

Cafeteria Plan /125 Compliance Checklist

EMPLOYER BENEFIT COMPLIANCE

In order to be a qualified plan, cafeteria plans are required to contain the following information in writing:

	Questions	Comments
<input type="checkbox"/> Yes <input type="checkbox"/> No	Is the cafeteria plan adopted and effective on or before the first day of the cafeteria plan year to which it relates?	
<input type="checkbox"/> Yes <input type="checkbox"/> No	Do the terms of the plan apply uniformly to all participants?	
<input type="checkbox"/> Yes <input type="checkbox"/> No	Does the plan provide a specific description of each of the benefits available through the plan, including the period during which the benefits are provided (the periods of coverage)?	
<input type="checkbox"/> Yes <input type="checkbox"/> No	Are there rules governing participation, and specifically is there a requirement that all participants in the plan must be employees?	
<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> No	Are there procedures governing employees' elections under the plan? <ul style="list-style-type: none"> • Do they include the period when elections may be made? • Do they include the periods with respect to which elections are effective? • Do they provide that elections are irrevocable, except to the extent of the change in rules (i.e., marital status, number of dependents, employment status, etc.)? 	

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<input type="checkbox"/> Yes <input type="checkbox"/> No	Does the plan detail the manner in which employer contributions may be made under the plan (for example, through an employee's salary reduction election or by nonelective employer contributions)?	
<input type="checkbox"/> Yes <input type="checkbox"/> No	Does the plan include the maximum amount of elective contributions (i.e., salary reduction) available to any employee through the plan? Is it expressed as a maximum dollar amount or a maximum percentage of compensation or the method for determining the maximum dollar amount?	
<input type="checkbox"/> Yes <input type="checkbox"/> No	Does the plan clearly state the plan year?	
<input type="checkbox"/> Yes <input type="checkbox"/> No	Does the plan state that unused benefits or contributions relating to a particular qualified benefit (i.e., a health fsa) may only be used to pay or reimburse expenses incurred with respect to the same qualified benefit (i.e., the health fsa and not the dependent care fsa)?	
<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> No	If there are any amendments to the plan: <ul style="list-style-type: none"> • Are the amendments in writing? • Are the amendments only effective for periods after the later of the adoption date or effective date of the amendment? If an amendment adds a new benefit, does the plan only pay or reimburse those expenses for new benefits incurred after the later of the amendment's adoption date or effective date?	
<input type="checkbox"/> Yes <input type="checkbox"/> No	If the plan offers paid time off, does the plan state that employees are required to use nonelective paid time off (paid time off with respect to which the employee has no election) prior to using elective paid time off?	

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The following written requirements are only applicable if your cafeteria plan contains a Flexible Spending Arrangement (FSA):

	Questions	Comments
<input type="checkbox"/> Yes <input type="checkbox"/> No	Does the plan state that a contribution or benefit from an FSA may not be carried over to any subsequent plan year or period of coverage?	
<input type="checkbox"/> Yes <input type="checkbox"/> No	If the plan includes a health FSA, does the plan provide that the maximum amount of reimbursement from an FSA is available for payment <i>at least</i> monthly during the period of coverage? The plan may not provide that the payment schedule for the required amount for coverage is based on the rate or amount of covered claims incurred during the coverage period.	
<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> No	If the plan includes a grace period: <ul style="list-style-type: none"> • Does the grace period provision apply uniformly to apply participants in the plan? • Does the grace period provision state that any unused benefits or contributions from the previous plan year may not be carried forward, cannot be cashed-out and must be forfeited under the use-or-lose rule to the extent not used by the end of the grace period? 	
<input type="checkbox"/> Yes <input type="checkbox"/> No	Does the plan stipulate the length of any run-out period (the period by which claims must be submitted after the plan year in order to be reimbursed)?	
<input type="checkbox"/> Yes <input type="checkbox"/> No	Does the plan stipulate the period of time after an employee ceases to be a participant when claims for reimbursement may be submitted by the former participant (i.e., 90 days following termination, by the end of the plan year or grace period)?	

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<input type="checkbox"/> Yes <input type="checkbox"/> No	Does the plan define what is meant by expenses that are “incurred” (i.e., when the employee (or the employee’s spouse or dependents) is provided with the medical care that gives rise to the medical expenses, and not when the employee is formally billed, charged for, or pays for the medical care, vs. when expenses are paid for by the employee)?	