

Cycle 3 Plan Restatements

Frequently Asked Questions

July 2021

What is Cycle 3?

About every six years, the IRS requires most company sponsored retirement plans to update their plan documents to reflect recent legislative and/or regulatory changes. The new restatement period for defined contribution plans is referred to as "Cycle 3" because it is the third required restatement that follows this six-year cycle.

The IRS has announced that employers who use a pre-approved plan document, such as yours, must restate their Plans **no later than July 31, 2022**.

What changes to my qualified plan document does Cycle 3 require?

The new document has been updated to address updated laws and IRS guidance, including, but not limited to:

- Clarifying change relating to the application of same-sex marriage rules.
- Final regulations providing guidance on mid-year changes to Safe Harbor 401(k) Plans.
- Qualified Natural Disaster Relief provided by the IRS, including, but limited to, Louisiana storms, Hurricane Matthew, Hurricane Irma, Hurricane Maria and California Wildfires.
- Revised disability claims procedures as provided by the Department of Labor (DOL).
- New rules extending the rollover period for Qualified Plan Loan Offset Amounts.
- Rules expanding In-Plan Roth Conversions of otherwise non-distributable amounts.
- Final regulations providing for a limited modification of the required minimum distribution rules for tax-qualified defined contribution plans holding Qualifying Longevity Annuity Contracts.
- Separate Trustee Document is now required.

Why do we have to restate our qualified plan document?

When Congress enacts significant changes to the law, the IRS requires retirement plan sponsors to re-write their plan documents to reflect the regulatory and legislative changes. This is commonly known as "restating" your plan. The last restatement that took place was in 2015 or 2016 to conform to the changes required by PPA (Cycle 2).

Will the restated plan document be submitted to the IRS for review?

No. With pre-approved plans, the plan language will already have been review by the IRS and determined as qualified. The IRS has issued to the plan provider an "opinion letter" for the pre-approved plan. As long as the employer does not modify the pre-approved plan provisions then the employer will have reliance on the IRS' issued opinion letter.

What happens if we do not restate our qualified plan for Cycle 3?

If you do not restate your plan by the deadline then it will no longer be a "qualified" plan. Since your plan would no longer be in compliance with the law, it would lose its tax-favored status, causing the following repercussions:

- You would lose the deductibility of employer contributions to the plan;
- Your employees' vested account balances would become immediately taxable; and
- The trust would lose its tax-exempt status and become a taxable trust.

All of these events are unacceptable and can be avoided by restating your plan document as required by the Treasury Department.

The Cycle 3 Plan Restatement requires plan sponsor Resolutions and a new Summary Plan Description (SPD). A copy of the new/updated SPD must be provided to all plan participants.