



ASSURANT
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Employer-Sponsored Tax Advantaged Disability Plan

Information Kit: *Implementation Materials*

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This Kit Contains:

Implementation Materials

- Summary for Implementation
- Employer Checklist
- Sample Resolution
- Sample Amendment to Disability Plan Document
- Sample Amendment to Summary Plan Description, Notice of Summary Material Modification
- Sample Employee Announcement
- Sample Addition to Employee Enrollment Form

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Summary of Important Information Employers Should Know About Short- and Long-Term Disability Plans

The purpose of this Assurant Employee Benefits Employer-Sponsored Disability Plan Information Kit (the “Kit”) is to make important general information available to employers about issues they should consider in the design and maintenance of their short-and long-term disability programs. The Kit is not designed to be a comprehensive treatment of the legal rules applicable to these benefit arrangements. Employers are advised to seek advice from their own counsel or advisors with respect to legal, tax or other issues discussed in this Kit.

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Background and Summary of Important Information

Employers who want to enhance the disability benefits their employees receive by ensuring that any disability benefits are received tax free should consider taking appropriate steps to designate their Disability Plan as a 2004-55 Arrangement.

In many cases, the Assurant Employee Benefits’ Disability policy and the certificate of coverage may be used by employers as the Disability Plan’s plan document and Summary Plan Description (SPD). This Kit includes a Designation Amendment that employers may use to designate their Disability Plan as a 2004-55 Arrangement and to amend both their plan document and SPD. Also included in this Kit is an irrevocable election employers may use to permit their employees to irrevocably elect whether they will pay for Disability Plan premiums with After-Tax Dollars, or elect to have the employer continue to pay the premium (not pay the premium with employee After-Tax Dollars). Employers should always, of course, consult with their own employee benefits counsel to (i) better understand the rules regarding 2004-55 Arrangements, (ii) determine whether the Assurant Employee Benefits policy and certificate of coverage can effectively serve as their Disability Plan’s plan document and SPD, and (iii) assist them with the use of the information and forms provided in this Kit.

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Employer Checklist

Implementing a 2004-55 Arrangement

Prior to Beginning of Disability Plan Year:

- 1 Discuss advantages and disadvantages of implementing a 2004-55 Arrangement with your benefits counsel or tax advisor.
- 2 Amend Disability Plan document and summary plan description after discussion with your employee benefits counsel. See sample amendments in Kit.
- 3 Review other employee benefit plans to determine if any other benefit plans are impacted by the change in total compensation that may occur in connection with the 2004-55 Arrangement. Discuss with your employee benefits counsel and, if necessary, amend other plan documents.
- 4 Through normal employer action, formally adopt Disability Plan amendment and any other plan amendments in 3 above; e.g., board of directors' resolution or other official action by employer or appropriate benefits committee. See sample resolution in Kit.
- 5 Decide how After-Tax Dollars will be used to pay Disability Plan premiums; that is decide whether to pay premium with After-Tax-Dollars by either adding the appropriate amount of disability premium to employees' salary or deducting the cost of the disability premium from employees' paychecks on an after-tax basis (i.e., an after-tax payroll deduction without increasing the employees' wages).
- 6 Discuss decision in 5 above with payroll department or payroll provider and make any required administrative and/or reporting changes in payroll, reporting or other functions.
- 7 Provide information about the 2004-55 Arrangement to all employees eligible to participate in the Disability Plan so that they can make informed decisions. See sample employee information letter in Kit. Give employees a copy of the amendment to the Summary Plan Description or designate it as a "Summary of Material Modification."
- 8 Require all eligible employees to make an affirmative election in writing. See sample election form in Kit. Election must be made prior to the start of a Plan Year. Employees can elect to pay the premium with employee After-Tax-Dollars, or elect that the employer continue to pay the premium so premium is not paid with employee After-Tax-Dollars.
- 9 Confirm premium for each employee electing to pay his/her disability premium with After-Tax dollars. See Assurant Employee Benefits list bill or visit Online Advantage at www.assurantemployeebenefits.com.
- 10 Retain copies of all employee elections in the event of future questions regarding the taxability of an employee's disability benefits arise.

During Disability Plan Year:

-  1 Implement any changes required in 6 above. During the course of the Plan Year, monitor that changes have been implemented correctly.
-  2 Ensure that employee elections are not changed during the Disability Plan Year, regardless of the occurrence of any Section 125 change in status events. (Note: See Q&A 23 of the Employer FAQs.)
-  3 Permit newly hired employees who are eligible to participate in the Disability Plan to make an irrevocable election in the same manner as described in 8 above. New employee elections should be made upon hire.
-  4 Timely withhold and deposit any additional income and employment taxes in accordance with normal payroll practices and procedures.
-  5 Permit any employee who requests to change his/her election for the next Disability Plan Year to complete a new election form which cannot become effective prior to the beginning of the next Disability Plan Year.
-  6 Confirm that wages and withholding are properly reported on employees' Form W-2's for the current calendar year and distributed to employees no later than January 31 of the next succeeding calendar year.

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Sample Resolution for Review by Counsel

Certified Copy of Resolution of the [Board of Directors, Board of Trustees, or Other Governing Body]

The undersigned, as the duly elected and acting [Secretary or Authorized Officer] of _____ (referred to as the “Company”), a [corporation, partnership, limited liability company, sole proprietorship, or other specified entity] organized and existing under the laws of the State of _____, does hereby certify that the following is a true and correct copy of a Resolution adopted by the [Directors or other governing body] of the Company through a Resolution with unanimous written consent and that the Resolution remains in full force and effect:

WHEREAS the Company did on _____ establish the _____ Plan (the “Plan”) for the exclusive benefit of employees of the Company who become participants therein, and

WHEREAS, the Company now desires to designate the Plan as a Revenue Ruling 2004-55 Arrangement.

NOW THEREFORE IT IS HEREBY RESOLVED:

THAT, effective as of _____, the Plan shall be and hereby is designated as Revenue Ruling 2004-55 Arrangement such that it shall be operated and maintained in accordance with all requirements of such Revenue Ruling 2004-55;

FURTHER RESOLVED, that the Plan be amended in the form attached hereto as required to comply with the provisions of Revenue Ruling 2004-55;

FURTHER RESOLVED, that the [Officers or other authorized persons] of the Company are authorized and directed to take any other action deemed necessary or helpful to implement the resolutions set forth herein, including without limitation by signing such instruments as are necessary to implement the foregoing.

In witness of the foregoing, the hand and seal of the undersigned is set this _____ day of _____

[If corporation: CORPORATE SEAL

Secretary or Authorized Officer

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Sample Amendment to Disability Plan Document for Review by Counsel

(Employer selects either long- or short-term disability plan to reflect actual disability plan to which 2004-55 Arrangement applies)

[Long] [Short]-Term Disability Plan
Sponsored by _____(Employer)
Amendment to Disability Plan Document

Designation of Revenue Ruling 2004-55 Arrangement
Effective for Plan Year Beginning on and after _____

By signing below, the Employer sponsoring this [Long] [Short]-Term Disability Plan (“Disability Plan”) designates this Disability Plan as intended to be operated in accordance with Revenue Ruling 2004-55, effective as of the date specified above (“Plan Year Effective Date”).

Employer Note: Plan Year Effective Date must coincide with the beginning of the Disability Plan year and must be no earlier than the beginning of the next Disability Plan Year.

In accordance with this designation of the Revenue Ruling 2004-55 Arrangement, all employees eligible to participate in the Disability Plan will be required to make a written irrevocable election prior to the beginning of the Plan Year Effective Date. The employees must either:

1. Elect to have Employer continue to pay 100% of the premium for the Disability Plan coverage so that the electing employee will not pay any of the premium for the Disability Plan coverage with after-tax dollars; OR
2. Elect to have 100% of the premium for the Disability Plan coverage paid with after-tax dollars.

Once a written election is made by an employee, that election will automatically “carry over” to all future Disability Plan Years that the employee is eligible to participate in the Disability Plan unless the employee makes a subsequent written election to change a previous election. Any change of election will not be effective until the beginning of the next succeeding Disability Plan Year.

For each employee who elects to have 100% of the premium for the Disability Plan coverage paid with after-tax dollars, Employer will: **Employer Note:** Choose **only one** of the following, but **not both**:

[Increase the employee's taxable wages by adding 100% of the cost of the employee's Disability Plan coverage premium to the employee's taxable wages.]

[Deduct 100% of the cost of the employee's Disability Plan coverage premium as after-tax payroll deductions.]

[XYZ Company]

By: _____ Date: _____

Its: _____

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Sample Amendment to Summary Plan Description for review by counsel

(Employer selects either long- or short- term disability plan to reflect actual disability plan to which 2004-55 Arrangement applies)

Employer Note: This form may be used as both a Summary Plan Description Amendment and a “Summary of Material Modification” to attach to employee announcement by adding the following to this sample form:

[Summary of Material Modification: This document is a Summary of Material Modifications (“SMM”) intended to notify employees of important changes made to the [XYZ Co. [Long] [Short]-Term Disability Plan (the “Disability Plan”). This SMM is provided to all participants in accordance with the Department of Labor Regulations. You should take the time to read this SMM carefully and keep it with the copy of your Summary Plan Description for the Disability Plan.]

**[Long] [Short]-Term Disability Plan
Sponsored by _____ (Employer)
Amendment to Summary Plan Description for Disability Plan**

**Designation of Revenue Ruling 2004-55 Arrangement
Effective for Plan Year Beginning on and after _____**

By signing below, the Employer sponsoring this [Long] [Short]-Term Disability Plan (“Disability Plan”) designates this Disability Plan as intended to be operated in accordance with Revenue Ruling 2004-55, effective as of the date specified above (“Plan Year Effective Date”). **EMPLOYER NOTE:** Plan Year Effective Date must coincide with the beginning of the Disability Plan year and must be no earlier than the beginning of the next Disability Plan Year.

In accordance with this designation of the Revenue Ruling 2004-55 Arrangement, all employees eligible to participate in the Disability Plan will be required to make a written irrevocable election prior to the beginning of the Plan Year Effective Date. The employees must either:

1. Elect to have Employer continue to pay 100% of the premium for the Disability Plan coverage so that the electing employee will not pay any of the premium for the Disability Plan coverage with after-tax dollars; OR
2. Elect to have 100% of the premium for the Disability Plan coverage paid with after-tax dollars.

Once a written election is made by an employee, that election will automatically “carry over” to all future Disability Plan Years that the employee is eligible to participate in the Disability Plan unless the employee makes a subsequent written election to change a previous election. Any change of election will not be effective until the beginning of the next succeeding Disability Plan Year.

For each employee who elects to have 100% of the premium for the Disability Plan coverage paid with after-tax dollars, Employer will: **Employer Note:** Choose **only one** of the following, but **not both**:

[Increase the employee's taxable wages by adding 100% of the cost of the employee's Disability Plan coverage premium to the employee's taxable wages.]

[Deduct 100% of the cost of the employee's Disability Plan coverage premium as after-tax payroll deductions.]

[XYZ Company]

By: _____

Date: _____

Its: _____

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Sample Employee Announcement for review by counsel

(Employer selects either Long- or Short-Term Disability Plan to reflect actual Disability Plan to which 2004-55 Arrangement applies)

Employee Announcement

_____ (Employer) is pleased to announce enhancements to your [Long] [Short]-Term Disability Plan (“the Disability Plan”). These enhancements provide employees choice and tax certainty should an employee become disabled and receive disability benefits from the Disability Plan. Please retain the attached Summary of Material Modifications to your Disability Plan with your Disability Plan Summary Plan Description.

Effective for Disability Plan year beginning _____, Employer has amended its Disability Plan to designate the funding arrangement as a Revenue Ruling 2004-55 Arrangement. That designation enables employees to choose how premium should be paid for their Disability Plan coverage. It is this choice that provides tax certainty of any disability benefits that may be received from the Disability Plan.

What are the choices? Each employee must choose to:

- Elect to have the Employer continue to pay 100% of the premium for the Disability Plan coverage (Employee will NOT pay premium with after-tax dollars under this option), OR
- Elect to have 100% of the premium for the employee’s Disability Plan coverage paid with after-tax dollars.

How does this election provide tax certainty?

- If you elect to have the Employer continue to pay 100% of your premium for the Disability Plan coverage (not paid with employee’s after-tax dollars), should you become disabled, any disability benefits received from the Disability Plan will be taxable to you.
- If you elect to have 100% of the premium for your Disability Plan coverage paid with after-tax dollars, should you become disabled, any disability benefits received from the Disability Plan will be tax-free so long as this election is in place during the plan year you become disabled.

How does the election work?

- Every employee eligible to participate in the Disability Plan must make an election.
- Your election must be in writing and must be made prior to the beginning of the Disability Plan year. For the Disability Plan year beginning _____, employees must make their elections during the period _____ to _____.

- Once made for a Disability Plan year, your election cannot be changed for any reason during that Plan year. **Employer Note: ADD the following sentence ONLY IF the Disability Plan is included in Employer's cafeteria plan.** Because the Disability Plan is included within the Employer's cafeteria plan, this election cannot be changed even if you experience a change event which is allowed under the Employer's cafeteria plan.]
- Your election will continue for all subsequent Disability Plan years unless you change your election.
- Any written election change will only be effective for the next Disability Plan year.

How do I pay the premium for the Disability Plan coverage with after-tax dollars?

EMPLOYER NOTE: Employer **must** select **only one** of the following options for all employees who elect to have the Disability Plan premium paid with after-tax dollars:

- [Employer will add 100% of the cost of your Disability Plan coverage premium to your taxable income. The increase in taxable wages will be subject to income and employment taxes and withholding] OR
- [Employer will deduct 100% the cost of your Disability Plan coverage premium by means of after-tax payroll deductions.]

Who do I contact if I have any questions?

Employer should designate specific department and personnel.

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Sample Addition to Employee Enrollment Form for review by counsel

2004-55 Arrangement Addition to Employee Enrollment Form

(To Be Used With Employer's [Long] [Short]-Term Disability Plan Enrollment Form)

(Employer selects either Long- or Short-Term Disability Plan to reflect the actual Disability Plan to which 2004-55 Arrangement applies)

Beginning for Plan Year _____ to _____

_____, my Employer has informed me that the [Long] [Short]-Term Disability Plan that I am eligible to participate in allows me to make certain elections in accordance with the 2004-55 designation applicable to my employer's [Long][Short]-Term Disability Plan.

In accordance with the 2004-55 designation, I understand that I am able to:

- A. Elect to have my Employer continue to pay 100% of the premium for my [Long] [Short]-Term Disability Plan coverage so that I will NOT pay the premium for the Disability Plan with after-tax dollars or
- B. Elect to have 100% of the premium for my [Long] [Short]-Term Disability Plan coverage paid with after-tax dollars.

I also understand that:

1. My election, once made for a Plan Year, cannot be changed for any reason during that [Long] [Short]-Term Disability Plan Year and any subsequent change of election will not become effective until the **next** plan year;
2. If my [Long][Short]-Term Disability Plan is included in my Employer's cafeteria plan, I will not be able to change my election during the Plan Year if I experience a change of status for purposes of the cafeteria plan;
3. This election will remain in effect until: I change my election, in writing, prior to any future Plan Year (such change will become effective for such future Plan Year) or my termination from participation in my Employer's [Long][Short]-Term Disability Plan, whichever occurs first;

NOTE TO EMPLOYER: For Item 4, Employer must choose one of the two after-tax options, but not both. The option chosen by the Employer will apply to all electing employees.

4. If I elect to have 100% of the premium for my [Long] [Short]-Term Disability Plan coverage paid with after-tax dollars, my Employer will [add 100% of the cost of my [Long] [Short]-Term Disability Plan coverage to my taxable wages] [deduct 100% of the cost of the [Long] [Short]-Term Disability Plan coverage by means of after-tax payroll deductions];

Note to Employer: ADD Item 5 below only if Employer elects to have 100% of the employee premium added to the employee's taxable wages.

5. Any disability premiums added to my taxable wages will be subject to income and employment taxes and withholding;

NOTE TO EMPLOYER: Change Item 6 below to Item 5 if Item 5 is not included.

6. If I elect to have my Employer continue to pay the premium so that the premiums are NOT paid with after-tax dollars, any disability benefits I may receive will be taxable income to me.

By my election below and signing this Enrollment Form, I irrevocably agree to:

Have my Employer continue to pay 100% of the premium for my [Long] [Short]-Term Disability Plan coverage so that the premium is NOT paid with after-tax dollars.

Have 100% of the premium for [Long] [Short]-Term Disability Plan coverage paid with after-tax dollars.

By signing below, I acknowledge that I have reviewed the terms of the Disability Plan sponsored by my Employer and all information provided to me by my Employer about the Disability Plan and about this election.

By: _____ Date: _____

Print Name _____

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