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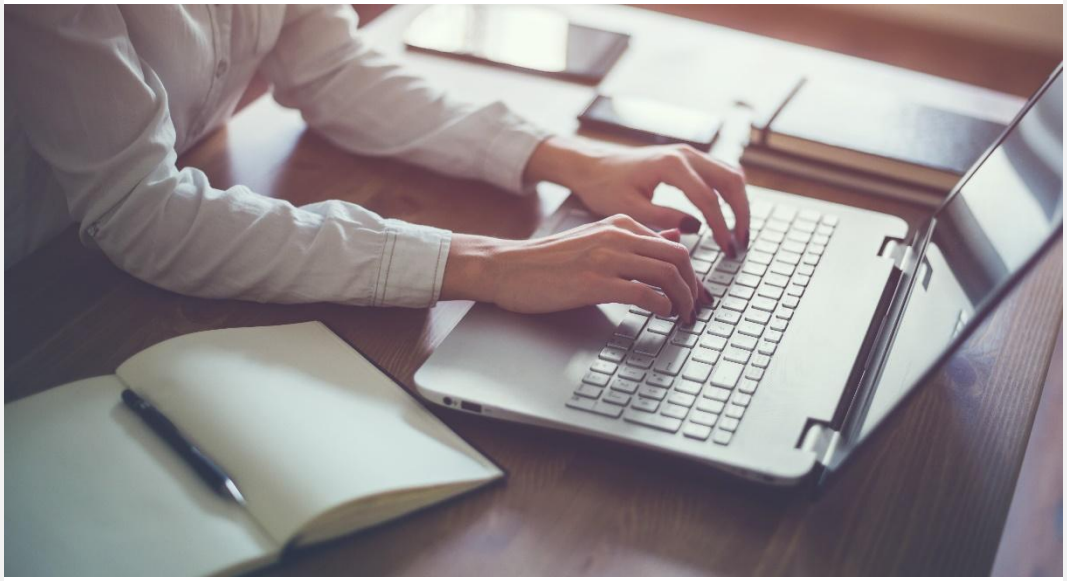

In this Issue:

Upcoming Compliance Reminders for Calendar Year Employee Benefit Plans

June 2026

1st: Prescription Drug Data Collection Reporting Deadline
1st: Request to Use Substitute Mortality Tables in 2027

Note: This is meant to be a reminder of certain upcoming compliance deadlines for employee benefit plans operating on a calendar year basis. It is not an exhaustive list of compliance obligations. Specific plans may be subject to different obligations and deadlines depending upon a variety of factors, including the plan type, plan year, and whether or not the plan is subject to ERISA, among other things.

DOL's Employee Benefits Security Administration Announces Guiding Principles for Enforcement

As part of its shift in enforcement priorities under the Trump Administration, the Department of Labor's ("DOL") Employee Benefits Security Administration ("EBSA") issued a memorandum outlining four "guiding principles" that it will use to ensure that EBSA's enforcement is fair and even-handed.

Background

EBSA is responsible for enforcing many of the key provisions of ERISA, such as the fiduciary and reporting/disclosure rules. EBSA's enforcement programs cover a wide array of issues, including health plan investigations, investigations involving plan participants' rights, and fiduciary investigations.

In January, EBSA announced that it had updated its list of national enforcement projects for 2026. According to that announcement, investigators plan to prioritize cases related to cybersecurity; barriers to mental health and substance use disorder benefits; protecting benefit distributions; retirement asset management; surprise billing; and criminal abuse of contributory benefit plans.

EBSA Announces Four Guiding Principles for Enforcement

In April, EBSA issued Field Assistance Bulletin ("FAB") 2026-01, which sets out four "enforcement priorities and guiding principles" to ensure that EBSA's

enforcement is "fair, even-handed, responsive, and focused." The four priorities are:

- Focusing enforcement on the most egregious conduct and significant harm. The FAB explains that, as a matter of EBSA's enforcement discretion, EBSA will prioritize criminal cases to address the most significant harm to the employee benefits system.
- Ensuring, whenever possible and consistent with its mission, that EBSA does not regulate by enforcement and instead promotes fairness, prior notice, and clarity to the regulated community. The FAB explains that EBSA's aim is to provide clear and advance notice to entities regulated by EBSA about the agency's interpretation of ERISA and fiduciary responsibilities. EBSA will not "use enforcement to drive policy," but instead will use notice-and-comment rulemaking and sub-regulatory guidance.
- Requiring proper review by senior agency officials of all critical enforcement initiatives. The FAB explains that EBSA's leadership must be informed of "significant" enforcement activity, such as novel areas of enforcement or issues that could result in disagreements among courts.
- Committing to timely and responsive enforcement. The FAB says that investigated parties and Congress have expressed concerns that some EBSA investigations are open-ended and unduly continue for extended periods of time. The FAB aims to address these concerns, noting that routine investigations involving less complicated issues should be completed within 18 months (30 months for more complex investigations).

What Does This Mean for Entities Regulated by EBSA?

Like the updated list of enforcement priorities EBSA issued in January, this newest announcement provides a window into where EBSA investigators are concentrating their limited resources under the leadership of EBSA leader Dan Aronowitz, who was confirmed in September 2025. EBSA is clearly signaling its aim to make investigations more efficient, which, if accomplished, will come as welcome news to plan sponsors and other entities regulated by ERISA.

DOL Guidance Addresses Fiduciary Status of Proxy Advisors

The Department of Labor ("DOL") issued guidance describing when proxy advisors are considered fiduciaries under ERISA. In general, such advisors are fiduciaries if they satisfy the existing five-part regulatory test used to determine fiduciary status.

Background

In December 2025, President Trump issued an Executive Order ("EO") on proxy voting, the mechanism by which shareholders of a company's stock vote on governance issues by delegating their voting responsibilities to a representative to vote on their behalf. The EO, entitled "Protecting American Investors from

Foreign Owned and Politically-Motivated Proxy Advisors," expressed concerns that proxy advisory firms – which provide advice and proxy voting recommendations to shareholders to help inform voting decisions for proposals at shareholding meetings – use their power to advance "politically-motivated agendas" instead of prioritizing investor returns.

The EO directed DOL to take steps to revise its regulations and guidance regarding the fiduciary status of individuals who manage – or, like proxy advisors, advise those who manage – the rights related to shares held by ERISA plans.

New Guidance Addresses Fiduciary Status of Proxy Advisors

In April, DOL issued Technical Release 2026-01, which carries out the instructions in President Trump's EO. In essence, the guidance provides that proxy advisors can be fiduciaries if they satisfy the existing five-part regulatory test used to determine the status of an investment advice fiduciary, although the ultimate analysis depends on the facts and circumstances.

Under the five-part test, a person is an investment advice fiduciary under ERISA if they (1) provide investment advice or recommendations to a retirement investor (2) on a regular basis (3) under a mutual agreement that (4) serves as a primary basis for investment decisions, and (5) the advice is individualized based on the particular needs of the plan.

DOL's guidance does not modify or re-interpret the five-part test. This is a notable development for those that have been following the efforts by the Trump Administration to invalidate the Biden Administration's 2024 fiduciary rule, which did re-interpret the five-part test and caused more providers of investment advice to fall within the definition of a fiduciary. The Trump Administration was ultimately successful in its efforts, and the 2024 fiduciary rule was struck down by two district courts earlier this year.

IRS Updates FAQs on Educational Assistance Programs

The IRS has issued updated "frequently asked questions" ("FAQs") on Internal Revenue Code section 127 Educational Assistance Programs. The updates reflect changes to Educational Assistance Programs made by the One, Big, Beautiful Bill Act and provides a new model plan document, among other things.

Background

Code sec. 127 allows a $5,250 gross income exclusion for certain employer-paid educational assistance. Historically this benefit has been available to help employees pay for current education expenses. However, the provision was temporarily amended to allow employers to use their Code sec. 127 programs to help employees pay their student loan debts as well. That temporary rule was scheduled to expire at the end of 2025. However, the One, Big, Beautiful

Bill Act amended Code sec. 127 to make it permanent, and also to index the $5,250 gross income exclusion for inflation, starting in 2027.

Updated FAQs

The updated FAQs, which are available here, include information on the types of educational assistance benefits that qualify for the gross income exclusion, including the rules relating to qualified education loan repayments. They also talk about other gross income exclusions that may be available for employer-provided education assistance.

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Don't forget to bookmark the page for quick and easy reference!

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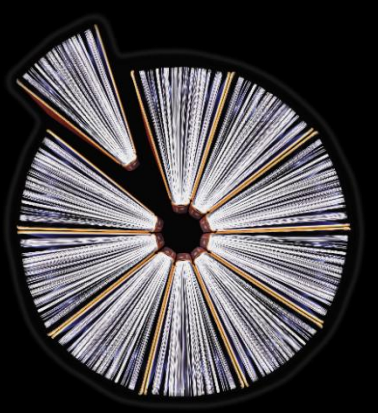

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