What is ERISA

Employee Retirement Income Security Act of 1974 (ERISA), is a federal law that sets minimum standard for retirement and health benefit plans in private industry. Most employers are familiar with Form 5500 Annual Report, COBRA, HIPAA and the Mental Health Parity Act amendments to ERISA, but Healthcare Reform has put the ERISA reporting requirements into the bright lights. Failure to comply with ERISA requirements can lead to costly government penalties and even employee lawsuits.

ERISA reporting requirements:

The Department of Labor will ask for 24 items:

11 Documents the insurance carrier produces (SBC, documents for open enrollment)

6 Documents the employer can produce (financial records, minutes of Board, HIPAA)

7 Documents prepared by a Compliance Administrator that include:

> Summary Plan Document (SPD)-primary vehicle for informing employees about their benefit plans. Must be written for average participant, but comprehensive to inform of the benefit, rights, and obligations under the plan.
>
> Plan Document-master document the company must have on file that includes the SPD and the required ERISA compliant language.

What Are the Penalties For Non-Compliance:

- $1,000 may apply for each failure to provide an SPD
- IRS can impose $100 per employee per day
- DOL can impose civil and criminal penalties ranging from $10,000 to several hundred thousand dollars.

Detailed information regarding ERISA can be found on the DOL website: http://www.dol.gov/dol/topic/health-plans/erisa.htm

SECTION 125 PLAN

Across the United States, numerous employees set up and use various types of employee benefits plans allowed by the Internal Revenue Service (IRS). One of these plans, called a section 125 cafeteria plan, has been in existence since 1978 and offers some interesting advantages. What Is a Section 125 Cafeteria Plan?

A section 125 plan is part of the IRS code that enables and allows employees to take taxable benefits, such as a cash salary, and convert them into nontaxable benefits. These benefits may be deducted from an employee's paycheck before taxes are paid. Cafeteria plans are particularly good for participants who have regular expenses related to medical issues and child care.

Employees enrolled in a section 125 plan can set aside insurance premiums and other funds pretax, which can then be used on certain qualified medical and child care expenses. On average, employees can save 30% in combined federal, state and local taxes on a variety of items that they typically already purchase with out-of-pocket post-tax funds.

Who Can Open a Section 125 Plan?

Section 125 cafeteria plans must be created by an employer. Once a plan is created, the benefits are available to employees, their spouses and dependents.

Benefits to Employer and Employee

On the employer side, section 125 plans offer lots of tax-saving benefits. For each participant in the plan, employers save on the Federal Insurance Contributions Act (FICA) tax, the Federal Unemployment Tax Act (FUTA) tax, the State Unemployment Tax Act (SUTA) tax and workers' compensation insurance premiums. Employers on average save $115 per participant on FICA alone. Combined with the other tax savings, the section 125 plan usually funds itself, as the cost to open the plan is low.

As an added advantage, employees receive an effective raise without any additional cost to the employer.

As for employees, the primary benefit is also tax-related. Typically, a participant can expect to save 20% to 40% on total taxes for all dollars put into the plan. The amount that the employee decides to put into the plan must be chosen each year. The "election" amount is deducted from the employee's paycheck automatically for each payroll period.