1,100 a day (or higher amount if adjusted pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended) for each day a plan administrator fails or refuses to file a complete and accurate report. See ERISA section 502(c)(2) and 29 CFR 2560.502c-2.
2. A penalty of \$25 a day (up to \$15,000) for not filing returns for certain plans of deferred compensation, trusts and annuities, and bond purchase plans by the due date(s). See Code section 6652(e).
3. A penalty of \$1,000 for not filing an actuarial statement (Schedule MB (Form 5500) or Schedule SB (Form 5500)) required by the applicable instructions. See Code section 6692.

#### **Other Penalties**

1. Any individual who willfully violates any provision of Part 1 of Title I of ERISA shall on conviction be fined not more than \$100,000 or imprisoned not more than 10 years, or both. See ERISA section 501.
2. A penalty up to \$10,000, five (5) years imprisonment, or both, may be imposed for making any false statement or representation of fact, knowing it to be false, or for knowingly concealing or not disclosing any fact required by ERISA. See section 1027, Title 18, U.S. Code, as amended by section 111 of ERISA.