

## **N.J.A.C. 5:37-3.1**

This file includes all Regulations adopted and published through the New Jersey Register, Vol. 56 No. 13, July 1, 2024

***NJ - New Jersey Administrative Code > TITLE 5. COMMUNITY AFFAIRS > CHAPTER 37. MUNICIPAL, COUNTY AND AUTHORITY EMPLOYEES DEFERRED COMPENSATION PLANS > SUBCHAPTER 3. DEFERRED COMPENSATION PLAN***

### **§ 5:37-3.1 Prototypical plans and service agreements**

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- (a)** A contractor shall submit to the Director for approval a prototypical plan or service agreement and any amendment thereto to be made available to employers. The plan and service agreement shall contain, but not be limited to, the policies and procedures to be used in operating a deferred compensation plan as set forth in these rules.
- (b)** The Director shall assign a separate identifier to each approved prototypical plan and service agreement and any amendment thereto. This identifier shall appear in a prominent position on each plan and agreement offered to an employer.
- (c)** The approval of a prototypical plan or a service agreement by the Director shall not constitute an endorsement of the plan or service agreement.

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## **N.J.A.C. 5:37-3.2**

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### **§ 5:37-3.2 Self-administered plan**

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The employer may prepare and administer a deferred compensation plan. The plan shall contain, but not be limited to, the policies and procedures to be used in operating a deferred compensation plan as set forth in these rules. Such a plan may be prepared in consultation with representatives of the potential participants.

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## **N.J.A.C. 5:37-3.3**

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### **§ 5:37-3.3 Uniform system of accounting**

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The plan shall provide for a uniform system of accounting for each participant and for the investment of the deferred compensation funds.

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## **N.J.A.C. 5:37-3.4**

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### **§ 5:37-3.4 Certification of Internal Revenue Service compliance**

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The resolution of an employer adopting a self-administered plan or a prototypical plan shall certify that an application has been filed with the Internal Revenue Service for a private letter ruling that the plan meets the requirements of *Section 457 of the Internal Revenue Code*, as amended, and that such ruling will be forwarded to the Director when received.

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## **N.J.A.C. 5:37-3.5**

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## **§ 5:37-3.5. Alternative certification of Internal Revenue Service compliance**

As an alternative to the Internal Revenue Service private letter ruling required pursuant to [N.J.A.C. 5:37-3.4](#), the resolution of an employer adopting a prototypical plan shall certify that the employer is adopting a plan substantially similar to one on which a satisfactory Internal Revenue Service private letter ruling has been obtained, except for provisions added by reason of the Small Business Job Protection Act of 1996 (United States Public Law No. 104-188), the Taxpayer Relief Act of 2001 (United States Public Law No. 105-34), and the Economic Growth and Tax Relief Reconciliation Act of 2001 (United States Public Law No. 107-16), and that all such provisions are stated in the plan in terms substantially similar to the text of those provisions in the *Internal Revenue Code* §457. The certification shall also indicate the use of the ruling is for guidance only and the realization that for Internal Revenue Service purposes, the ruling of another employer is not to be considered precedent.

## **History**

### **HISTORY:**

Amended by R.1997 d.371, effective September 2, 1997.

See: [29 New Jersey Register 2743\(a\)](#), [29 New Jersey Register 3805\(a\)](#).

In the first sentence, added the exception for provisions added by reason of the Small Business Job Protection Act of 1996.

Amended by R.2005 d.349, effective October 17, 2005.

See: [37 New Jersey Register 1278\(a\)](#), [37 New Jersey Register 3975\(b\)](#).

Added ", the Taxpayer Relief Act of 2001 (United States Public Law No. 105-34), and the Economic Growth and Tax Relief Reconciliation Act of 2001 (United States Public Law No. 107-16),".

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