Guidelines for Digital Document Distribution

These requirements are governed by the Internal Revenue Service and the U.S. Department of Labor and specify the requirements for the digital distribution of Summary Plan Descriptions (SPDs) via a website or intranet. For more information, visit www.irs.gov and www.dol.gov.

Requirements

1. Employees must have ready access to the employer’s information system (a kiosk or central computer does NOT meet this requirement).

2. Employees’ computer access must be in the same area where the employees are expected to perform their duties (could be at home).

3. Access to the employer’s computer system must be an integral part of employees’ duties.

4. The SPD may be distributed digitally to employees who do not meet the above criteria if:
   a. Employees provide an e-mail address where the documents can be delivered
   b. Employees must complete a consent form to agree that they will receive the documents digitally
   c. Consent must occur AFTER employees have received a statement explaining the digital delivery system and what hardware and software will be required to receive it.
   d. If system requirements change, the employees must receive notification of the change and complete a new consent (e.g., notice was first sent in Microsoft® Word, now being provided in Adobe® Acrobat®).

5. Digital delivery must be calculated to ensure actual receipt (e.g., return receipt, notification of undeliverable mail, etc.).

6. Employees must receive notice that the documents will be delivered digitally prior to distribution.

7. Employees must receive a notice that the documents can be requested and received in paper form at no charge.

Governing Regulations

- Final regulations addressing recordkeeping requirements through electronic means were also issued on the same date; DOL Reg. Sec. 2520.107-1.
  - DOL final guidance on electronic distribution of documents
  - Affects the delivery of Summary Plan Descriptions (SPD), Summary of Material Modifications (SMM), and Summary Annual Reports (SAR) and many more COBRA and HIPAA documents

- Treas. Reg. Sec. 1.401(a)-(21).
  - The regulations also function as a safe harbor for using electronic media to provide communications that are not required to be in writing
  - IRS guidelines for electronic delivery

Download materials online.

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