



# Retirement Planning

## Using Pre-Approved Qualified Plan Documents – Your Work is Not Done Yet

*If you're a business owner with a qualified plan for your business, you may have used pre-approved plan documents to start up the plan. Many employers use pre-approved plan documents provided by various financial institutions, third party administrators and others. For example, Guardian offers prototype documents for most defined benefit and defined contribution plans. The employer's responsibility, however, does not stop by having a plan document. There are many other issues that need to be addressed. In the Winter 2011 edition of "Retirement News for Employers," the IRS outlined various retirement plan compliance issues. The following is a summary of some of the items that you, as the employer and plan sponsor, need to be aware of.*

**Ultimate Responsibility:** First off, let's be clear that you, as the employer and the plan sponsor, not the provider of the pre-approved plan documents, are "ultimately responsible for making sure the plan complies with all legal requirements".

**Service Agreements:** You, as the employer and the plan sponsor, must have an understanding of the service agreements, including questions about fees and the allocation of various responsibilities (e.g., who will update the plan for changes in the law, administer the plan, file Form 5500, distribute notices, and correct compliance errors).

**Adoption Agreement:** You, as the employer and the plan sponsor, must read and understand the plan features chosen in the adoption agreement (such as eligibility, contribution, and vesting rules), a task that will require you to refer to the pre-approved plan document as well as the adoption agreement.

**Communication:** You, as the employer and the plan sponsor, must communicate the terms and conditions of the pre-approved plan to your employees. This communication is usually through the distribution of a Summary Plan Description or SPD. Failure to communicate may cause a failure of the plan with serious financial consequences. On the other hand, you also must be able to read, understand, and respond to all communications from the pre-approved plan sponsor. Required documents should be promptly signed and a copy of the plan's approval letter kept on file. Failure to update the plan document may result in the plan being disqualified.

**Payroll:** You should make sure that your payroll processors have copies of all plan documents, understand and implement the applicable compensation definitions, and timely deduct employee deferrals and any employer contributions as well as the proper processing of loan repayments.

**Periodic Review:** As with any planning, you should periodically review your plan documents and operations and consider: (1) whether the plan is still properly designed and continues to meet the goals and objectives for the business and your employees; (2) new features (such as automatic or Roth contributions); (3) whether the plan is compliant and if not, to implement procedures to correct deficiencies; and (4) updates for all law changes.



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**Compliance Checks:** It may also be prudent for you to perform an internal audit of the operation of the plan. If an error is uncovered it is easier to perform a correction using one of the IRS' approved methods through its Employee Plans Compliance Resolution Program (EPCRS). EPCRS is intended to correct qualification failures without plan disqualification. It is much better (and less expensive) for you to discover a failure (mistake) and voluntarily correct it, then to find there was a failure upon an IRS audit.

Being a business owner is rewarding but also hard work. It also brings about complications because of the technicalities and legal issues surrounding employee benefits such as a qualified retirement plan. Know, however, that if you need help with any of these issues, you should consult with your Guardian Financial Representative for assistance.

Please consult with your Guardian Financial Representative if you have any questions concerning this document.

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