

QUALIFIED SICK PAY PLAN INSTALLATION KIT

To the Agent: The materials in this kit are designed to help an employer to take the steps necessary to set up a *bona fide* Qualified Sick Pay Plan funded by disability income insurance policies.

CONTENTS:

1. Specimen Qualified Sick Pay Plan Document
2. Specimen Summary Plan Description
3. Specimen Board of Directors Meeting Minutes
4. Participation Form - Payroll Deduction
5. Employee Funding Letters (outlines taxability of benefits based upon funding of premiums)

ACTIONS:

1. Agent delivers installation materials to the employer.
2. Employer reviews all materials with the attorney, who then draws up and executes the following:
 - a. Qualified Sick Pay Plan Document
 - b. Summary Plan Description
 - c. Board of Directors meeting minutes
3. Employer has employees who are contributing to the Plan sign Participation Forms
4. Attorney distributes one copy of each completed document in #2 and #3 to:
 - a. Attorney's files
 - b. Employer
 - c. Agent
5. Employer has the appropriate Employee's Funding Letters typed on employer letterhead.
6. Employer distributes to each plan participant the following:
 - a. One copy of the Summary Plan Description
 - b. Participant's policy, with the appropriate Employee Funding Letter

The Installation Process is now complete.

QUALIFIED SICK PAY PLAN

PLAN DOCUMENT

FOR

[Company Name]

The adoption of a Qualified Sick Pay Plan should be recorded in a corporate resolution. However, for a clearer understanding by all parties, it is usually advantageous to draw up a supplementary document further defining plan provisions. The following form provides guidelines for such a document, but is a suggestion only. Actual plan documents are the sole responsibility of the firm's attorney.

QUALIFIED SICK PAY PLAN FOR [Company Name]

Whereas, the employer wishes to provide security and protection for certain of its valuable employees in the event they are disabled, and

Whereas, the employer desires to provide this protection through indemnity payments under a disability income policy issued by the insurer on the life of each participating employee, and

Whereas, Sections 105, 106 and 162 of the Internal Revenue Code and treasury regulations thereunder offer certain incentives for providing such protection

Now, therefore, the employer does hereby adopt and establish this Qualified Sick Pay plan, consisting of the following provisions together with the terms of all policies issued hereunder:

Section I - DEFINITIONS

- A. The "Name of the plan" is the [Company Name] Qualified Sick Pay Plan.
- B. The "effective date" of this plan is [Today's Date].
- C. The "Employer" is [Company Name], or any successor thereto and any other corporation, proprietorship, or business association which shall assume in writing the obligation of this plan.
- D. "Employee" is a person regularly employed by the Employer, excluding such persons who are customarily employed for not more than twenty hours in any one week, or for not more than five months in any calendar year.
- E. "Participant" means an employee who has a policy issued insuring him or her for disability by the insurer under the terms of this plan, and who is owner of the policy.
- F. "Insurer" means the Berkshire Life Insurance Company of America.
- G. "Policy" means an individual non-cancellable, guaranteed renewable (conditionally renewable for issue ages 60 and over) disability income contract issued by the Insurer.
- H. "Elimination Period" means the number of days at the commencement of each period of disability as defined in the policy for which no monthly indemnity is payable.
- I. "Maximum indemnity period" means the period of time for which the monthly indemnity is payable during any period of disability as defined in the policy.
- J. "Disability" shall have the meaning contained in the policy.

Section II - PARTICIPATION

An employee is eligible to participate in the plan as determined by the employer.

Section III - EMPLOYER CONTRIBUTIONS

The employer shall contribute on behalf of each participant some or all of the amount necessary to purchase a policy providing the benefits to which he or she is entitled under Section VI. If Section IV provides that the participant shall contribute toward the cost of a policy, the employer shall advance the participant's share of the cost to the insurer and recover such advance in equal installments from the participant.

Section IV - EMPLOYEE CONTRIBUTIONS

The participant shall contribute to the plan as follows:

Group I:

Group II:

Group III:

Section V - CLASSIFICATION OF EMPLOYEES

For purposes of this plan, employees shall be classified in groups as follows:

Group I:

Group II:

Group III:

Section VI – BENEFITS

The form and amount of monthly plan benefit for each participant shall be as provided in this section, subject to the insurer's issue and participation limits.

Group I

Group II

Group III

Elimination Period:

Benefit Period:

Additional Benefits:

Definition of Disability:

Section VII - SATISFACTORY HEALTH REQUIREMENTS

Participation in this plan requires evidence of insurability as determined by the insurer. Employees who do not satisfy all requirements of the insurer may be issued limited coverage if available in lieu of complete exclusion from the plan. An otherwise eligible employee who does not meet the insurer's requirements for a policy will not be a participant in the plan. [NOTE to drafting attorney: we suggest that you review your state's anti-discrimination laws to determine whether a comparable benefit must be provided for non-eligible, disabled employees.]

Section VIII - OWNERSHIP OF POLICIES

- A. Each participant shall be the applicant, owner, and holder of his or her policy. The insured-owner is responsible for submitting any claims directly to the insurer, and will receive claim payments directly from the insurer. The employer is in no way responsible for the processing of claims or the payment thereof and the determination of claim payments rests solely and wholly with the insurer.
- B. The employer shall pay its share of premiums while the plan is in effect and while the employee continues as a participant in the plan.

Section IX - POLICY PORTABILITY

A participant who ceases active full-time employment with the company has the right as policyowner to assume premium payments for his or her policy and maintain it in force subject to the terms of the policy.

Section X - TERMINATION OF EMPLOYMENT AND/OR PLAN

- A. In the event of termination of employment of a participant, the employer shall reduce the total premium for the plan by the amount of the terminated participant's premium and inform the insurer of such termination.
- B. The employer may terminate this Qualified Sick Pay plan by an express declaration in writing and by notifying the insurer of such action. At termination each participant may take over payment of premiums for his or her policy.

Section XI - MISCELLANEOUS

- A. The terms of this plan anticipate addition of new participants and changes in coverage for existing participants from time to time. However, the employer is in no way responsible for providing benefits for which an employee may have become eligible but for which no policy has been issued.

- B. The employer's liability for continuation of the employee's salary is discharged by the payment of premiums for each individual policy. Failure of the insurer to approve or otherwise honor claim for payment shall in no way obligate the employer.

Signed this _____ day of _____, 20____

(Employer)

(Witness)

(Title)

QUALIFIED SICK PAY PLAN

SUMMARY PLAN DESCRIPTION

FOR

[Company Name]

Plan Administrator: [Name of Plan Administrator]

Address: _____

To Our Employees:

The [Company Name] Qualified Sick Pay Plan was established to provide for the payment of income to our employees if they become disabled and are unable to work. The principal points of the Plan are outlined in this material. Your benefits are insured through Disability Income policies issued by the Berkshire Life Insurance Company of America.

NOTE: This form is provided for consideration by Counsel for the Employer who may, under the Employee Retirement Income Security Act (ERISA) be required to furnish a Summary Plan Description to Employees. This form provides guidelines for such a document, but the actual contents should be prepared by the firm's legal counsel.

SUMMARY PLAN DESCRIPTION

PLAN SPECIFICATIONS

BENEFIT PROVISIONS

Plan Year:

The Initial Plan Year shall start [Today's Date] and end one year later. The records of the plan are kept on an annual basis.

Participation:

An employee is eligible to participate in the plan as determined by the employer.

Employer Contributions:

The Employer shall contribute on behalf of each Participant some or all of the amount necessary to purchase a policy providing the benefits to which he or she is entitled. If the Participant contributes toward the cost of a Policy as described, the Employer shall advance the Participant's share of the cost to the insurer and recover such advance in equal installments from the participant.

Employee Contributions:

The Participant shall contribute to the Plan as follows:

Group I:

Group II:

Group III:

Insurance:

The Plan will be funded by individual non-cancellable, guaranteed renewable disability income policies.

SATISFACTORY HEALTH REQUIREMENTS

Participation in the Plan requires evidence of insurability as determined by the Insurer. Employees who do not satisfy all requirements of the Insurer may be issued limited coverage if available in lieu of complete exclusion from the Plan. An otherwise eligible Employee who does not meet the Insurer's requirements for a Policy will not be a Participant in this Plan.

OWNERSHIP OF POLICIES

Each Participant shall be the applicant, owner and holder of his or her Policy. The insured-owner is responsible for submitting any claims directly to the Insurer and will receive claim payments directly from the Insurer. The Employer is in no way responsible for the processing of claims or the payment thereof, and the determination of claim payments rests solely and entirely with the Insurer.

The Employer shall pay its share of premiums while the Plan is in effect and while the Employee continues as a Participant in the Plan.

POLICY PORTABILITY

When a Participant ceases active full-time employment with the company, he or she has the right as a policyowner to assume premium payments for the Policy and maintain it in force subject to the terms of the Policy.

TERMINATION OF EMPLOYMENT AND/OR PLAN

In the event of termination of employment of a Participant, the Employer shall reduce the total premium for the Plan by the amount of the terminated Participant's premium, and inform the Insurer of such termination.

The Employer may terminate this Qualified Sick Pay Plan by an express declaration in writing and by notifying the Insurer of such action. At termination each Participant may take over payment of premiums for his or her policy.

MISCELLANEOUS

The terms of this Plan anticipate changes in coverage for existing Participants from time to time. However, the Employer is in no way responsible for providing benefits for which an Employee may have become eligible but for which no Policy has been issued.

The Employer's liability for continuation of the employee's salary is discharged by the payment of premiums for each individual Policy. Failure of the Insurer to approve or otherwise honor claim for payment shall in no way obligate the Employer.

HOW TO MAKE INQUIRIES, TRANSACTIONS AND CLAIMS FOR BENEFITS UNDER THE PLAN

Any inquiry, any transaction, or any claim for benefits under the Plan shall be made by addressing in writing Claims Management Services of Berkshire Life Insurance Company of America.

If a claim for benefits by any participant is denied in whole or in part, then Claims Management Services of Berkshire Life Insurance Company of America, Pittsfield, Massachusetts, shall set forth in writing, within thirty days from the date on which all proof of claim is received, the specific reasons for such denial. In addition, within thirty days from the date the denial is received, the Participant can request, and shall be given within thirty days from such request, a full and fair review by Berkshire Life Insurance Company of America.

The Plan Administrator shall also serve as Agent for Service of Process.

FURTHER INFORMATION

This is a brief summary of benefits available. Complete terms and conditions governing the Plan are set forth in the policies underwritten by Berkshire Life Insurance Company of America of Pittsfield, Massachusetts. In the event of conflict between this summary and the policies, the policies are the controlling documents.

If you have any questions, you may write to the Plan Administrator named above, at the above address.

ERISA RIGHTS NOTICE

As a participant in the [Name of Company] Qualified Sick Pay Plan, you are entitled to certain rights and protections under the Employee Retirement Income Security Act of 1974 ERISA. ERISA provides that all plan participants shall be entitled to:

Examine, without charge, at the plan administrator's office all plan documents, including insurance contracts, and copies of all documents such as detailed plan descriptions.

Obtain copies of all plan documents and other plan information upon written request to the plan administrator. The administrator may make a reasonable charge for the copies.

Obtain a statement telling you whether you have a right to receive a benefit. If you do not have a right to a benefit, the statement will tell you how many more years you have to work to get a right to a benefit. This statement must be requested in writing and is not required to be given more than once a year. The plan must provide the statement free of charge.

In addition to creating rights for plan participants, ERISA imposes duties upon the people who are responsible for the operation of the employee benefit plan. No one, including your employer, or any other person, may fire you or otherwise discriminate against you in any way to prevent you from obtaining a benefit or exercising your rights under ERISA.

If your claim for a benefit is denied in whole or in part, you must receive a written explanation of the reason for the denial. You have the right to have the plan reviewed and your claim reconsidered.

Under ERISA, there are steps you can take to endorse the above rights. For instance, if you request materials from the plan and do not receive them within thirty days, you may file suit in federal court. In such a case, the court may require the plan administrator to provide the materials and pay you up to \$100 a day until you receive the materials, unless the materials were not sent because of reasons beyond the control of the administrator.

If you have a claim for benefits which is denied or ignored, in whole or in part, you may file suit in a state or federal court. If you are successful, the court may order the person you have sued to pay these costs and fees. If you lose, the court may order you to pay these costs and fees, for example, if it finds your claim is frivolous.

If you have any questions about this statement or about your rights under ERISA, you should contact the nearest Area Office of the U.S. Labor-Management Services Administration, Department of Labor.

CORPORATE RESOLUTION
Authorizing the Establishment of a Qualified Sick Pay Plan
(For Inclusion in the Minutes of the Special Meeting of the Board of Directors)

[NOTE: This specimen is provided as a guide for attorneys. Clients or prospective clients should consult their own attorneys to determine appropriate content for their individual circumstances.]

A special meeting of the Board of Directors of [Company Name] was held at the offices of the Corporation on [Today's Date].

The chairman stated that the purpose of the meeting was to consider the adoption of a Qualified Sick Pay plan for selected employees of this Corporation. After due consideration by the Board, on motion duly made and seconded and unanimously carried, it was:

VOTED: That the [Company Name] does hereby adopt and establish a Qualified Sick Pay Plan, effective [Today's Date], for those employees listed in the Participation Schedule attached hereto and made a part of these minutes.

VOTED: That an employee is eligible to participate in the Plan as determined by the Employer.

VOTED: That the benefits to which a participating employee is entitled as listed on the Participation Schedule will be provided by a disability income policy issued by the insurer, Berkshire Life Insurance Company of America, on the life of the employee.

VOTED: That the Employer shall contribute on behalf of each covered employee an amount described in the Participation Schedule to purchase such disability income policy, provided such employee meets the insurability requirements as determined by the Insurer.

VOTED: That each Participant shall be the applicant, owner and holder of the policy purchased on his or her life. As the insured-owner, the Participant is responsible for submitting any claims directly to the Insurer and will receive claim payments directly from the Insurer. The Employer is in no way responsible for the processing of claims or the payment thereof and the determination of claim payments rests solely and wholly with the Insurer.

VOTED: That the Qualified Sick Pay Plan adopted herein be continued with the approval of the Board until such time that the Board formally terminates the same by an expressed declaration in writing and by notifying the Insurer of such action. Upon termination of employment of a covered employee, the Participant may take over payment of premiums for his or her policy.

THERE being no further business before the meeting, the same was, on motion duly made, seconded and carried, duly adjourned.

I hereby certify the foregoing to be a true record of the minutes of the meeting of the Board of Directors of [Company Name].

Secretary

**PARTICIPATION FORM
FOR PAYROLL DEDUCTION**

I wish to participate in the Qualified Sick Pay Plan sponsored by [Company Name].

Upon approval of my application for disability income insurance by Berkshire Life Insurance Company of America, I authorize [Company Name] to deduct from my paycheck an amount sufficient to pay my portion of the premium for my policy under the plan.

This authorization will remain effective until I submit in writing instructions to change or terminate it.

[Insured Name]

Date

I have been given the opportunity to participate in the Salary Continuation Plan sponsored by [Company Name].

I hereby choose not to participate.

[Insured Name]

Date

QSPP EMPLOYEE'S FUNDING LETTER - Split Pay

Dear _____:

The enclosed policy, #_____, from Berkshire Life Insurance Company of America will provide a monthly benefit of \$_____ if you become disabled. The annual premium for this benefit is \$_____.

Under our Qualified Sick Pay Plan, you have agreed to pay _____% of the premium, which will be deducted from your regular earnings, at the rate of \$_____ per paycheck.

Any policy benefit for which you have paid will be tax-free to you. Any employer-paid benefits will be taxable. Please contact me if you have any questions.

Sincerely,

Business Owner

Enclosure

QSPP EMPLOYEE'S FUNDING LETTER - Employer Pay

Dear _____:

The enclosed policy, # _____, from Berkshire Life Insurance Company of America will provide a monthly benefit of \$ _____ if you become disabled. The annual premium for this benefit is \$ _____.

Under our Qualified Sick Pay Plan, the company will pay 100% of the premium. There is no out-of-pocket cost to you.

Any policy benefit will be taxable to you. Please contact me if you have any questions.

Sincerely,

Business Owner

Enclosure

VOLUNTARY & 162 BONUS PLAN
EMPLOYEE'S FUNDING LETTER - Employee Pay

Dear _____:

The enclosed policy, #_____, from Berkshire Life Insurance Company of America will provide a monthly benefit of \$_____ if you become disabled. The annual premium for this benefit is \$_____.

Under this plan, you have agreed to pay 100% of the premium.

Any policy benefit you receive will be tax-free to you. Please contact me if you have any questions.

Sincerely,

Business Owner

Enclosure