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Timely Information and Updates for Employers and Retirement Plan Sponsors

Retirement Plan Restatements: Five Things To Know

Every six years, the IRS requires qualified retirement plans that rely on preapproved plan documents to be completely amended and restated. The restatement must incorporate all amendments since the last restatement and comply with all law changes that took place in the intervening time.

Rather than tracking that six-year requirement on a plan-by-plan basis, the requirement operates along established cycles with set windows of time for completion. The current restatement cycle (known as Cycle 3 DC) applies to 401(k), profit-sharing, and money purchase pension plans. Its window opened on August 1, 2020, and ends on July 31, 2022. Sponsors of these plan types who use a preapproved plan document should either have already heard from their plan's third party administration (TPA) firm regarding restatement, or should expect to soon.



401(k) plan document types

As mentioned above, Cycle 3 DC applies to preapproved plan documents for defined contribution (DC) plans. There are two main types of preapproved plan documents, standardized and non-standardized. There is little difference between them and most providers use a non-standardized document. There are two possible formats:

- A basic plan document and a separate adoption agreement, which contains the options (generally blanks or checkboxes on a form) for the plan sponsor to complete.
- A single plan document, which incorporates the plan's selected options and provisions (not including trust language) throughout the wording of that document. The plan's trust language will be provided in a separate document.

Both document types provide great flexibility for plan design. In most cases, the type of document your plan adopts will have been determined as part of your plan set-up process.

It is also possible for a plan to have a fully individually designed plan document. This is a more costly option, generally used by large employers and those with a need for complex plan customization.

Five important things about the 401(k) plan restatement cycle:

1. Cycle 3 DC does not apply to defined benefit plans, nor does it apply to plans that use a fully custom plan document.

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*True or False?
Preapproved plan documents must be completely amended and restated every five years.*





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2. Because of the timeline that the IRS uses to review preapproved plan documents, Cycle 3 DC documents will not reflect any statutory and/or regulatory changes that have taken place since 2017. Therefore, most Cycle 3 DC documents will not include the final hardship withdrawal rules, nor any voluntary or mandatory provisions from the Setting Every Community Up for Retirement Enhancement (SECURE) Act and/or the Coronavirus Aid, Relief, and Economic Security (CARES) Act.

Note: *You may already have amended your plan for the hardship withdrawal changes. For the SECURE Act and CARES Act provisions, plan amendments will generally not be available until the IRS provides model language for these changes. The deadline to amend plans retroactively for SECURE Act and CARES Act changes is the last day of the plan year that begins in 2022 (December 31, 2022 for calendar year plans).*

3. If you request additional changes to your plan document during the restatement process, your document provider may charge additional fees. Depending on the scope of the changes, the preparation of your plan document restatement may also be delayed.
4. If you are planning on terminating your plan, please be aware that the plan document must be updated with all required law changes before a plan termination process can proceed.
5. The maintenance of plan documentation is a fiduciary responsibility of the plan sponsor (or plan administrator). It is important to work with your TPA or other plan document provider to understand your plan document restatement process and ensure it is completed within the required timeframe.

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Sources: IRS.gov, John Hancock.