

Retirement Plan Reporting and Disclosure Requirements



Administrators or sponsors of retirement plans are generally required by law to report certain information with the IRS, the Department of Labor, and the Pension Benefit Guaranty Corporation, and disclosure to affected parties depending on the plans' type, size, and circumstances

This Reporting and Disclosure Guide for Employee Benefit Plans was prepared by the IRS as a quick reference tool for certain basic reporting and disclosure requirements for retirement plans under the Internal Revenue Code and provisions of Employee Retirement Income Security Act of 1974 (ERISA) administered by the IRS. The Guide is not intended to be an exhaustive list of possible civil penalties and other consequences for reporting and disclosure violations. The Department of Labor and the Pension Benefit Guaranty Corporation reviewed the parts of the Guide that concerns provisions the agencies jointly administer.

This Guide should be used in conjunction with the DOL Retirement Plan Reporting and Disclosure Guide at www.dol.gov/ebsa/pdf/rdguide.pdf and DOL's www.dol.gov/ebsa/pdf/troubleshootersguide.pdf.

Please be sure to check for current laws and regulations on other DOL reporting and disclosure provisions on EBSA's website at www.dol.gov/ebsa.

Retirement Plan Reporting and Disclosure Requirements

Document	Why	Who	Given to	When	Applies to	Potential Penalties
Form 5500 , Annual Return/ Report of Employee Benefit Plan, or Form 5500-SF , Short Form Annual Return/Report of Small Employee Benefit Plan	To provide information with respect to qualification, financial condition, operation of the plan IRC Section 6058, ERISA Sections 104, 4065; DOL Regulations Section 2520.104; DOL EBSA: Forms and Filing Instructions	Plan administrator or employer who maintains a plan Small plans may be eligible to file Form 5500-SF instead of Form 5500	DOL, IRS and PBGC Must be filed electronically through EFAST2	<ul style="list-style-type: none"> Last day of the 7th calendar month after the end of the plan year (July 31 for calendar-year plans) Can request up to 2½ month extension (Form 5558) 	Generally all retirement plans subject to Title I of ERISA, For exceptions see Form 5500 instructions	<ul style="list-style-type: none"> DOL may assess up to \$1,100 per day for failure to file or for not filing a complete and accurate report (see ERISA Section 502(c)(2)) \$25 per day (up to \$15,000) for failure to file return as required by Section 6058 (see IRC Section 6652(e)) \$1,000 for not filing actuarial information (Schedule MB or Schedule SB of Form 5500) (see IRC Section 6692)
Form 5500-EZ , Annual Return of One- Participant (Owners and Their Spouses) Retirement Plan	Same as Form 5500 IRC Section 6058(a) Form 5500-EZ Instructions	Plan administrator or employer who maintains a plan	IRS File Form 5500-EZ in paper or Form 5500-SF electronically Effective for plan years beginning January 1, 2015, if you file at least 250 returns during the calendar year you must file Form 5500-SF electronically through the EFAST2 system	Same as Form 5500	<ul style="list-style-type: none"> One-participant plans with total assets (either alone or combined) greater than \$250,000 Certain foreign plans 	<ul style="list-style-type: none"> \$25 per day (up to \$15,000) for failure to file return as required by IRC Section 6058 (see IRC Section 6652(e))

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Form 8955-SSA , Annual Registration Statement Identifying Separated Participants with Deferred Vested Benefits	To report information about separated participants who have vested benefits in plan IRC Section 6057(a) Form 8955-SSA Instructions	Plan administrator	IRS File through the IRS FIRE system or Form 8955-SSA in paper Effective for plan years beginning January 1, 2014, if you file at least 250 returns during the calendar year you must file electronically through the FIRE system <ul style="list-style-type: none"> no electronic signature needed if filing electronically through IRS FIRE system. 	<ul style="list-style-type: none"> Last day of 7th month following end of plan year (July 31 of following year for calendar year plans) Can request up to 2½ month extension (Form 5558) 	<ul style="list-style-type: none"> All plans subject to the vesting standards of ERISA Section 203 May be filed by sponsors of government, church and other plans not subject to vesting standards of ERISA Section 203 	\$1 per day per participant not reported (up to \$5,000 per plan year) unless due to reasonable cause (See IRC Section 6652(d)((1))
Form 5310-A , Notice of Plan Merger or Consolidation, Spinoff, or Transfer of Plan Assets or Liabilities; Notice of Qualified Separate Lines of Business	To provide notice of a plan merger or consolidation, spinoff into two or more plans, plan transfer of assets or liabilities into another plan, or notice of intent to perform, or stop performing, nondiscrimination testing as a qualified separate line of business (QSLOB) IRC Section 6058(b) Form 5310-A instructions	Plan administrator or employer	IRS	<ul style="list-style-type: none"> At least 30 days before a plan merger, consolidation, spinoff or transfer of assets or liabilities to another plan QSLOB by the later of: <ol style="list-style-type: none"> October 15 of the year following the testing year, or 15th day of the 10th month after the end of the plan year of the employer that begins earliest in the testing year 	<ul style="list-style-type: none"> Mergers/spinoffs: pension, profit-sharing or other deferred compensation plans except multi-employer plans covered by the PBGC All plans involved in the merger, consolidation, spinoff or transfer must file unless an exception listed in the instructions applies (exceptions are available for most defined contribution plans and de minimis defined benefit plan mergers and spinoffs) QSLOB election: Retirement and dependent care plans using the QSLOB alternative for nondiscrimination and coverage testing 	<ul style="list-style-type: none"> Penalty of \$25 per day (up to \$15,000) for late filing of Form 5310 to report a plan merger or consolidation, spinoff or transfer of plan assets or liabilities. (See IRC Section 6652(e)).

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Form 5330 , Return of Excise Taxes Related to Employee Benefit Plans	To report excise tax on: <ul style="list-style-type: none"> • excess contributions or excess aggregate contributions • minimum funding deficiencies • failure to comply with multiemployer plan improvement obligations • nondeductible contributions • prohibited transactions • certain 403(b) custodial account excesses • funded welfare plan disqualified benefits • certain ESOP transactions • defined benefit plan reversions • 204(h) notice failures • prohibited tax shelter transactions Form 5330 instructions	Employer, plan entity manager or individuals liable for the tax	IRS	<ul style="list-style-type: none"> • Generally, later of 7 months after the end of the employer's tax year or 8½ months after the end of the plan year • For excess CODA amounts, last day of the 15th month after the close of the plan year to which the excess amounts relate • Last day of month following the month in which the reversion or failure to satisfy notice occurs • For prohibited tax shelter transactions, 15th day of the 5th month following the close of the entity manager's tax year in which the prohibited transaction occurs • Can request 6-month extension if Form 5558 is filed by the regular due date and taxes paid 	All plans and persons who participated in the taxable transactions or events	<ul style="list-style-type: none"> • Late filing of form - 5% of unpaid tax for each month return is late, up to 25% of unpaid tax • Late payment of tax – 0.5% of unpaid tax for each month return is late, up to 25% of unpaid tax
Form 5558 , Application for Extension of Time to File Certain Employee Plan Returns	<ul style="list-style-type: none"> • To request a one-time extension of time to file Form 5500, 5500-SF or 5500-EZ; Form 8955-SSA or Form 5330 • To request approval of an extension of the Form 5330 due date; estimated tax must be paid with Form 5558 Form 5558 instructions	Plan administrator	IRS	<ul style="list-style-type: none"> • By the last day of the 7th month after plan year end for Forms 5500 and 8955-SSA; before the Form 5330 normal due date • Requests to extend the Form 5330 due date must be made with enough time to allow for processing and approvals 	All plans required to file Form 5500-series returns, Form 8955-SSA or Form 5330	No penalty for Form 5558, but see penalties for affected 5500-series forms and 8955-SSA. (See IRC Sections 6652(e), 6652(d), and 6692.)

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1099-R , Distributions from Pensions, Annuities, Retirement or Profit-Sharing Plans, IRAs, Insurance Contracts, etc.	<p>To report distributions of \$10 or more from profit-sharing or retirement plans, IRAs, annuities, pensions, insurance contracts, survivor income benefit plans, permanent and total disability payments under life insurance contracts, charitable gift annuities, etc.</p> <p>Also, use Form 1099-R to report death benefit payments made by employers that are not made as part of a pension, profit-sharing or retirement plan</p> <p>IRC Section 6047(d)</p> <p>1099-R Instructions</p>	Trustee or plan administrator	IRS and individual receiving the distribution (the payee)	<ul style="list-style-type: none"> To payee by January 31 To IRS - paper by February 28, electronic by March 31 	<p>Qualified pension and profit-sharing, 403(b), governmental 457(b), SEP and SIMPLE plans and IRAs</p> <p>Reportable transactions include direct rollovers, in-plan Roth rollovers, revocation of an IRA or account closure, corrective distributions under EPCRS, participant loans treated as distributions, and 404(k) dividends paid on employer stock held by an ESOP that are paid from the ESOP</p>	<p>If within 30 days of due date - \$30 per return (up to \$250,000 per year)</p> <p>If more than 30 days late, but by August 1 - \$60 per return (up to \$500,000 per year)</p> <p>If after August 1 - \$100 per return (up to \$1,500,000 per year)</p> <p>Lower caps apply for small businesses with gross receipts of \$5,000,000 or less. Exceptions apply for inconsequential errors as well as de minimis failures.</p> <p>The penalty also applies if return is filed with the IRS on paper where electronic filing is required.</p>
8886-T , Disclosure by Tax-Exempt Entity Regarding Prohibited Tax Shelter Transaction	<p>To disclose information about each prohibited tax shelter transaction to which the entity is a party</p> <p>Form 8886-T Instructions</p>	Entity or entity manager	IRS	Deadlines vary depending on whether entity facilitates a transaction due to its exempt status or to reduce or eliminate its own tax liability, and whether it is a listed transaction or a subsequently listed transaction (see Form 8886-T instructions)	Entity manager of a retirement plan that is a party to a prohibited tax shelter transaction	<p>\$100 a day for failure to make required disclosure (up to \$50,000 for any one disclosure)</p> <p>Failure to comply with a written demand from the IRS specifying a reasonable future date by which the required disclosure must be filed is subject to an additional penalty of \$100 a day, not to exceed \$10,000</p>

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Document	Why	Who	Given to	When	Applies to	Potential Penalties
Notice of benefit limitations and restrictions	To provide information about certain limitations on benefit accruals and distributions from pension plans IRC Section 436; Treasury Regulations Section 1.436-1; IRS Notice 2012-46 and ERISA Sections 101(j) and 206(g).	Plan administrator	Participants and beneficiaries	Within 30 days after the: <ul style="list-style-type: none"> effective date of payment limitation, measurement date under IRC Section 436, date accruals are frozen, or date limitations cease and a new election is permitted under the plan 	Defined benefit plans subject to one of the distribution or accrual restrictions	DOL may assess civil penalty of up to \$1,000 per day per person for each violation. (See ERISA Section 502(c)(4)).
Notice of transfer of excess pension assets to retiree health benefit or life insurance account	To provide notice of transfer of defined benefit plan excess assets to retiree health benefits life insurance account IRC Section 420; IRS Announcement 92-54; ERISA Section 101(e)(1) and (e)(2).	Both the employer and plan administrator	<ul style="list-style-type: none"> Employer gives to DOL, IRS and each employee organization representing plan participants Plan administrator gives to participants and beneficiaries 	Must be given at least 60 days before the transfer and must be available for inspection in the plan administrator's principal office	Single-employer defined benefit plan that makes IRC Section 420 transfer	Under ERISA, plan administrator who fails to provide notice 60 days before date of the qualified transfer may be found personally liable by a court for up to \$110 per day from date of failure; employer may separately face a similar penalty. (See ERISA Section 502(c)(3)).
Notice of funding waiver application	To provide notice of employer's intent to apply for funding waiver or request to extend amortization periods IRC Section 412(c)(6); Revenue Procedure 2004-15 (includes model notice)	Plan sponsor	<ul style="list-style-type: none"> Participants and beneficiaries Alternate payees Employee organization representing employees covered by plan PBGC 	Within 14 days before the date the application is filed with the IRS	Defined benefit and money purchase plans	Providing the notice is a precondition to receiving an IRS funding waiver

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Notice of significant reduction in future benefit accruals	To provide notice of plan amendments that involve a significant reduction in future benefit accruals or elimination or significant reduction in an early retirement benefit or retirement-type subsidy IRC Section 4980F; Treasury Regulations Section 54.4980F-1; ERISA Section 204(h).	Plan administrator	<ul style="list-style-type: none"> Participants, beneficiaries entitled to benefits Alternate Payees Employee organizations representing them Each employer who must contribute under the plan 	<ul style="list-style-type: none"> Generally, 45 days before the effective date of the amendment 15 days for small plans, multiemployer plans and mergers and acquisitions 	Defined benefit and money purchase plans subject to minimum funding standards	Employer (or plan if multiemployer plan) may be subject to tax of \$100 per day per applicable individual up to \$500,000 If egregious failure, participants entitled to greater of benefits before and after amendment
Notice of intent to use 401(k) safe harbor	To provide notice that plan is a 401(k) safe harbor plan Describes plan provisions, participant rights and obligations under plan, contribution formula, plan to which safe harbor contributions will be made, type and amount of compensation that can be deferred, how to make an election and withdrawal, and vesting provisions IRC Section 401(k)(12)(D); Treasury Regulations Section 1.401(k)-3(d)	Plan administrator	Employees eligible to participate in the plan	Between 30 and 90 days before participants become eligible to participate and beginning of each plan year	401(k) plans using a safe harbor formula	Possible loss of safe harbor status and tax disqualification
Notice of eligible automatic contribution arrangement (EACA)	In addition to automatic contribution arrangement notice items, describes how to request refund in first 90 days, if plan allows IRC Section 414(w); Treasury Regulations Section 1.414(w)-1; IRS model notice IRS model notice may also be used to satisfy the DOL notice requirements for qualified default investment alternatives under 29 CFR 2550.404c-5, and automatic contribution arrangements under ERISA Section 514(e)(3).	Employer	Employees to be auto-enrolled in absence of affirmative election and newly eligible employees, if plan allows refund of deferrals in first 90 days	Not less than 30 or more than 90 days before beginning of plan year (by a date reasonably in advance of date to decline participation, but not more than 90 days in advance, in case of newly eligible employee)	401(k), 403(b), 457, SARSEP or SIMPLE IRA plans with automatic enrollment feature offering refunds within first 90 days	<ul style="list-style-type: none"> Possible tax disqualification DOL may assess civil penalty of up to \$1,000 per day per person for ERISA violations. (See ERISA Section 502(c)(4)).

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Notice of qualified automatic contribution arrangement (QACA)	To provide notice that plan is a safe harbor plan. Also informs employee of rights and obligations under automatic contribution arrangement, including right to elect not to make salary deferrals (or right to elect a different percentage); explains how contributions will be invested if no investment election IRC Section 401(k)(13); Treasury Regulations Section 1.401(k)-3(k); IRS model notice ;	Employer	All eligible employees	Not less than 30 or more than 90 days before beginning of plan year (by date reasonably in advance of date to decline participation, but not more than 90 days in advance, in case of newly eligible employee)	401(k), 403(b) and 457 plans with a safe harbor automatic enrollment feature	<ul style="list-style-type: none"> Possible tax disqualification
Notice of right to divest employer securities	To advise participants with account balances invested in publicly traded employer stock of right to diversify into alternative investments and importance of diversification IRC Section 401(a)(35); IRS Notice 2006-107 (includes model notice); ERISA Sections 101(m) and 204(j).	Plan administrator	Participants, alternate payees with accounts under the plan, and beneficiaries of deceased participants	At least 30 days before participant is first eligible to exercise the diversification right	Defined contribution plans that hold publicly-traded employer securities other than certain stand-alone ESOPs	DOL may assess civil penalty of up to \$100 per day per participant or beneficiary for each violation. (See ERISA section 502(c)(7)).
Notice to interested parties	To advise plan participants and beneficiaries that the plan sponsor has filed request for determination letter Treasury Regulations Sections 601.201(o)(3) and 1.7476-2; Revenue Procedure 2014-6 (updated annually) (includes model notice)	Employer, plan administrator, plan sponsor	Present and former employees, beneficiaries, and union representative	Between 10 and 24 days before submitting a determination letter request to IRS	Defined benefit and defined contribution plans filing for determination letters on Form 5300, 5307 or 5310	Must provide notice before IRS will review determination letter request
Notice to separated participants with deferred vested benefits	To provide separated participants with an individual statement about their deferred vested benefits, as reported on Form 8955-SSA IRC Section 6057(e); Treasury Regulations Section 301.6057-1; ERISA Sections 105(c).	Plan administrator	Separated participants	No later than due date for filing Form 8955-SSA	Defined benefit and defined contribution plans with separated participants who have deferred vested benefits	\$50 for each willful failure (See IRC Section - 6690)

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Domestic relations order and qualified domestic relations order notices	To provide notification of receipt of a domestic relations order, plan's procedures for determining qualification and the determination of whether DRO is qualified IRC Section 414(p); Model Notice at Notice 97-11; ERISA Section 206(d)(3).	Plan administrator	Participants and alternate payees (spouse, former spouse, child or other dependent named in a DRO as having a right to receive any portion of the participant's plan benefits)	<ul style="list-style-type: none"> Initially upon receipt of the DRO (including the plan procedures for determining its qualified status) Notice on whether the DRO is qualified within a reasonable period of time after receipt of the DRO 	Defined benefit and defined contribution plans	Possible tax disqualification
Effect of corrective distributions on individual's income tax return	To advise participants that receipt of amounts includible in income in a prior year will require them to file an amended income tax return, and, if applicable, how to report losses on excess deferrals (IRS Notices 89-32 and 87-77)	Plan sponsors making corrective distributions that are taxable in a prior year	Participants	At time of distribution	401(k) and other qualified plans, 403(a), 403(b) and SARSEP plans	
Explanation of rollover and certain income tax withholding options	To inform individuals receiving plan payments of rules for rollovers, mandatory 20% income tax withholding if not rolled over, right to elect out of income tax withholding on other periodic and non-periodic payments IRC Sections 402(f) and 3405; Treasury Regulations Sections 1.402(f)-1, 35.3405-1 and -1T, and 31.3405(c)-1; IRS Notice 2009-68 (includes model 402(f) notice)	Plan administrator	Participants and beneficiaries who receive an eligible rollover distribution	<ul style="list-style-type: none"> Eligible rollover notice: between 30 and 180 days before date of distribution (or first payment in a series) Periodic payment withholding notice: no earlier than 6 months before first payment and no later than when making first payment; thereafter, once each calendar year Nonperiodic payment withholding notice: may be provided with benefits application 	Defined benefit and defined contribution plans	<ul style="list-style-type: none"> Rollover notice: \$100 per participant not reported (up to \$50,000 per calendar year) Withholding notice: \$10 per participant not reported (up to \$5,000 per calendar year)

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Explanation of automatic rollover	To provide notice to individuals receiving a plan payment that, if the individual makes no affirmative election about what to do with the payment, the payment will automatically be rolled over to an IRA. The notice must identify the trustee or issuer of the IRA. It may be provided separately or as part of the 402(f) rollover notice. IRC Section 401(a)(31)(B) and IRS Notice 2005-5	Plan administrator	Participants and beneficiaries who receive an eligible rollover distribution	Same as rollover notice	Same as rollover notice	Same as rollover notice
Explanation of consent to distribution	To obtain participant's consent to a distribution greater than \$5,000, to provide available distribution options and consequences of failing to defer the start of benefits to the extent permitted IRC Section 411(a)(11); Treasury Regulations Sections 1.411(a)-11 and 1.401(a)-20; IRS Notice 2007-7, Q33; Proposed Treasury Regulations Section 1.411(a)-11(c)(2); ERISA Section 203(e)	Plan administrator	Participants	No less than 30 and no more than 180 days before the annuity starting date (distribution date/date of plan loan), unless the participant makes an affirmative election to distribute	Defined benefit and defined contribution plans	Risk of disqualification; duplicate benefits may be payable
Explanation of qualified joint and survivor annuity	To inform participant of terms and conditions of QJSA or QSA, right to waive, right to revoke waiver, spousal consent requirement, and explanation and relative value of other optional benefit forms IRC Section 417(a)(2); Treasury Regulations Sections 1.401(a)-11, 1.401(a)-20, 1.417(a)(3)-1 and 1.417(e)-1; IRS Notice 2008-30; ERISA Section 205(c).	Plan administrator	Participants	No less than 30 and more than 180 days before the annuity starting date, unless there is an affirmative election, in which case payment date can't be sooner than 7 days after notice	Defined benefit and defined contribution plans subject to minimum funding standard, certain other defined contribution plans	Risk of disqualification; duplicate benefits may be payable

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Explanation of qualified preretirement survivor annuity /beneficiary designation	To provide explanation of terms and conditions of QPSA, right to waive, right to revoke waiver, spousal consent requirement IRC Section 417(a)(2); Treasury Regulations Sections 1.401(a)-20, 1.417(a)(3)-1 and 1.417(e)-1; ERISA Section 205(c).	Plan administrator	Participants not yet in pay status	<ul style="list-style-type: none"> • During period from beginning of plan year in which employee turns age 32 to end of plan year in which employee turns age 34, or one year after individual becomes a participant • Special rules for participants who begin participation after age 34 or who separate from service before age 35 • Notice isn't required if plan fully subsidizes QPSA and doesn't allow a participant to waive it or to select a non-spouse beneficiary 	<ul style="list-style-type: none"> • Defined benefit and defined contribution plans subject to minimum funding standard, certain other defined contribution plans • Exempt defined contribution plan to select nonspouse beneficiary 	Risk of disqualification; duplicate benefits may be payable
Multiemployer plan's notice of endangered or critical status	To provide notice that plan is or will be in endangered or critical status for a plan year. If in critical status, notice explains possibility that adjustable benefits may be reduced and these reductions may apply to participants and beneficiaries whose benefits start date is on or after date the notice is provided for the first plan year the plan is in critical status. Explains restrictions on certain optional forms such as lump sum distributions IRC Section 432(b)(3)(D); Proposed Treasury Regulations Section 1.432(b)-1(e); model notice ; ERISA Section 305(b)(3)(D).	Plan sponsor	<ul style="list-style-type: none"> • Participants and beneficiaries • Bargaining parties • PBGC • DOL 	No later than 30 days after date of actuarial certification of endangered or critical status	Multiemployer plans in endangered or critical status	

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Multiemployer plan's notice of reduction to adjustable benefits	To provide notice that plan is in critical status for a plan year; identifies adjustable benefits that will be reduced based on outcome of collective bargaining to address critical status IRC Section 432(e)(8)(C); ERISA Section 305(e)(8)(C)	Plan sponsor	<ul style="list-style-type: none"> • Participants and beneficiaries • Employee organization representing employees covered by the plan • Contributing employers 	30 days before the date of the reduction	Multiemployer defined benefit plans in critical status	Can't reduce adjustable benefits if notice isn't provided
Multiemployer plan's notice of application for extension of amortization period	To provide notice to affected parties that plan sponsor will submit an application for extension of amortization period for any unfunded liability to IRS IRC Section 431(d); Revenue Procedure 2010-52 (includes model notice); ERISA Section 304(d).	Plan sponsor	<ul style="list-style-type: none"> • Participants and beneficiaries • Alternate payees • Employee organization representing employees covered by the plan • Contributing 	Within 14 days prior to the date of an application for extension	Multiemployer defined benefit plans	Notice must be provided to receive an extension
SIMPLE IRA election notice	To provide notice of the opportunity to make or modify a salary reduction agreement, and if applicable, to disclose the ability to select the financial institution that will serve as the trustee of the employee's SIMPLE IRA. Must also include a summary plan description. Notice may also describe any reduced matching contributions or a nonelective contribution. IRS Notice 98-4	Plan sponsor	Employees	Immediately before the 60-day period before January 1 of each year during which employees may make or modify a salary reduction election	SIMPLE IRA plans	\$50 per day for failure to provide one or more notices, unless due to reasonable cause