Prototype Plans – How to Get Started

Prototype plan documents (generally, a plan document with fixed provisions and an adoption agreement from which an employer may select plan features) can be a cost-effective document solution for employers looking to offer a retirement plan without a lot of ongoing document maintenance. However, it is crucial that the features selected reflect the intended plan design and that an employer fully understands any limitations imposed by the prototype document that could affect plan features or operation, because employers are ultimately responsible for ensuring that their retirement plans comply with document and operational requirements of the Internal Revenue Code and ERISA.

Aon Hewitt’s Retirement Legal Consulting & Compliance attorneys are experienced with plan documents, plan designs, and plan administration, and how these three facets interrelate. Our team works with employers, recordkeepers, and other document providers to ensure the adopted plan document reflects the employer’s expectations for plan design and operation.

Overview

If you are a plan sponsor of an individually designed plan considering a prototype arrangement or moving from one prototype plan document to another, we can partner with you to ensure a seamless transition. This support would include an initial assessment of potential plan designs or operational issues arising out of the conversion of your existing plan to a prototype document. We can also assist employers considering a prototype plan as part of a new retirement program. Your Aon Hewitt consultant can provide you with a strategy to address all of these issues.

Why Are Employers Considering Prototype Plans?

Many recordkeepers offer prototype documents as part of their service packages. With the elimination of IRS determination letters for individually drafted (non-prototype, non-volume submitter) plan documents (other than for new or terminating plans), a prototype plan document may be more attractive now than ever for the following reasons:

- Ability to obtain IRS approval of the plan document
- Reliance on qualified status of plan for rollovers and representations involving mergers, acquisitions, and spinoff transactions
- More standardized administration by plan recordkeepers
- Ongoing updates of plan amendments in response to statutory or regulatory changes
- Consistency in plan terms used by multiple employers adopting the prototype plan

Advantages and Disadvantages of Prototype Plan Documents

Advantages of prototype plan documents typically include updates for law changes and certain administrative services, such as providing summary plan descriptions and participant notices. Many recordkeepers provide prototype documents in conjunction with their recordkeeping services.
Disadvantages of prototype plan documents include less flexibility in plan design and administration, although many employers may be quite satisfied with the design offered by prototype plans. A prototype plan adoption agreement may have limited features to choose from and the fixed provisions of the document may limit certain design alternatives, either of which may require adjustments to an employer’s intended plan design and administration. The “check the box” nature of a prototype plan, coupled with lengthy and detailed plan provisions covering the various features, can result in costly mistakes or lead to future noncompliance and IRS penalties. Thus, the prototype plan provisions and boxes to be checked must be carefully reviewed to be consistent with the employer’s intent for the plan. Once a prototype plan is adopted, the plan must be administered in accordance with its terms, including those defined by checked boxes and “fill in the blanks.” It is not uncommon for incorrect boxes to be unknowingly checked, boxes to be checked inconsistently, or blanks to be incorrectly completed, due to inadequate communication and lack of understanding between the employer and the provider of the prototype document.

Independent Review
Aon Hewitt’s Retirement Legal Consulting & Compliance Practice has significant experience providing independent reviews of prototype document provisions and adoption agreements. Based on our understanding of an employer’s plan design, we identify and troubleshoot plan provisions and adoption agreement selections well in advance of formal plan adoption. We explain the limitations that a prototype plan may have with respect to an employer’s plan design and the implications of various adoption agreement options. We bring to this review our experience working with employers of all sizes and with very different goals and objectives for their plans. Our goal is for the adopted plan to reflect the mutual understanding and expectations of the employer and document provider. This independent review can be provided once a prototype document provider is selected or as part of a process to choose among document providers - often as part of choosing among recordkeepers or other third-party administrators.

Related Service Agreements and Fee Benchmarking
Aon Hewitt’s Retirement Legal Consulting & Compliance consultants can review service agreements related to a prototype document. Such service agreements may determine who is responsible for updating the plan document, providing the summary plan description and participant notices, nondiscrimination testing, and other services, and may indicate any fees connected with those services.

Aon Hewitt’s Defined Contribution Plan Consulting Practice is able to provide fee and service benchmarking for defined contribution services connected to prototype plan document providers. Aon Hewitt maintains a proprietary database of administrative service providers that includes over 50 firms (e.g., insurance companies, banks, investment management companies, third-party administrators) and more than 300 data elements related to each provider. Our database includes detailed information on each vendor’s services and capabilities, and is one of the more comprehensive in the industry.

In addition, Aon Hewitt’s Investment consultants are able to provide fee benchmarking services with respect to plan investments connected to prototype plan document providers.

Aon Hewitt’s Volume Submitter Defined Contribution Plan
Aon Hewitt also offers a volume submitter plan that can be adopted by employers considering a more standardized plan, yet desiring some flexibility. Such a plan may be appropriate for an employer that does not want the rigidity of a prototype plan but wants the assurance of using a plan document that has received a favorable advisory letter from the Internal Revenue Service regarding the acceptability of the plan’s language. Aon Hewitt offers a customized approach to our volume submitter document and fully integrated services to facilitate plan sponsor administrative delegation.

Aon Hewitt is a full-service consulting firm prepared to support clients in all aspects of defined contribution plans – whether plan design, plan documents, compliance efforts, fee-based searches, or recordkeeping.

We look forward to discussing how we may be of assistance. Please contact us to take advantage of our practical and experienced compliance and operational offerings.

© Aon plc 2016. All rights reserved.

Prototype Plans – How to Get Started