

Plan Administration Guide

Your qualified retirement plan, perhaps more than any other vehicle, combines current employer tax savings with retirement security for participants. Congress specifically provided for this favorable treatment in the Internal Revenue Code. However, in order for your plan to obtain and keep its qualified status, the Plan Administrator must perform certain duties. Failure to do so can result in plan disqualification and/or substantial penalties imposed by the Internal Revenue Service (IRS) or the Department of Labor (DOL).

This guide is intended to assist you, the Plan Administrator, in complying with the rules governing plan administration. Contained within are the following:

- I. **Overview of Roles and Responsibilities**page 1
This will help you understand your role as the plan sponsor.
- II. **ERISA Fiduciary Rules**page 3
A. *Overview and Chart*
B. *Executive Summary*
- III. **One Year in the Life of your Retirement Plan**page 8
Provides a brief overview of yearly plan operation.
- IV. **Installation of the Plan**page 9
Details what must be done when the plan is installed... page
- V. **Employee Enrollment and Communication**page 11
Describes enrollment procedures and eligibility requirements.
- VI. **Recordkeeping and Compliance**page 12
Describes recordkeeping procedures, testing requirements, etc.
- VII. **Reporting Requirements**.....page 15
Details the required annual tax filings, and various reports to participants that are required on an ongoing basis.

This guide is only a reference. It is not to be construed as offering legal or actuarial advice. It is intended to help you maintain proper records and perform other duties that will enable the completion of the various forms referred to in this guide on a timely basis. Comprehensive and accurate records will also enable your plan advisors to assist you effectively in the event of an IRS audit of the plan or upon the filing of claims for benefits by participants and beneficiaries. TSC assists with duties noted in the following guide, and helps to protect the tax deferred nature of the trust with thorough procedures and expertise in governmental compliance. We exist to efficiently maintain your retirement plan and provide assistance in the fulfillment of your duties as the Plan Administrator.

Note: TSC acts as a “Third Party Administrator (TPA)” for its clients. TSC has no discretionary authority or control over its clients’ plans and does not act in a fiduciary capacity with respect to its clients’ plans. TSC is never the “Plan Administrator” or Trustee for its clients’ plans.

Overview of Roles and Responsibilities

- **Plan Sponsor** – Company sponsoring the qualified plan.
- **TSC** – Works with Plan Sponsor to ensure proper administration of the plan. We are your TPA.
- **Investment Professional (IP)** – Investment Professional who can provide enrollment assistance and information related to investment options.
- **Funding Company** – Investment carrier responsible for maintaining participant accounts and providing recordkeeping services.

Plan Documents	Plan Sponsor	TSC	IP	Funding Co.
Provide plan documents, amendments, SPDs, loan program, QDRO procedures, and filing assistance to Plan Sponsor		✓		
Assist Plan Sponsor with plan design and consulting services		✓		

Plan Installation	Plan Sponsor	TSC	IP	Funding Co.
Completion of required submission materials	✓	✓	✓	
Communication and coordination with payroll and prior service providers	✓	✓	✓	✓
Receipt and investment of takeover assets, if applicable				✓
Reconciliation of assets and takeover data, if applicable		✓		✓
Provide initial participant census data	✓			
Conduct enrollment and educational employee meetings	✓		✓	✓
Update recordkeeping system with plan and participant information				✓

Enrollments	Plan Sponsor	TSC	IP	Funding Co.
Determine eligible employees	✓	✓		
Provide enrollment materials to eligible plan participants	✓	✓	✓	✓
Collect and review enrollment forms	✓	✓	✓	✓
Collect and maintain beneficiary designations	✓			✓
Enrollment information updated on recordkeeping system				✓

Deposit Submissions	Plan Sponsor	TSC	IP	Funding Co.
Coordinate payroll changes with payroll provider	✓			
Submit contribution assets to Funding Co.	✓			
Submit deposit allocation file to Funding Company for processing	✓			
Process contribution on recordkeeping system based upon participant investment elections				✓

Plan Level Allocations	Plan Sponsor	TSC	IP	Funding Co.
Determine eligible participants	✓	✓		
Determine participant allocation for profit sharing, annual/periodic match, forfeitures, etc. and forward to Funding Co.		✓		
Process contribution on recordkeeping system based upon participant investment elections				✓

Overview of Roles and Responsibilities (continued)

Vesting Updates	Plan Sponsor	TSC	IP	Funding Co.
Provide information necessary to update vesting, with each payroll or annually, to Funding Co.	✓	✓		
Update vesting on recordkeeping system				✓

Loans	Plan Sponsor	TSC	IP	Funding Co.
Assist participants with loan questions, paperwork, or automated routines		✓		✓
Provide Note/Truth-in-Lending statement with check to participant		✓		✓
Provide amortization schedule		✓		✓
Recordkeep loans based on recordkeeping system				✓
Monitor loan compliance and determine loans in default		✓		✓

Distributions	Plan Sponsor	TSC	IP	Funding Co.
Provide participants with appropriate forms and disclosures	✓	✓		✓
Verify and authorize request and provide vesting and tax information to Funding Co.		✓		
Process distribution request and mail check(s) and distribution statement				✓
Provide tax reporting (1099-R) for distributions processed by Funding Co.		✓		✓

Reporting	Plan Sponsor	TSC	IP	Funding Co.
Mail quarterly participant statements to participants				✓
Provide plan level report quarterly				✓
Send quarterly Plan Asset Statements to Sponsor and TPA				✓
Prepare and mail annual Schedule A to TPA				✓

Compliance Testing	Plan Sponsor	TSC	IP	Funding Co.
Provide data for testing	✓			✓
Perform all tests required		✓		
Calculate refund amounts		✓		
Process refund distributions		✓		✓
Prepare tax reporting (1099-R)		✓		✓

Government Forms	Plan Sponsor	TSC	IP	Funding Co.
Prepare 5500 package, Summary Annual Report		✓		
Respond to auditor questions		✓		

Plan Expenses	Plan Sponsor	TSC	IP	Funding Co.
Prepare quarterly billing statement, if applicable		✓		✓

Outside Assets/Life Insurance	Plan Sponsor	TSC	IP	Funding Co.
Accounting for outside asset investments, tax reporting, etc.		✓		

ERISA Fiduciary Rules

A. Overview and Chart

1. What is a Fiduciary? Any person or entity that:

- A. Exercises discretionary authority or control over management of the plan or control over disposition of its assets.
- B. Renders investment advice for a fee.
- C. Has discretionary authority or discretionary responsibility in the administration of the plan.

2. Who is a Fiduciary?

- A. Plan Sponsor (employer)
- B. Plan Administrator (employer, **not TPA**)
- C. Named Trustees of the Plan
- D. Investment Manager

3. What are the Primary Fiduciary Requirements?

- A. Perform duties solely in the interest of the plan participants and beneficiaries (Exclusive Benefit).
- B. Carry out all duties with care, skill, prudence and diligence that a (Prudent Person) would use.

4. What are the Fiduciary Responsibilities?

A. Plan Compliance:

1. Proper plan documentation
2. Tax Discrimination Tests (Annual)
3. Tax deductibility
4. Benefit determination
5. Complete and file Government Reporting Forms (5500)
6. File with the IRS, and retain copies of all 1099R's, 1096's & 945's
7. Summary Annual Report (to participants)
8. Audit Reports (Opinion Letter from CPA)
9. Deposit timing, employee deposits must be made according to DOL guidelines
10. Identify "Parties in Interest" and monitor transactions with them
11. Obtain required Fidelity Bond coverage

B. Investment Policies and Procedures:

1. Evaluate plan investment needs based on demographics of the work force.
2. Create an Investment Policy Statement.
3. Compare and select investments and investment providers.
4. Monitor investments and investment providers.
5. Documentation of periodic investment reviews.
6. To get Fiduciary protection under ERISA Section 404(c) a plan must:
 - Offer a broad or diverse range of investment alternatives.
 - Allow participants 3 core investment alternatives.
 - Provide participants with detailed information of investment options.
 - Allow participants to give investment instructions at least every 3 months, at a minimum.

C. Participant Communication and Education:

1. Summary Plan Description Booklet – explains how the plan works.
2. Description of plan's investment alternatives.
3. Investment objectives and risk return characteristics.
4. Description of any fees paid by plan participants.
5. Enrollment material with plan specific information.
6. If the plan wants to protect its fiduciaries under 404(c), this must be communicated to the participants along with an explanation that such compliance may relieve the fiduciaries of liability for investment decisions made by a participant.

ERISA Fiduciary Rules

A. Overview and Chart (continued)

How do your Service Providers assist you with your Fiduciary Responsibilities?

A. Plan Compliance:	<u>TSC</u>	<u>Investment Professional</u>	<u>Product Provider</u>
1. Proper plan documentation	X		
2. Tax Discrimination Tests (Annual)	X		
3. Tax deductibility	X		
4. Benefit determination	X		
5. Complete and File Government Reporting forms	X		
6. File with the IRS, and retain copies of all 1099R's, 1096's and 945's	X		X
7. Summary Annual Report (to participants)	X		
8. Audit Reports (Opinion letter from CPA)	X		
9. Deposit timing, employee deposits must be made according to DOL guidelines	X		
10. Identify "Parties of Interest" and monitor transactions with them		X	
11. Obtain required Fidelity Bond coverage	X	X	
B. Investment Policies and Procedures:			
1. Evaluate plan investment needs based on demographics of the work force		X	
2. Create an Investment Policy Statement		X	
3. Compare and select investments and investment providers		X	
4. Monitor investments and investment providers		X	
5. Documentation of periodic investment reviews		X	
6. To get fiduciary protection under 404(c) a plan must:		X	
Offer diverse range of investment alternatives		X	
Allow participants 3 core investment alternatives		X	
Provide participants with detailed information of investment options		X	
Allow participants to give investment instructions at least every 3 months, min.		X	
C. Participant Communication and Education:			
1. Summary Plan Description Booklet – explains how the plan works	X		
2. Description of plan's investment alternatives			X
3. Investment objectives & risk return characteristics			X
4. Description of any fees paid by plan participant			X
5. Enrollment material with plan specific information			X
6. If the plan wants to protect its fiduciaries under 404c, this must be communicated to the participants along with an explanation that such compliance may relieve the fiduciaries of liability for investment decisions made by a participant		X	

PLEASE NOTE: *This chart describes the areas of your fiduciary responsibilities where your service providers will assist you. Your service providers are not assuming these fiduciary responsibilities on your behalf.*

ERISA Fiduciary Rules

B. Executive Summary

Plan Sponsors and other fiduciaries are obligated to:

- Understand the Terms of their plans
- Select and monitor service providers carefully
- Make timely contributions to fund benefits
- Avoid prohibited transactions; and
- Make timely disclosures to workers and their beneficiaries and reports to the government.

In 1974, the Employee Retirement Income Security Act (“ERISA”) was enacted. ERISA established fiduciary requirements and restrictions. As a plan fiduciary, knowledge of your responsibilities and duties under ERISA is essential.

The purpose of this summary is to explain the more important fiduciary rules. Not all of your duties are discussed and others are only summarized. In preparing this summary, we have tried to ask and answer the most important and frequently asked questions.

Am I an ERISA plan Fiduciary?

You are a fiduciary with respect to a plan to the extent you (1) exercise any discretionary authority or control with respect to management of the plan or with respect to the management or disposition of plan assets; (2) render investment advice for a fee with respect to any plan asset or have authority or responsibility to do so; or (3) have discretionary responsibility in the administration of the plan. This means you are a fiduciary if you are responsible for investing the assets of a benefit plan or selecting the investment options available to employees. You also are a fiduciary if you have any discretionary decision-making power with respect to a plan. For example, if you select other plan fiduciaries or make decisions on claims, you are a fiduciary.

As a Fiduciary, to what standards am I held?

As a fiduciary of an employee benefit plan, you must operate the plan in accordance with ERISA’s various rules as well as regulations issued by the IRS and the DOL. These rules are designed to protect the interests of the participants and beneficiaries of the plan.

Obviously, the better you understand the standards to which you are held, the more likely it is that you will not violate any of your fiduciary duties. The key fiduciary standards with which you must comply can be summarized as follows:

ERISA Fiduciary Rules

B. Executive Summary (Continued)

1. The exclusive benefit rule: You must be careful that all activities you perform and transactions that you execute on behalf of the plan are made for the exclusive purpose of providing benefits to plan participants, defraying the reasonable expenses of administering the plan, and avoiding unnecessary costs.
2. The prudent man rule: You must exercise the same care, skill, prudence and diligence that a prudent person familiar with the administration of employee benefit plans would exercise.
3. The duty to diversify: If you are responsible for investment decisions, you must make sure that the plan investments are sufficiently diversified so that the risk of large losses to the plan is minimized.
4. Compliance with plan documents: Finally, you must act in a manner that is consistent with the legal documents of the plan. However, if you find that the legal documents of your plan are inconsistent with ERISA, you must follow the course of conduct set forth in the statute.

What is a Prohibited Transaction?

To supplement the general fiduciary standards, ERISA attempts to eliminate fiduciary misconduct and self-dealing by parties related to employee benefit plans by prohibiting specific transactions between plans and related persons. These transactions are known as “prohibited transactions,” and there are generally two types: 1) party-in-interest transactions and 2) self-dealing transactions.

The party-in-interest rule states that a fiduciary knows or should know that the transaction constitutes a direct or indirect –

1. Sale, exchange, or leasing of any property between the plan and a party-in-interest
2. Lending of money or other extension of credit between the plan and a party-in-interest
3. Furnishing of goods, services, or facilities between the plan and a party-in-interest
4. Transfer to or use by or for the benefit of a party-in-interest of any assets of the plan; or
5. Acquisition on behalf of the plan of any employer security or employer real property in violation of ERISA Section 407(a). Also, no fiduciary who has authority to manage the assets of a plan may permit the plan to hold any employer security or employer real property if he knows or should know that holding such security or real property violates ERISA Section 401(a).

ERISA Fiduciary Rules

B. Executive Summary (Continued)

As a plan fiduciary, you must not permit the plan to engage in any of the above transaction. A “party-in-interest” includes, but is not limited to (1) any fiduciary (including, but not limited to any administrator, officer, trustee, or custodian), counsel, or employee of such benefit plan; (2) persons who provide services to the plan; (3) an employer whose employees are covered by the plan; (4) a union whose members are covered by the plan; (5) certain direct and indirect owners, officers, or partners of the above; or (6) relatives of any individuals described in paragraphs (1), (2), (3), or (5).

The self-dealing rules prohibit a fiduciary with respect to a plan from –

1. Dealing with the assets of the plan in his own interest or for his own account;
2. Acting in any transaction involving the plan on behalf of a party whose interests are adverse to the interests of the plan or its participants; or
3. Receiving any consideration for his own personal account from any party dealing with the plan in connection with a transaction involving plan assets.

As a plan fiduciary, you must not engage in any of these types of transactions.

What is the scope of my liability as a plan fiduciary?

If you breach any of the duties or responsibilities imposed on you by ERISA, you may be held personally liable for any resulting losses to the plan and you must return any profits you made. In addition, you may be held liable for the failure of a co-fiduciary in certain limited circumstances.

One Year in the Life of Your Plan

Participant Entry into the Plan

See PART IV of this Plan Administration Guide. We suggest keeping your Adoption Agreement at hand so you can mark your calendar with the future entry dates of new employees. We will help you with this task by reviewing your employee census data at the end of each plan year.

Plan Anniversary Date

This is the last day of the plan year. It is also the basis for the required annual reports to participants and to the government. We request employee data in order to complete the required compliance tests. A description of this material is located in PART IV of this Plan Administration Guide. Though your plan may have valuations during the course of the year, i.e. quarterly, semi-annually, or daily, the year-end data is used for most of the government compliance work. Thus, *it is absolutely essential that we have complete data from you* in accordance with the forms that we provide for this purpose. Our request will be sent to you before the anniversary date.

Payment of Benefits

The appropriate forms to be completed by you and the plan participant are available in the “Administrative Forms” section of the Plan Administration Manual.

Loans and Withdrawals (if applicable)

The handling of these events is very similar to the payment of benefits – forms are required, funds are distributed, and participants should be informed of tax ramifications. There are constraints imposed by regulations and by your plan document. Applicable forms are provided in the “Administrative Forms” sections of the Plan Administrator Manual.

Installation of the Plan

Plan Document

The Employee Retirement Income Security Act (ERISA) requires that all qualified retirement plans have a plan and trust document. This is the legal document that governs the terms and provisions of the plan, and includes the trust provisions as well. If TSC drafts your document for you, we will prepare the necessary documentation for you to sign and keep in your files. This document must be available for inspection by participants at your primary business location. TSC generally uses a prototype or “specimen” plan document that has been pre-approved by the IRS but is custom-designed to meet your needs.

IRS Determination Letter Application (if applicable)

Under new IRS rules, plans that are on pre-approved documents that do not deviate from the choices provided under the pre-approved document can “rely” on the Opinion Letter issued by the IRS for the pre-approved document as if it were a Determination Letter directly issued to the employer that adopts the agreement.

If TSC drafts your plan document and it is determined that the plan should be submitted to the IRS for a Determination Letter, due to special drafting that does not fit within the pre-approved document language or the need for a special document, TSC will prepare the necessary Notices and forms to make the application. Our in-house legal department works directly with the IRS to ensure approval of your plan as drafted by us.

Summary Plan Description

Another requirement is the preparation and distribution of the Summary Plan Description (SPD). The SPD text, written in “plain English,” describes the benefits offered under the plan, the rights of the participants, and other important provisions such as the plan’s vesting schedule. For a plan amendment and/or restatement, a new SPD or a Summary of Material Modifications must be furnished to participants no later than 210 days after the close of the plan year in which the change was adopted. New participants must receive a copy of the SPD within 90 days of eligibility, along with a Participant Beneficiary form.

Installation of the Plan (continued)

ERISA Bonding Requirements

The Employee Retirement Income Security Act provides that all plan Trustees who “handle” the plan funds or other property must be bonded.

A fidelity bond must be obtained at the start of each reporting year from a surety insurance company in the amount of **at least 10% of the amount of the plan funds handled the previous reporting year** (\$1,000 minimum and no deductible). It must provide for a discovery period of one year and must meet the other requirements of the law. A blanket bond, either multiple-penalty or aggregate penalty, is acceptable.

Please inform your insurance agent about the fidelity bond requirement. Your agent should maintain a regular “check” on these requirements. An existing business fidelity bond can be endorsed to cover these bonding requirements at little or no extra cost.

If you invest in certain types of so-called “Non-qualifying Assets” such as real estate, limited partnerships, or other non-marketable securities and items not regularly traded on an established market, your bonding requirement may be increased or an audit of your trust may be required.

Trust Tax Identification Number

The Trust is required to have a Tax Identification Number in most cases. The plan is required to furnish a Tax Identification Number when establishing accounts with banks, etc. The Tax Identification Number also appears on some returns, i.e. Forms 1099-R and Schedule P. **If applicable, TSC will prepare Form SS-4 to request a Tax Identification Number for you.**

Employee Enrollment and Communication

Plan Eligibility

In accordance with the plan document, a determination must be made as to who is eligible to participate in the plan. The plan's eligibility standards are also specified in the SPD. It is important to maintain a complete list of current employees, along with their birth dates and dates they began service with the employer.

During the plan year, you should monitor your list of employees to determine if anyone has met the requirements to become a participant. It is important to note that if any employee is rehired who has previously met your plan's eligibility requirements, that employee generally begins participation upon the re-employment date. **TSC can assist you in making this determination.** Once an employee becomes eligible to participate, it is your responsibility to:

1. Inform them that they are now eligible to participate in the plan.
2. Have the employee complete Enrollment and Beneficiary forms.
3. Give the new participant a copy of the SPD within 90 days of eligibility.
4. Supply all applicable participant notices which may include any or all of the following:
 - Safe Harbor
 - Auto Enrollment
 - QDIA
 - Statement to comply with the Pension Protection Act

Participant Contributions and Rollovers

If your plan permits 401(k) contributions, it is important that each participant complete and sign an Enrollment Form with their percentage election of salary deferral and percentage allocation into each fund (if applicable).

If the plan permits participants to transfer or roll over money from other qualified plans, individual retirement accounts, or other pre-tax retirement plans such as 403(b) and government 457 plans, any participant who wishes to do so should complete a rollover election form to accompany the rollover deposit check. It is necessary to make a determination that the rollover is from a proper source. **TSC can assist in making this determination.**

Special Death Benefit Rules for Married Participants

The 1984 Retirement Equity Act (REA) requires that special protection be given to a participant's spouse if the participant dies before retirement. **TSC will inform participants of these REA mandated death benefits in the Beneficiary Forms and the SPD.**

1. For married participants of any age, the entire death benefit is to be paid to the participant's spouse. However, the participant may waive their spouse as the beneficiary, provided the spouse consents in writing.
2. Unmarried participants may designate any beneficiary on the Beneficiary Designation Form.

Recordkeeping and Compliance

Plan Records

It is essential that you keep complete and accurate records of all plan activity on an ongoing basis. This will simplify the reporting and disclosure procedures, and will enable your plan consultant(s) to prepare the requisite items on a timely basis. Among the records that must be kept **and submitted to TSC upon request** are:

1. A list of current employees and participants. This list should include the following information:
 - Social Security Number
 - Date of birth
 - Date of hire
 - Date of termination for all employees terminating during the year
 - Marital status
 - Each employee's compensation for the plan year
 - Hours worked by each employee during the plan year
2. Records of the plan's investment activities, and financial statements that reflect Trust Asset transactions and values for the plan year.

Amendment of the Plan

The employer has the right to amend or terminate the plan at any time. Certain requirements must be met when you amend or terminate the plan, and consultation with your plan advisor and with TSC is recommended before you make any changes. A plan document is a legal document. TSC is qualified to consult with you and advise you on plan design and to draft your plan document. However, TSC is not a law firm and is not engaged in the practice of law. Clients are advised to have legal counsel look at any plan documents before they are signed. **TSC will provide information regarding these issues upon request.**

Compensation Limit

IRS regulations state that for plan years beginning in 2008, compensation in excess of \$230,000 will not be considered for purposes of the Plan. This amount may change from year to year.

Section 401(k) Contributions (Applies only to plans with this feature)

IRS regulations state that during calendar year 2008 an individual may defer up to \$15,500, plus an additional \$5,000 if the individual is age 50 or older and the plan has adopted the "catch-up" provisions. Deferral and catch-up contribution limits may change from year to year.

Recordkeeping and Compliance (continued)

For 2008, the deferral limit is \$15,500 and the catch-up limit is \$5,000. Thereafter, these amounts will be adjusted as announced by the IRS.

- 401(k) contributions are withheld from employees' paychecks after calculating Social Security, Medicare and Federal Unemployment taxes, but prior to calculating Federal and State income taxes. DOL guidelines state that these contributions must become trust assets as soon as they are withheld, **and should be deposited by the date you deposit payroll taxes.**

Annual Additions

IRS regulations state that an individual may not contribute more than 100% of their compensation or more than \$46,000 for 2008 plus the catch-up (if applicable), whichever is less. This limit may change from year to year.

An annual addition consists of the following:

1. Employee Salary Reductions (401(k) deferrals), if applicable.
2. Employer Matching Contributions, if applicable.
3. Employer Profit Sharing Contributions
4. Forfeitures

ADP (Non-discrimination) Testing

Unless it is a Safe Harbor plan, a 401(k) plan is required to pass the ADP test each year. The test states that the Highly Compensated Employee (HCE) average deferral percentage may not exceed the *greater* of the following:

1. 125% of the Non-highly Compensated Employee (NHCE) average deferral percentage.
2. The lesser of 200% of or 2 percentage points above the NHCE average deferral percentage.

The IRS definition of a Highly Compensated Employee, for 2008, is as follows:

1. An eligible employee who owns more than 5% of the organization.
2. An eligible employee who earned more than \$100,000 during the twelve months preceding the first day of the current plan year. This amount may change from year to year. This group can be further limited, if the Trustee so elects, to the highest paid 20% of eligible employees who are highly compensated.

Safe Harbor 401(k) Plan

If your plan is a “Safe Harbor 401(k) Plan” a Safe Harbor Notice must be distributed at least 30 and no more than 90 days before the beginning of the plan year for the Safe Harbor Provisions to be effective. If the Notice is not distributed, the plan will not be Safe-Harbor, but the contribution will still have to be made. To remove Safe-Harbor provisions it is necessary to amend the plan before the beginning of the year. Generally, as part of its TPA services, TSC will provide you with the notice each year in time for you to distribute it as required.

Top-heavy Testing

The top-heavy test must be completed each plan year for all qualified retirement plans. If a plan is top-heavy, a 3% minimum contribution may be required for non-key employees. A plan is top-heavy if key employees hold 60% or more of the total assets of the plan as of the Determination Date. The Determination Date for a plan year is the last day of the previous plan year. The Determination Date for the first plan year is the last day of that plan year.

A key employee, in 2008, is defined as one or more of the following:

1. An employee who owns more than 5% of the organization.
2. An employee who owns more than 1% of the organization and whose compensation is greater than \$150,000.
3. An employee who is an officer and whose compensation exceeds \$150,000 as indexed.

Reporting Requirements

Annual Filing Requirements

Every Plan Administrator is required to file a series of forms with the IRS each year. The forms depend on the number of participants and type of activity during the plan year. **TSC will prepare the following annual filings, which generally must be filed within 7 months after the close of the plan year.**

1. *Form 5500 (Annual Return Report Form)*. Form 5500 must be filed every year. An accountant's audit report must accompany the form if the plan covers 100 or more participants. Form 5500EZ must be filed every year for one-participant plans with assets in excess of \$100,000. There is a basic form that all plans complete. Special schedules are attached depending upon the type of plan and certain features the plan has. Some notable and most common schedules are described below.
2. *Schedule P (Fiduciary Form)*. This form must be completed by each plan fiduciary (the Trustee(s), employer, and administrator). It is a representation that the fiduciary has not violated its duties under ERISA.
3. *Schedule SSA*. This form must be completed if any participant terminated employment during the plan year with deferred vested benefits. Deferred vested benefits are benefits that, under terms of the plan, are not paid to the terminated participant until some point in the future, such as the date they will attain their normal retirement age.
4. *Form 5330 (Excise Tax Form)*. This form must be filed for various purposes, including prohibited transactions, excess contributions and late deposits of employee contributions. The due date for this form varies, depending upon the reason for which it is being filed.

The Form 5500 and attachments are filed with the Employee Benefits Security Administration (EBSA), a branch of the DOL, in Lawrence, Kansas. The forms will be scanned and processed, and the information will be reported to the IRS. An electronic filing procedure is being developed for these forms.

Filing Requirements for Payment of Benefits

Generally, the financial institution holding the Plan's assets will prepare the following forms for you, which are required *only if* plan benefits have been paid to any participant during the year:

1. *Form 1099-R*. This form must be furnished to any participant who receives a distribution from the plan (or elects a direct rollover), and must be given to the recipient no later than the January 31st following the calendar year of the distribution or rollover. If TSC prepares the Forms 1099-R, we file them with the IRS electronically. If you have your plan assets invested with a funding or asset

management company or a bank that files the forms 1099-R for you, those forms are likely filed electronically as well.

2. *Form 1096*. This transmittal form is used only if the Forms 1099-R are not filed electronically. It includes copies of all Forms 1099-R for the plan year, and must be filed with the IRS no later than the February 28th following the calendar year in which the distributions were made.
3. *Form 945*. Use form 945 to report Federal Income tax withheld from non-payroll payments. All federal income tax withholding reported on forms 1099 must be reported on Form 945 and must be filed annually for any year in which such withholding occurs. If withholding is done by an outside funding or investment management company or a bank that holds your plan assets and that organization files the form 1099-R, they also file their own form 945.

Annual Report to Participants

The report that must be furnished to each participant on an annual basis is the Summary Annual Report (SAR). The SAR, in effect, is a “plain English” explanation of the information contained in the Form 5500. The SAR must contain the following information:

- The value of the trust assets as of the first and last day of the plan year.
- Plan expenses incurred during the plan year.
- Insurance information, if applicable.

The SAR must also state that the participant has the right to examine, at any time during reasonable hours, the plan’s annual Form 5500, the accountant’s report, and the list, if any, of plan transactions involving at least 5% of plan assets or involving “Interested Parties” (for plans with at least 100 participants).

The SAR must be furnished to participants on or before the last day of the 9th month following the end of the plan year. This deadline may be extended if the employer has received an extension for filing its Federal forms. **TSC will prepare this form for you if TSC prepares the form 5500.**

Forms Available to Participants

Participants have the right to inspect reports and forms concerning the plan, and to obtain copies of those reports. Access must be provided at reasonable times and at no cost, though the participants may be charged a copying fee if they request copies. The forms available for inspection include:

- *Form 5500 and applicable schedules*: within 60 days of the participant’s written request for inspection.
- *Forms 5307 or 5300 (if applicable)*: at any time following the participant’s written request.