

# Cycle 3 Restatements

## Frequently Asked Questions

February 18, 2021

### 1. Why do I need to do this?

A: Approximately every six years, the IRS requires that plan documents be restated. Cycle 3 changes were passed by Congress and IRS Regulations require that in order for a plan to maintain its qualified tax exempt status, the provisions of Cycle 3 must be included in your plan's written document.

### 2. What is Cycle 3?

A. This "Cycle 3 restatement" includes legislative and statutory changes made prior to February 1, 2017. Some highlights of the Cycle 3 restatement as it relates to retirement plans includes:

- Rules recognizing same-sex marriages;
- Mid-year reductions or suspensions of safe harbor nonelective contributions in certain circumstances;
- Qualified matching contributions (QMACs) and qualified nonelective contributions (QNECs) must satisfy applicable nonforfeitable and distribution requirements at the time they are allocated to participants' accounts, but need not meet these requirements when they are contributed to the plan;
- Rollovers from a plan account to the plan's designated Roth account can include a rollover of an otherwise nondistributable amount.
- Provides guidance that applies to all in-plan Roth rollovers

Regulations concerning hardship distributions effective in January 2019, the SECURE (Setting Every Community Up for Retirement Enhancement) Act, and CARES (Coronavirus, Aid, Relief and Economic Security) Act regulations still need to be addressed in either separate, good-faith amendments or are addendums to the restated plan document, depending on when your plan is restated.

### 3. What if I don't comply and decide not to restate my plan?

A: Not complying with this requirement may jeopardize the qualified status of your plan. If the IRS finds out that the plan is non-qualified, all assets may become immediately taxable. Also, the IRS may assess interest charges and late excise tax penalties in addition to taxes owed on the plan assets.



**4. Is this plan approved by the IRS?**

A: Yes. The document used to restate your plan is pre-approved by the IRS under our Volume Submitter Advisory Letter.

**5. How often do I have to do this?**

A: At this time, the rules require that a plan must be restated every 6 years to include all of the recently passed laws as part of the plan document. You may be required to amend your plan from time to time within the 6 year cycle to include specific laws that were recently passed. The restatement requirement every 6 years takes into account all of the required changes recently made in your plan document.

**6. What if I intend to terminate my plan, do I have to still restate my plan?**

A: Yes. When you terminate a plan, all of the laws that are required to be included in a plan document as of the effective date of the plan termination must be written in the plan document otherwise you risk losing the qualified status of the plan.

**7. Why are you only restating my Defined Contribution Plan when I also have a Defined Benefit Pension Plan?**

A: Defined contribution plans (*which includes Money Purchase Pension Plans, Profit Sharing Plans and 401(k) Plans*) and Defined Benefit Pension Plans are on alternating 6 year cycles. The DB cycle ended on 7/31/2020.

For more information, please contact our office at (818) 325-8800 or email us at [mail@actuariesunlimited.com](mailto:mail@actuariesunlimited.com).

