

(3) A statement to the effect that:

(i) IRAs other than the IRA(s) into which employer contributions will be made under the SEP may provide different rates of return and may have different terms concerning, among other things, transfers and withdrawals of funds from the IRA(s),

(ii) In the event a participant is entitled to make a contribution or rollover to an IRA, such contribution or rollover can be made to an IRA other than the one into which employer contributions under the SEP are to be made, and

(iii) Depending on the terms of the IRA into which employer contributions are made, a participant may be able to make rollovers or transfers of funds from that IRA to another IRA.

(4) A description of the disclosure required by the Internal Revenue Service to be made to individuals for whose benefit an IRA is established by the financial institution or other person who sponsors the IRA(s) into which contributions will be made under the SEP.

(5) A statement that, in addition to the information provided to an employee at the time he or she becomes eligible to participate in a SEP, the administrator of the SEP must furnish each participant:

(i) Within 30 days of the effective date of any amendment to the terms of the SEP, a copy of the amendment and a clear written explanation of its effects, and

(ii) No later than the later of:

(A) January 31 of the year following the year for which a contribution is made,

(B) 30 days after a contribution is made, or

(C) 30 days after the effective date of this regulation

written notification of any employer contributions made under the SEP to that participant's IRA(s).

(6) In the case of a SEP that provides for integration with Social Security

(i) A statement that Social Security taxes paid by the employer on account of a participant will be considered as an employer contribution under the SEP to a participant's SEP-IRA for purposes of determining the amount contributed to the SEP-IRA(s) of a par-

ticipant by the employer pursuant to the allocation formula,

(ii) A description of the effect that integration with Social Security would have on employer contributions under a SEP, and

(iii) The integration formula, which may constitute part of the allocation formula required by paragraph (a)(1)(ii) of this section.

(b)(1) The requirements of paragraphs (a)(1)(i), (ii), (iii) and (a)(6)(i) of this regulation may be met by furnishing the SEP agreement to participants, provided that the SEP agreement is written in a manner reasonably calculated to be understood by the average plan participant.

(2) The requirements of paragraph (a)(1)(iv) of this regulation may be met through disclosure materials furnished by the financial institution in which the participant's IRA is maintained, provided the materials contain the information specified in such paragraph.

(c) No later than the later of:

(1) January 31 of the year following the year for which a contribution is made,

(2) 30 days after a contribution is made, or

(3) 30 days after the effective date of this regulation

the administrator of the SEP shall notify a participant in the SEP in writing of any employer contributions made under the SEP to the participant's IRA(s).

(d) Within 30 days of the effective date of any amendment to the terms of the SEP, the administrator shall furnish each participant a copy of the amendment and a clear explanation in writing of its effect.

[46 FR 1264, Jan. 6, 1981]

**§ 2520.104-50 Short plan years, deferral of accountant's examination and report.**

(a) *Definition of "short plan year."* For purposes of this section, a short plan year is a plan year, as defined in section 3(39) of the Act, of seven or fewer months' duration, which occurs in the event that:

(1) A plan is established or commences operations;

(2) A plan is merged or consolidated with another plan or plans;

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(3) A plan is terminated; or  
(4) The annual date on which the plan year begins is changed.

(b) *Deferral of accountant's report.* A plan administrator is not required to include the report of an independent qualified public accountant in the annual report for the first of two consecutive plan years, one of which is a short plan year, provided that the following conditions are satisfied:

(1) The annual report for the first of the two consecutive plan years shall include:

(i) Financial statements and accompanying schedules prepared in conformity with the requirements of section 103(b) of the Act and regulations promulgated thereunder;

(ii) An explanation why one of the two plan years is of seven or fewer months' duration; and

(iii) A statement that the annual report for the immediately following plan year will include a report of an independent qualified public accountant with respect to the financial statements and accompanying schedules for both of the two plan years.

(2) The annual report for the second of the two consecutive plan years shall include:

(i) Financial statements and accompanying schedules prepared in conformity with section 103(b) of the Act and regulations promulgated thereunder with respect to both plan years;

(ii) A report of an independent qualified public accountant with respect to the financial statements and accompanying schedules for both plan years; and

(iii) A statement identifying any material differences between the unaudited financial information relating to, and contained in the annual report for, the first of the two consecutive plan years and the audited financial information relating to that plan year contained in the annual report for the immediately following plan year.

(c) *Accountant's examination and report.* The examination by the accountant which serves as the basis for the portion of his report relating to the first of the two consecutive plan years may be conducted at the same time as the examination which serves as the basis for the portion of his report relat-

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ing to the immediately following plan year. The report of the accountant shall be prepared in conformity with section 103(a)(3)(A) of the Act and regulations thereunder.

[46 FR 1265, Jan. 6, 1981]

**Subpart E—Reporting Requirements**

(The information collection requirements contained in subpart E were approved by the Office of Management and Budget under control number 1210-0016)

**§ 2520.104a-1 Filing with the Secretary of Labor.**

(a) *General reporting requirements.* Part 1 of title I of the Act requires that the administrator of an employee benefit plan subject to the provisions of part 1 file with the Secretary of Labor certain reports and additional documents. Each report filed shall accurately and comprehensively detail the information required. Where a form is prescribed, the reports shall be filed on that form. The Secretary may reject any incomplete filing. Reports and documents shall be filed as specified in this part.

(b) *Exemption for certain welfare plans.* See §§ 2520.104-20, 2520.104-21, 2520.104-22, 2520.104-24, and 2520.104-25.

(c) *Alternative method of compliance for pension plans for certain selected employees.* See § 2520.104-23.

[42 FR 37185, July 19, 1977]

**§§ 2520.104a-2—2520.104a-4 [Reserved]**

**§ 2520.104a-5 Annual reporting filing requirements.**

(a) *Filing obligation.* Except as provided in § 2520.104a-6, the administrator of an employee benefit plan required to file an annual report pursuant to section 104(a)(1) of the Act shall file an annual report containing the items prescribed in § 2520.103-1 within:

(1) [Reserved]

(2) Seven months after the close of any plan year which begins after December 31, 1975, unless extended. See "When to file" instructions of the appropriate Annual Return/Report Form.

(b) *Where to file.* The annual report described in § 2520.103-1 shall be filed in