

STARTING DEFERRALS PROPERLY

Items for Consideration



ENROLLMENT KITS

Prior to an employee first becoming eligible for your 401(k) plan, you must provide them with information such as enrollment instructions, a summary plan description, and investment and fee information. In an automatic enrollment plan, participants must also be notified they'll be automatically enrolled and what the defaults for that automatic enrollment will be.

- What information is required to be provided to participants for your plan?
- Who is the responsible party for providing this information, you or one of your service providers?
- Is there a way to confirm enrollment kits were sent and to whom?
- Who is liable if the wrong information is provided or if a participant is missed?

PARTICIPANT ENROLLMENT

After receiving the enrollment kits, the employee will need to complete certain steps to join the plan in a standard enrollment plan or complete certain steps to change from the defaults in an automatic enrollment plan.

- What steps must the employee complete?
- Can enrollment be done on paper, via the internet or both?
- Is this information clearly identified in the enrollment kits to your satisfaction?
- Who do the employees contact if they have questions?
- If paper is involved, where do the employees send the paper?
- Who needs to receive the paper form to ensure the participant is properly enrolled?

UPDATING PAYROLL

Employees will provide instructions on how much they want to save in a standard enrollment plan. In an automatic enrollment plan, employees will only provide instructions if they want to change from the default, i.e. save more than the default, less than the default or not save at all. These employee elections must be reflected in the payroll system in order for the proper amount to be deducted from the employee's check.

- If you utilize an electronic system for enrollments, does the enrollment system automatically update the payroll system?
- If you must manually update your payroll system, does one of your service providers track the changes for you?
- Who on your staff will be responsible for updating the payroll system?
- Who is liable if an update is missed?

Please see the final page of this document for important information about suggested use.

AUTOMATIC ENROLLMENT

If your plan has automatic enrollment, an employee should start deferring on the day they enter the plan unless they make an election to opt out of the plan. In a standard enrollment plan, if a participant doesn't take action, no action is needed to set them up for the 401(k) plan in the payroll system. In an automatic enrollment plan, action is needed if the participant does nothing. As such, it's easy to forget to update the payroll system in an automatically enrolled plan.

- Who tracks whether participants have made an election to opt out of saving?
- Who notifies the payroll department of which employees to start saving at the default rate?
- Does one of your service providers automatically update the payroll system for you?
- If someone in your office is required to update the payroll system, who is that person and what process are they following?
- Who is liable if a default enrollment is missed?

ENROLLMENT TIMING

Enrollment kits are often provided to employees 30-45 days in advance of their first becoming eligible to save. The employee may, upon receiving the package, take the steps necessary to save immediately. That could mean your office receive the enrollment request several weeks before it actually becomes effective. Alternatively, you may process payroll on a Tuesday morning for that upcoming Friday's pay date. A participant submits an enrollment request Tuesday afternoon. While you could possibly stop the payroll run and resubmit it, that will incur costs to the company. So having a policy to handle timing of submitted requests is advisable.

- What process do you have for determining when to update the payroll system for an enrollment or automatic enrollment?
- Is a member of the service provider team providing you with this information or is it being handled internally?
- If it is being handled internally, who on your staff is responsible and what steps are in place to ensure they understand the rules?
- What is the timing for a participant to submit a request before it is too late to be processed for a particular pay date?
- Who is liable if an enrollment is done too early or too late?

DEFERRAL ELECTION CHANGES

From time to time, employees may want to change the amount they are saving in the plan. The employee may not to fill out a form or go on-line to a particular website, or even call an 800 number.

- What process must an employee follow to change the amount they are saving?
- Does the plan document specify how often changes can be made and if so, who tracks when the changes become effective?
- If changes aren't automatically updated in your payroll system, who on your staff is responsible to make the changes?
- Who is liable if a change is missed?

Please see the final page of this document for important information about suggested use.

IMPORTANT INFORMATION ABOUT USING THIS DOCUMENT

The answers to the questions in this questionnaire could, and very well might be, used against you in a DOL audit or a lawsuit. **We do NOT recommend that you complete and retain this questionnaire without first reviewing the answers with ERISA legal counsel.** The intention is to provide you with questions to discuss internally rather than to create a paper trail that can be used against you.

Depending on your particular situation, there may be other items you should consider. Larger entities will have plan document issues with regard to mergers and acquisitions which are not covered by this questionnaire. There may be administrative policies that exist outside of the plan documents that help govern how the plan works that are not addressed here. This questionnaire is not intended to be exhaustive.