

## **401(k) DEFERRAL DEPOSIT TIMING:** *What are the rules, exactly?*

The Department of Labor (DOL) regulations state that deferrals employees make to their 401(k) accounts must be deposited to the trust on the earliest date they can reasonably be segregated from their general assets. *What does that mean?* The earliest date assets can be segregated is subjective and may not be the same for all employers, but in short, it means **as soon as possible**. The DOL provides a little more detail, depending on the size of the plan.

### *Small Businesses (Less than 100 employees on the first day of the plan year)*

For small businesses, the DOL offers a safe harbor rule that can be followed. It is recognized that small employers may need additional time to segregate the assets and get them deposited to the plan. If the deposit is made into the trust **by the seventh business day** following the date the employee is paid, the deposit is considered to have been made as soon as possible and will not be considered late. Although the deadline is still as soon as possible, the safe harbor rule allows a little flexibility for small employers.



### *Large Businesses (100 or more employees)*

For businesses with 100 or more employees, there is no safe harbor rule to follow. All deferrals must be deposited on the **earliest possible date** that the assets can be segregated from the employer's assets. This earliest date can differ by employer, so it is recommended each employer have a standard procedure in place for making deposits. Establishing a consistent deposit routine, based on the procedure in place, is critical in the event of a DOL investigation. Typically, large businesses deposit deferrals within two to three business days following the date of withholding. If a deposit falls outside of the established procedure and the employer determines it was not made as soon as possible, it is recommended the employer take appropriate action to correct the late deposit.

**AN IMPORTANT NOTE:** In no event can the deposit of 401(k) deferrals into employees' accounts occur later than the 15th business day of the month following the month in which they were paid. Although the regulations cite this as an outside deadline, it is unlikely this would ever meet the requirement that the deposit be made as soon as possible.

EMPLOYER SIZE	DEFERRAL DEPOSIT TIME FRAME	COMPLIANCE STATUS
Under 100 employees	Earliest possible deposit date (Safe harbor rule: within 7 business days after payment)	Compliant
100 or more employees	Earliest possible deposit date	Compliant
Any size	The 15th business day in the month following the paid date month	Not compliant