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Civil Penalties under ERISA Section 502(c)(8)

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Submitter Information

General Comment

2560.502c-8(j) states in part: "If more than one person is responsible as plan sponsor for [the] violations... all such persons shall be jointly and severally liable for such violations." Further clarification is requested to define who is "responsible." For instance, with a joint board of trustees of a multiemployer plan, are all trustees jointly and severally liable for the penalty imposed under 502(g)(2) for failure to meet certain requirements of 305 simply by a failure of the board to adopt a course of action as a whole, or are only those trustees who may have dissented from taking action "responsible"?