
WHAT DO I NEED TO KNOW ABOUT RESTATING MY QUALIFIED RETIREMENT PLAN?

The law requires that qualified retirement plans be written and communicated to employees. The written plan sets forth the eligibility requirements for participation, the benefits, and when those benefits may be distributed. The plan must also contain provisions required by the Internal Revenue Service (IRS) and the Department of Labor (DOL). These include provisions needed to satisfy applicable laws such as the Internal Revenue Code. **The Plans must be kept up to date!**

SUMMARY:

- » Restatements are Required by the IRS Every 6 Years (generally).
- » Your Qualified Plan is currently in a Restatement Period.
- » RPA will coordinate your plan document restatement and work with you to ensure your plan is up to date and meets your company's objectives.
- » There is a \$1,250 fee, which is discounted for plans new to RPA in the prior 12 months.

WHY DO I NEED TO RESTATE MY PLAN?

The IRS requires that your plan be restated periodically. From time to time, you decide a restatement is needed due to certain changes you have elected to make to the plan design. The number of plan amendments made since the last official restatement can become unwieldy or complex. This makes the plan more difficult to read and understand. Additionally, some changes in the laws may require a review of the overall design of your plan to ensure it meets your needs. These, as well as other factors may require that your plan be restated even in situations where the IRS does not require it.

However, regardless of the ad hoc updates mentioned above, the IRS has established a required schedule for restating plans. Plans must be restated under a “staggered” (cycle) approach. Most employers use “pre-approved” plans and are therefore subject to the 6-year restatement cycle. A “pre-approved” plan is a standard document that is used by many employers and is reviewed by the IRS for legal sufficiency prior to the time it is adopted by any of those employers. These plans are generally referred to as prototype plans.

WHY DO I NEED TO KEEP AMENDING MY PLAN?

The law requires that a qualified retirement plan be in writing. This means that the terms of the plan must reflect the way the plan is being operated. As the laws change, your plan must be amended to reflect these changes. Congress or the IRS usually provide a period of time after the enactment of new law for plan sponsors to amend their plans to reflect the changes. There is a temporary period of time when the written terms of your plan might not reflect the way your plan is being operated. In most cases, amendments must be adopted on a “good-faith” interim basis. The IRS has a schedule where after a set number of years, all of these “good-faith” amendments are folded into the plan (i.e., the plan is entirely rewritten). The IRS then reviews the plan document to ensure that it meets all of the legal requirements.

WHY DO THE LAWS CONTINUALLY CHANGE?

Polls have indicated that retirement income security is second only to healthcare as the leading concern among Americans, particularly those who are at or near retirement age. Congress recognizes that, for many individuals, the most effective means of achieving adequate retirement savings is through a retirement plan where they work. Tax incentives for employers to sponsor retirement plans are the primary way that Congress has promoted retirement savings. But the tax laws require that plan provisions be fair and not favor the higher paid employees over the rank-and-file employees. In addition, federal labor laws ensure that retirement plan assets are protected from fraud and abuse.

We therefore have extensive laws with multiple regulatory agencies responsible for interpreting and administering these laws. There are differing views in Congress regarding the use of tax incentives to encourage the establishment of retirement plans. At one extreme is the philosophy that employees should be responsible for saving on their own and there should be no tax incentives. The other end of the political spectrum is the belief that employers should be forced to provide retirement plans for their employees. The laws never reach either of these extreme positions, but there are fluctuations based on the political environment. Other factors result in Congressional action, such as changes in the age of our population, corporate scandals, the 3 federal deficit, and even technology. Frequent changes to the laws are inevitable.

WHEN DO I NEED TO RESTATE MY PLAN?

The IRS, in order to even out its workload, established a schedule for restating plans. Plans must be restated under a “staggered” (cycle) approach. Most employers will need to restate their plans every 6 years. The last 6-year restatement cycle for defined contribution plans ended on April 30, 2016. Plans will need to be restated again no later than the next restatement deadline, which is July 31, 2022. Employers would then need to restate their plans again in another six years, and so on.

WHAT HAPPENS IF I DO NOT RESTATE TIMELY?

The IRS can disqualify your plan if you fail to meet the deadline for amending or restating your plan. All of the tax benefits are lost – contributions might not be deductible and employees cannot defer taxes on contributions and earnings. This is why amending or restating your plan on a timely basis is critical.

The IRS does not have the resources to audit every plan. In order to encourage voluntary compliance when errors are found, the IRS established a correction program that reduces the 10 drastic consequences of plan disqualification. If you miss the deadline for amending or restating your plan, then the error can be corrected by using this voluntary correction program. The sanction for using this program is significantly less than the sanction you pay if the IRS first discovers the error upon audit.

Qualified Plan Documents must be in writing and must be amended to be in compliance with ever-changing laws and regulations.

RPA will work with you to ensure your plan document is restated timely before the IRS deadline.

SHOULD I CONSIDER CHANGES TO PLAN DESIGN?

Your plan is for the benefit of you and your employees. A periodic review of your plan to ensure it meets these needs is always warranted. Sometimes it makes sense to conduct this review when the plan is being restated. It is important to notify us if your goals or business have undergone changes so that we can work with you to ensure your plan meets your ongoing needs.

IS IT REQUIRED TO PROVIDE A SUMMARY PLAN DESCRIPTION (SPD) TO ALL PARTICIPANTS?

Yes. The Department of Labor (DOL) requires that employees be informed about any material changes that are made to your plan. In many cases, this means that you provide employees with updates to the SPD as changes are made to the plan. In addition, the DOL also requires that you restate the SPD periodically. It is generally more efficient to satisfy this requirement by rewriting your SPD at the same time your plan is restated.

CONCLUSION

A qualified retirement plan is one of the best ways to provide adequate retirement income security for you and your employees. We realize that amending and restating your plan can be burdensome and confusing. We hope this pamphlet helps you understand when and why plans must be amended or restated. Please contact us if you have any questions about your plan or the information in this pamphlet.

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