

# Administrative Mistakes

## *How to Address and Avoid Errors*

As a fiduciary, you are required to handle your 401(k) plan administrative responsibilities with diligence, consideration, and prudence. Failure to do so may result in personal liability, tax penalties, or even plan disqualification, meaning the plan could lose its 401(k) tax deferred status.

Errors are typically caused by administrative or operational oversight. Some examples may include: making late or excessive plan contributions, failing certain testing, failure to follow the plan document, and failing to file the Form 5500 on time. Go to [www.irs.gov/pub/irs-tege/401k\\_mistakes.pdf](http://www.irs.gov/pub/irs-tege/401k_mistakes.pdf) for more information on common mistakes.

## How Do I Correct a Problem?

The Department of Labor (DOL) and Internal Revenue Service (IRS) provide many ways to correct errors depending on the type of problem. Some corrective measures include:

- Self-Correction Program (SCP)
- Voluntary Correction Program (VCP)
- Delinquent Filer Voluntary Compliance Program (DFVCP)
- Audit Closing Agreement Program (Audit CAP)
- Voluntary Fiduciary Correction Program (VFCP)



## 5 Ways to Avoid Mistakes

- 1. Do the Right Thing**  
Always act in the best interests of the plan and plan participants.
- 2. Gather Knowledge**  
Educate yourself about your plan obligations.
- 3. Be Consistent**  
Establish and maintain processes to ensure tasks are completed and correct.
- 4. Be On Time**  
Turn in payroll, taxes, Form 5500, and other documents on time.
- 5. Ask for Help**  
Reach out to your Retirement Counselor, accountant, legal counsel, and others before there is a problem.

## Common Errors and Remedies

Knowing and taking your responsibilities seriously is important; the consequences for negligence can be both expensive and bothersome. Thankfully, the DOL and IRS offer explanations of what these mistakes are, how to avoid them, and how to fix them. Following are three examples and how to remedy them.

### Late Contributions

<b>What it is:</b>	An operational error committed when an employer fails to contribute participant deferrals to the Plan Trust in a timely manner
<b>Who is affected:</b>	The Plan Participant accounts
<b>What can happen:</b>	Plan disqualification Financial penalties
<b>Remedies:</b>	Deposit late contributions and lost earnings File Voluntary Fiduciary Correction Program (VFCP) documents <ul style="list-style-type: none"><li>- Report late contributions on Form 5500</li><li>- Pay excise tax to IRS and file Form 5330</li></ul> Establish procedures to prevent future late deposits

### Excess Plan Contributions

<b>What it is:</b>	When the Plan fails ADP or ACP testing, or participants contribute/benefit too much
<b>Who is affected:</b>	Employer Highly compensated participant accounts
<b>What can happen:</b>	Plan disqualification Additional taxes
<b>Remedies:</b>	Pay excess contributions to affected employees within 2 1/2 months following plan year end (PYE) Fund a Qualified Non-Elective Contribution to Non-Highly Compensated Employees Pay excess contributions to affected employees within 12 months following PYE and pay excise tax (Form 5330)

### Failure to Timely File Form 5500

<b>What it is:</b>	When the plan sponsor fails to file the Plan's yearly Form 5500 or request a filing extension within 7 months of PYE
<b>Who is affected:</b>	The Plan
<b>What can happen:</b>	Financial penalties
<b>Remedies:</b>	Request an extension (IRS Form 5558) before the deadline and submit filing by the extended deadline File IRS Form 5500 under the DFVCP Pay a fine