



## When must 401(k) deferrals be submitted to the plan?

When a 401(k) deferral is deducted from a participant's paycheck, the employer is required to transmit that contribution as soon as possible to the trust. The regulations require that participant deferrals be deposited to the plan "*as of the earliest date on which such contributions can reasonably be segregated from the employer's general assets.*" In the past, the Department of Labor (DOL) seemed to suggest that these contributions were deposited on time if the deposit was made no later than the 15<sup>th</sup> business day of the month following the date the contributions were withheld from the employees' paychecks. This is no longer true.

Recent DOL plan audits indicate that the DOL expects employers to deposit employee 401(k) deferrals ***no later than the earliest reasonable segregation date following each pay period.*** For example, if the employer could have segregated the funds within five days of withholding, then the maximum time period would be five days. Additionally, if your plan allows for loans and repayments made through payroll withholding, the loan repayments should also be deposited as frequently as 401(k) deferral contributions are deposited.

It is important to note that "batch" contributions are not permitted. Making only one deposit per month would be an example of batching. In other words, if your company has a weekly pay schedule, then contributions should also be remitted weekly.

We strongly recommend that you review your current method of making these deposits to ensure that you are in compliance with the DOL guidelines.

