

Your company's benefits

How long should you keep qualified plan records?

When most people hear or read the word “audit,” they likely think of taxes. But the Department of Labor (DOL) or IRS may also audit qualified retirement plans, such as 401(k)s. And in such cases, having the right plan records on hand is critical. Yet just how long do plan sponsors need to keep qualified plan records? There is, unfortunately, no simple answer.

Permanent file

All qualified retirement plans should maintain a permanent file. This file should include the plan document containing the governing provisions of all plan features as well as the summary plan description (SPD) summarizing important plan features.

Also retain any amendments and restatements, along with each one's corresponding adopting resolution and summaries of material modifications or revised SPD. Any IRS-issued determination letters, as well as proof of purchase of fidelity bonds and loan programs, should also be kept permanently. Last, keep copies of any notices you distribute to plan participants or interested parties.

Plan administration

Apart from the permanent file, organizing your administration files is a must. Keep separate files for each of the following:

Census report. This includes name, Social Security number, birth date, hire date, plan entry date, termination date (if applicable), hours worked and total compensation for each employee.



Assets and transactions report. This report is normally provided by the trust custodian. It shows the market value of plan assets and financial transactions that have taken place over a period of time (monthly, quarterly or annually).

Valuation report. Your plan's third-party administrator will prepare this report. It includes census information, listing of plan assets, account balances and activity, vesting percentages, top-heavy test results, annual additions test results, deferral and contribution nondiscrimination test results, and minimum participation and coverage test results.

Distributions and loans. Relevant documents include distribution election forms, notices and calculations, applications, and amortization schedules.

Participant notices. These include the summary annual report (a summary of the IRS Form 5500), and, if applicable, the annual notice to employees concerning contributions provided under the plan.

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Government reporting. Such documents include annual returns required to be filed with the IRS, DOL or Employee Benefits Security Administration (EBSA), such as Form 5500 (“Annual Return/Report of Employee Benefit Plan”), Form 1099-R (“Distributions From Pensions, Annuities, Retirement or Profit-Sharing Plans, IRAs, Insurance Contracts, etc.”), Form 945 (“Annual Return of Withheld Federal Income Tax”), and Form 5330 (“Return of Excise Taxes Related to Employee Benefit Plans”).

Statute of limitations

Because there is no definitive time period for which plan records must be kept, most employers use the reasons why records are kept to measure how long to keep them.

For instance, some employers keep records for longer periods to confirm participant benefits in preparation for a possible audit. Generally, keep these documents for about seven years. Most audits don’t go back

beyond seven years — and the statute of limitations for many plan violations expires after six years.

But you should keep other plan records, such as those mentioned above in the permanent file, from plan inception until seven years after the plan’s termination. Keep plan administration files, such as valuation reports, census information, distribution and loan documentation and all forms filed with government agencies for seven years after plan termination as well.

Seven years is also a good duration to keep other plan administration files, such as asset and benefit statements.

Better safe than sorry

Recordkeeping is essential to the administration of qualified retirement plans. Because some plan records should be kept for the entire life of the plan plus seven years, while other files can be discarded after just seven years, adopt a policy of “better safe than sorry” when it comes to keeping plan records. ■

Maximize current property depreciation deductions with a cost segregation study

Have you recently purchased or built a new building? Or substantially remodeled your existing building? If so, you should consider a cost segregation study. This evaluation identifies misclassified property components and their cost, allowing you to maximize your current depreciation deductions by using the shorter lives and faster depreciation rates available for the qualifying parts of the property.

The ins and outs



Real estate can be segregated into four basic categories of property: buildings, land, land improvements and personal property. Buildings are generally depreciated over 27.5 or 39 years. Land isn’t depreciable at all.

You can, however, typically depreciate land improvements over 15 years using 150% of the straight-line rate and most personal property over five or seven years using 200% of the straight-line rate. For example, if \$400,000 of assets were reclassified as seven-year vs. 39-year property, the depreciation deduction in the

first year would increase as much as 10 times, or about \$50,000.

Examples of items you can isolate with a cost segregation study include land improvements such as parking lots and landscaping, and personal property such as security equipment and carpeting.

Moreover, certain plumbing, wiring, and heating and air conditioning vents and lines — which you would normally think of as part of the building — may be eligible for shorter lives if they are specifically required for equipment that has a shorter life (such as wiring for the security system). You may also be able to depreciate the allocated portion of certain capitalized indirect or overhead costs — such as architectural fees.

The overall benefit of a cost segregation study, however, may be limited in certain circumstances, such as when the business is subject to alternative minimum tax or is located in a state that doesn’t follow federal depreciation rules. In addition, the cost of the study is generally warranted only if the building or remodeling expenditures are fairly substantial and were completed fairly recently.

Complicated endeavors

Cost segregation studies are complicated endeavors requiring the expertise of a CPA as well as other experts such as engineers and contractors. But with the right team behind you, the tax benefits can be striking. ■

4 strategies for protecting your assets

Asset protection is the process of arranging your affairs to shield assets from potential creditors, litigation and other legal hazards. For individuals, choosing and executing an asset protection plan can be complicated. Here are four strategies to help you get started:

1. Tenancy by the entireties. This type of ownership is a form of joint tenancy with right of survivorship that can apply to personal residences. Available in most states, it's perhaps the simplest and least intrusive form of asset protection and allows you to protect your home for as long as you and your spouse continue to use it.

Unfortunately, persistent creditors can succeed to ownership of the property when you sell or upon death.

2. Family limited partnerships (FLPs). These are typically created to make gifts to family members while maintaining some control and enjoying the benefits of valuation discounts. But they also provide asset protection. While the creditor of an FLP partner — including a general partner — can obtain a partnership interest, it can't liquidate the interest or compel the distribution of partnership profits.

“Self-settled” trusts are available to residents of any state, but the costs of setting up and maintaining them are typically higher than with normal living trusts and should be weighed against their asset protection benefits.

An FLP isn't a perfect form of asset protection, but the existence of one often encourages creditors to negotiate rather than try to acquire ownership of a partnership interest.



3. Irrevocable life insurance trusts (ILITs). If you purchase life insurance in, or transfer it to, an irrevocable trust, the policy's value is protected because you are no longer considered the legal owner. At the same time, the trust also protects it — until funds are distributed — from creditors of your beneficiaries.

4. Other trusts. Gifts made to a trust — whether by you for your beneficiaries or for you by another grantor — are protected from potential creditors. But a typical living (grantor) trust you create for yourself in most states doesn't enjoy this protection.

In recent years, several states have passed laws to provide protection to “self-settled” trusts. These trusts are available to residents of any state, but the costs of setting up and maintaining them are typically higher than with normal living trusts and should be weighed against their asset protection benefits. Offshore trusts might be another option.

Evaluate your options

These are only a few of the many strategies available to protect your assets, some of which also offer financial and estate planning benefits. Your particular situation, the specific risks you face and your risk tolerance, and the types and amount of assets you own will help determine which are appropriate for you. ■

Asset protection for business owners

If you own a business, it's essential to set it up in a form that insulates your assets from attack — generally a corporation or limited liability company. It's also a good idea to remove assets such as investments and real estate from that business entity whenever possible by paying yourself a reasonable salary, repaying loans or making periodic distributions to owners.

Also ensure you have adequate insurance that includes not only business-related insurance, but also property, health, automobile and personal umbrella coverage. Threats to your assets don't come just from business interests, but also from lawsuits related to real estate you own, auto accidents or even personal acts such as making what someone considers a slanderous statement.

BBR Client Profile

California Shock Trauma Air Rescue (CALSTAR)

For more than 23 years, California Shock Trauma Air Rescue, commonly known as CALSTAR, has been helping people in their worst hours of need. This nonprofit air ambulance service has successfully completed more than 35,000 flights throughout Northern California and parts of Nevada.

CALSTAR's prime strength is its ability to bring injured or seriously ill patients to trauma centers within what medical experts call the "golden hour" — that is, the first hour immediately following the trauma. Individuals who reach a trauma center within this period have a tremendously enhanced chance for a favorable medical outcome.



CALSTAR flight crews are made up of a pilot and two registered nurses. "[A team such as] this is considered to be the gold standard for air ambulance flight crews," says CALSTAR



President and CEO Joe Cook. All CALSTAR nurses complete extensive training to handle nearly any medical emergency, and pilots have a minimum of 3,000 hours of turbine helicopter flight time.

CALSTAR has fixed bases in the California cities of Auburn, Concord, Gilroy, Salinas, Vacaville, Santa Maria, South Lake Tahoe, Ukiah, and McClellan. Administration, maintenance and training facilities are also at McClellan Park. The organization employs about 200 people.

Because of its nonprofit status, CALSTAR is able to offer memberships to companies large and small, as well as to individuals, for a nominal annual fee. Should a CALSTAR member ever need transport service, he or she will never receive a bill. For information on becoming a member, call toll free at 1-888/207-LIFE. ■

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