



TNJ Retirement Partners LLC

401(k) Deposit Timing Rules

Timely deposits of 401(k) contributions and plan loan repayments are a **fiduciary responsibility** of the Employer/Company and Plan Trustees. The late deposit of these amounts jeopardizes the plan's tax-deferred status and can be expensive and time-consuming to correct.

Quick Summary and “Rules of Thumb”

- It is mandatory to deposit employee contributions into the plan as soon as reasonably possible after every paycheck date:

We strongly recommend creating a procedure to meet the required deposit timing (see below) including who is responsible for making the deposits. It would also be wise to ensure more than one person is able to make deposits in case the responsible party is out sick or on vacation. Ask TNJ if you have questions about what might work best for your plan.

- Rule of Thumb for small plans (plans with less than 100 participants):**

All 401(k) contributions (both pre-tax and Roth) and all plan loan repayments deducted from employee paychecks should be deposited to the plan no later than seven (7) business days after the date on the paychecks.

- Rule of Thumb for large plans (plans with 100 or more participants):**

All 401(k) contributions (both pre-tax and Roth) and all plan loan repayments deducted from employee checks should be deposited to the plan at the same time as the payroll taxes for that payroll are remitted to the IRS. The 7-day rule above for small plans does **NOT** apply to large plans.

Details About the Deposit Timing Rules

Per DOL regulations, the “official” deadline for depositing 401(k) contributions and plan loan repayments to the plan is “as soon as the company can reasonably segregate these amounts from its general assets, but no later than 15 business days after the end of the month during which the 401(k) contributions and loan repayments were deducted from employee pay”. Some 401(k) Plan Sponsors have interpreted this to mean they have until the 15th business day following the end of the month to make their deposits. The Department of Labor disagrees with this interpretation.

Based on the DOL's interpretation of this language, as upheld by the courts, the key to the deadline is how quickly the 401(k) contributions and plan loan repayments can be segregated from the company's assets. If the company can remit its payroll taxes to the IRS in one (1) or two (2) days after the payroll check date, the DOL expects that the company can also deposit the 401(k) contributions and plan loan repayments within the same timeframe.

To simplify the deposit timing rules **for small plans**, the DOL has established a safe harbor deposit timing rule. If your plan has less than 100 participants, you have seven (7) business days, from the date of the payroll checks, to deposit the 401(k) contributions and plan loan repayments into the plan's trust. For a small plan, every time these deposits meet this special deposit timing rule they are considered to be deposited timely.