



Glossary of Important Terms! **(Translated into English by Your AB&D Team Members)**

ADP Test - The mathematical test used to prove salary deferrals do not discriminate in favor of highly compensated employees. The test is based on the average of the deferral ratios for the nonhighly compensated employees for last year. We can calculate the alternate test (it entails extra time on our part) which uses current year average deferral ratios if the test fails using the required test.

ACP Test - same as the ADP just replace deferrals with match.

Benefit Statement - A statement prepared each year to show the benefit the participant has earned or the growth of the individual's account in the plan; including his vested right to the benefit. Benefit statement, benefit certificate, or just "cert" is commonly used interchangeably.

Custodian - A federally chartered financial institution is generally required to hold plan assets. If a financial institution is trustee of the plan, that trustee will generally also be the custodian of the plan.

Determination Letter - This is an approval letter issued by the IRS to the plan sponsor upon request stating that the plan submitted to the IRS for review is qualified for all the associated tax benefits. The plan is approved in its form as submitted; however, the plan still must qualify in operation.

DOL - Department of Labor. The federal agency that is concerned with protecting the rights and benefits of the plan participants, regulating prohibited transactions of plan assets, and monitoring that plan assets are invested prudently.

Eligible Employee - An employee who has satisfied the age and service requirements that a plan may impose.

Employee - A worker for the Employer who has satisfied the "Twenty Factor Test" for control and supervision. Independent contractors are not Employees and may not participate in the plan.

Employer - Includes all members of related companies who are "controlled group members" (a very technical term) for all our nondiscrimination testing. Please inform us if the plan sponsor or its shareholders acquires any related companies

Fidelity Bond - Section 412 of ERISA requires that fiduciaries and other persons who handle or are responsible for the assets of a qualified plan must be bonded. The bond is to reimburse the plan if any plan assets are lost through the fraud or dishonesty of persons handling plan funds. Fraud or dishonesty includes such acts as theft, forgery, embezzlement, misappropriation, or willful misapplication of plan assets.

Federal regulations state that the "administrators, officers, and employees" of a qualified plan who "handle" plan assets must be bonded. Every individual must be bonded for at least 10% of the amount of plan funds he handles up to a maximum of \$1,000,000, but in no case for less than \$1,000. The amount of funds considered to be handled by each person shall be the total funds subject to risk of loss through acts of fraud or dishonesty by such person during the preceding year.

You can obtain the necessary bond by calling your casualty agent and asking him to get an ERISA fidelity bond for your plan. Be sure that your agent understands that a fidelity bond is not the same as fiduciary liability insurance. Tell him the persons that should be bonded and the bond amount. The bond must be one that reimburses the plan from the first dollar of loss up to the full amount for which the person causing the loss is bonded. The bond must also provide a period of no less than one year after termination or cancellation in which to discover a plan loss. It may be a blanket, schedule or individual bond.

Highly Compensated Employee - Any employee who earned more than \$100,000 in the last plan year or who is a more than 5% owner of the employer last year or this year. [Subject to the Top Paid Election]

IRC - The Internal Revenue Code, which is a compilation of tax laws from the Code of Federal Regulations (which are the laws Congress passes each year, which are then enacted when the bill Congress passes is signed by the President).

IRS - The Internal Revenue Service. The federal agency that is concerned with tax consequences of a qualified plan, including regulating the amount of tax deductions, plan assets, benefits under the plan, and annual administration.

IRS Form 1099-R, Statement for Recipients of Total Distributions from Profit-Sharing, Retirement Plans and Individual Retirement Arrangements - The IRS form that is provided to the recipient of distribution from a plan during a calendar year. It documents the amount of distribution, and the taxable income for the recipient and IRS.

IRS Forms: 5500; 5500-C/R; and 5500-EZ - One of these forms must be filed each year by the plan. The form which is required depends on the number of participants in the plan and forms filed in previous years. These are called information returns. The form describes the type of plan, the operation, number of participants, and plan asset activity and is open for public disclosure. IRS imposes a \$25 per day penalty (up to \$15,000 annually) for late or non-filing of this form. In addition, DOL can assess a \$1,100 per day penalty for failure to file this form (up to \$30,000 annually). Each form also has its own penalty for late filing.

Key Employee - A key employee is any employee who at any time during the plan year is:

1. an officer of the employer having annual compensation greater than \$145,000
2. A 5% owner of the employer; or
3. A 1% owner of the employer having an annual compensation of more than \$180,000.

Notice to Interested Parties - A notice for employees/plan participants describing the initiation, amendment, or termination of a qualified plan.

Participant - An Eligible Employee who has met the eligibility requirements and is employed on the plan's entry date for participation.

PBGC - The Pension Benefit Guaranty Corporation. The federal agency that insures (guarantees) a certain level of benefits to the participants of specific defined benefit plans who pay annual premiums to the agency.

Plan Administrator - The Plan Administrator is the person or entity that is specifically designated as such by the terms of the plan document. Typically, the employer is the Plan Administrator. If a Plan Administrator is not designated by the plan document, the plan sponsor is automatically considered the Plan Administrator. The duties of the Plan Administrator are described in the plan document. They generally include the management of the day-to-day operations of the plan. Federal regulations

require that the Plan Administrator: provide reports to participants, including summary plan descriptions and benefit statements; file reports with the IRS, Department of Labor and the Pension Benefit Guaranty Corporation; and maintain records relating to the operation of the plan with sufficiently detailed information to verify the accuracy of the various reports. Federal regulations state that a Plan Administrator may delegate the performance of a plan's administrative functions to other persons. The Plan Administrator may rely on the information, data, or analyses provided by other persons who perform these functions provided that he has exercised prudence in their selection, and has no reason to doubt their competence or integrity.

Plan Sponsor - In the case of a qualified retirement plan that is established and maintained by a single employer, the employer is generally the Plan Sponsor. The duties of a Plan Sponsor include: adopting, executing and amending the necessary plan documents; signing the required federal reports; and making the necessary contributions to the plan each year.

Plan Trustee - A plan Trustee is a party named in the trust instrument or specified by a procedure outlined in the plan document who is authorized to hold the assets of the plan for the benefit of the plan participants. The Trustee may function merely in the capacity of a *custodian* of the assets or may have the exclusive authority and discretion to manage the assets of the plan. The duties of the Trustee will be specified in the trust documents.

PWBA - The Pension and Welfare Benefits Administration. This agency is part of the DOL and is the agency charged with enforcing the protections afforded to plan participants.

Summary Annual Report (SAR Report) - A summary of the IRS 5500 or 5500-C/R annual form which provides all trust activity. The form is also an explanation of how to obtain more information and general plan identification information.

Summary Plan Description (SPD) - A booklet for the participants, which describes the plan, its operation and provisions in easy-to-understand language. The SPD is to be given within 90 days after an Employee becomes eligible to participate in the plan.

Top Paid Election - An annual election AB&D can use (if your plan allows) to limit the number of folks who earned more than \$100,000 last year to the top 20% of employees listed by compensation.

Treasury Regulation - Guidance provided by the U.S. Department of Treasury. These guidelines interpret congressional legislation when there is no legislative history.

Trust - Federal law requires a qualified plan to have a trust.

A trust is:

- an entity that holds assets for the benefit of others.
- a written set of rules or directions as to how assets in the entity are to be handled.

A qualified plan must have a trust that holds the assets of the plan for the benefit of the plan participants. A trust must have one or more trustees who are responsible for handling the plan's assets according to the provisions of the plan and trust document. The trust is a separate entity from the plan sponsor, which is protected from the employer's and plan participant's creditors (except the IRS as a creditor or a spouse or child of a plan participant who has been given a Domestic Relations Order by a state court.)

Trust Accounts - Assets of a qualified plan held by a trust may be invested in various types of property, including bank accounts, stocks and bonds, mutual funds, annuities and life insurance. The accounts which hold plan assets are often called "trust accounts". The process to compile the transactions for the plan is called "trust accounting".