



Plan Document and Summary Plan Description

The plan document is also known as the plan instrument. Employee benefit plans including 401(k) plans are normally established and maintained by plan sponsors pursuant to the plan document. The plan document establishes the rules for the plan. Plan amendments change the plan document by formally amending it. The provisions of the plan document normally deal with such items as eligibility to participate, entitlement to benefits, funding, plan amendments, operation and administration of the plan, and identification of plan fiduciaries and responsibilities as such. A plan subject to ERISA is required to be in writing. The Internal Revenue Service (IRS) has prepared and updated standard (master or prototype) plans that are available to plan sponsors and may be qualified by simplified procedures. These standardized (or pattern) plans that have IRS approval are available from various sources. The plan document is the basis for understanding the requirements under the plan. It is recommended that the auditor's obtain the plan document and all plan amendments and maintain these indefinitely.

The summary plan description (SPD) is an abbreviated version of the plan document meant to highlight significant plan document areas, and generally, is less authoritative than the plan document itself. The SPD is meant to address when an employee can participate in the plan, how services and benefits are calculated, when benefits become vested, when and in what form benefits are paid, and how to file a claim for benefits. The plan administrator is legally obligated to provide participants, free of charge, the SPD. If a plan is changed, participants must be informed, either through a revised summary plan description, or in a separate document, called a summary of material modifications, which also must be given to participants free of charge.

In addition to the SPD, the plan administrator must automatically give participants a copy of the plan's summary annual report each year. This is a summary of the annual financial report that most plans must file with the Department of Labor on Form 5500 or 5500-SF. The summary annual report is available at no cost. To learn more about the plan assets, participants may ask the plan administrator for a copy of the annual report in its entirety. If participants are unable to get the SPD, the summary annual report, or the annual report from the plan administrator, they may be able to obtain a copy by writing to the U.S. Department of Labor, EBSA, Public Disclosure Room, Room N-1513, 200 Constitution Avenue, N.W., Washington, D.C. 20210, for a nominal copying charge. Participants should provide their name, address, and phone number to enable EBSA to contact them to follow up on their request.

For more information on this topic, please contact Paul McGovern at PMcGovern@DowneyCoCPA.com.