

PLAN DOCUMENTS: AMENDMENTS AND RESTATEMENTS

A Defined Contribution (DC) plan is a business retirement plan and most often refers to 401(k), Profit Sharing, and Solo-(k) plans. Defined Contribution plans are required to maintain a written plan document, with language for laws and regulations issued by the IRS, Department of Labor, and Congress. The plan document will have specific language as well as optional selections to be made by each plan sponsor and will govern the administration and operation of the Plan.

► IRS PRE-APPROVED PLAN:

A pre-approved plan document is a document created and developed by a document company which can be adopted and used by a large number of individual employers/plan sponsors.

A pre-approved document would be reviewed and approved by the IRS and will include a wide range of provisions to be selected by the businesses that use the prototype document. The IRS approval is in the form of an “opinion letter” which ensures that the plan document language including the optional features are all acceptable for use. Each employer can rely on the opinion letter without having to submit their plan document to the IRS for separate approval. Pre-approved documents are available through an investment company, a third-party administrator (TPA), or an ERISA attorney.

► PLAN AMENDMENTS:

Once a Defined Contribution plan is initially established, the document is not static. Ongoing legislation and regulatory updates require periodic amendments to the written plan document.

- Voluntary amendments occur at the request of the plan sponsor or employer to change the features or benefits available under their specific plan.
- Interim amendments are mandatory updates when new legislation is passed that have an immediate effective date for implementation. These interim amendments will often have a prescribed deadline by which they must be signed so that the plan sponsor can begin operating the plan under the new legislation.

► PLAN RESTATEMENTS:

A plan restatement involves having to re-write the entire plan document. Every six years, the IRS requires pre-approved plans to have a full restatement. The restatement process incorporates recently enacted legislation and IRS treasury regulations into the written document. Restatements will also incorporate any previously signed voluntary or interim amendments.

**Each six-year restatement cycle has a unique name for reference.
There have been three primary restatement cycles in the past 15 years:**

EGTRRA Restatement: May 1, 2008 to April 30, 2010
PPA Restatement: May 1, 2014 to April 30, 2016
Cycle 3 Restatement: August 1, 2020 to July 31, 2022

403(b), 457, SIMPLE-IRAs and Defined Benefit/Cash Balance Plans: *These plans are required to have a written plan document, but they fall under a different restatement period. Check with your plan advisor for more information about the restatement cycle for these special plan types.*

► RESTATEMENTS ARE NOT OPTIONAL:

Restatements are mandatory and failure to restate the plan document by the deadlines could potentially cause a plan disqualification and significant penalties.

For more information, contact a CRI TPA Services advisor at CRITPA.com.