

# Electronic Communications



*Want to  
save time  
and money  
and  
communicate  
with your  
participants  
electronically?*

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**PLAN SPONSOR SERIES  
JUNE 2011**

In recent years, there has been a shift to communicate electronically whenever possible. Your bank wants to send you electronic statements. Your cell phone provider e-mails your monthly invoice. Even your hairdresser wants to remind you about your next appointment electronically. Electronic delivery is certainly a more cost effective and efficient way to communicate. Both the Department of Labor (DOL) and the Internal Revenue Service (IRS) have issued regulations that address the electronic delivery of information to plan participants and beneficiaries. The IRS and DOL regulations are similar, but there are plenty of significant differences. Furthermore, the regulations have not been updated in recent years, meaning that there are many situations that are not addressed. Also, certain notices fall under the control of the IRS while others are managed by the DOL. We can help you understand when electronic delivery of notices is the right thing to do and when it is not recommended.



# Challenges with electronic notice delivery

Some notices fall under the purview of the DOL and some under the IRS as shown below.

## DOL ERISA Notices

Summary Plan Description (SPD)  
 Summary of Material Modification (SMM)  
 Summary Annual Report (SAR)  
 Qualified Change in Investments (mapping)  
 Sarbanes-Oxley Notice (black out notice)  
 Qualified Default Investment Alternative (QDIA)\*  
 Participant Fee Disclosure \*\*

## IRS Notices

Special Tax Notice (for distributions)  
 Eligible Automatic Contribution (EACA)  
 Automatic Contribution Arrangement (ACA)  
 Qualified Automatic Contribution Notice (QACA)  
 Safe Harbor 401(k)  
 Qualified Joint and Survivor Annuity (QJSA)  
 Benefit Reduction  
 Participant Benefit Statements\*

\* These notices may be sent using either the DOL or IRS electronic delivery rules

\*\* All participant fee disclosure documents can be provided electronically under the IRS rules except for the investment information and comparative chart which must follow the more restrictive DOL rules.

The IRS and DOL rules vary in the following ways:

## DOL Rules

May send to worksite e-mail ***without consent*** if employee regularly needs e-mail to perform work duties at any location where the duties are performed  
 May send to e-mail if the above conditions are not met only if the participant consents to electronic delivery and provides a valid e-mail address  
 Plan sponsors provide notice that the document is available and its level of significance  
 Plan sponsor must check to make sure that the electronic delivery results in actual receipt by participants (using return receipt or undeliverable mail functions)  
 Delivery must protect confidential information

## IRS Rules

May send to worksite e-mail if the participant has reasonable access to the electronic medium (i.e. e-mail) (Note: e-mail doesn't have to be used as a regular basis of job duties)  
 May send to e-mail if the above conditions are not met only if the participant consents to electronic delivery and provides a valid e-mail address  
 The electronic version must be no less understandable than the written paper version  
 It must inform the participant about the notice's significance and instructions on how to access  
 The general timing and consent requirements that apply to the notice must be satisfied

The complex and out-of-date rules can make it difficult for plan sponsors to use electronic delivery for all of their personnel. Contact your administrator if electronic delivery will work for you!