

Failure to Comply with Restatement Deadlines

A Segment in Our Retirement Rescue Series

April 30, 2016 was the compliance deadline for all current defined contribution prototype plan restatements. Plans that did not restate before this deadline and have not corrected the failure are no longer entitled to tax-favored treatment.

Does your Plan need to be rescued?

All qualified retirement plans must be established with and operated based on a formal Plan Document that fully complies with the Internal Revenue Code. When laws change, the Plan Document must be amended or restated to comply with the updated laws. In addition to interim or “snap-on” amendments for regulatory changes, the IRS requires plans to be completely restated on a six year cycle.

The cycle which recently ended required Plan Sponsors of prototype defined contribution plans to execute a restated defined contribution plan document on or before the April 30th deadline. Plans that have not met this requirement have lost their tax-favorable status. This bars participants from accumulating retirement savings in the Plan as it is no longer tax-qualified and may reduce the Plan Sponsors' deduction for contributions paid to the Plan. Further, all distributions made from the Plan would be considered taxable and not eligible for tax-free rollover.

Restoring Tax-Favored Status

The ultimate goal is to correct this failure and restore the Plan's tax-favorable status. This is accomplished by adopting a restated PPA pre-approved Plan Document to bring your Plan into compliance and utilizing the IRS Voluntary Correction Program (VCP) if the Plan is not currently under examination.

To ensure that your Plan complies with recent regulatory and legislative changes, the IRS suggests reviewing the following documents:

- The original Plan Document and Summary Plan Description
- All subsequent amendments and restatements
- Corresponding Adoption Agreements, as applicable
- IRS opinion, advisory, and/or determination letters
- Plan records including Board of Director's resolutions or meeting minutes

Annually, the IRS compiles a [cumulative list of changes in plan qualification requirements](#) which can be found on its website.

After the Plan Sponsor has signed a pre-approved Plan Document, the next step is to apply for a VCP compliance statement. For VCP submissions made by April 29, 2017, the general fee will be reduced by 50%. [General VCP fees](#) can be found on the IRS website. If the IRS approves the VCP submission and compliance statement, it will be signed and mailed back to you. This is your proof that the failure was remedied and the Plan's tax-favorable status is restored, unless any other errors have occurred. Retain this signed compliance statement in your Plan records.

For more information on Plan Restatements, read [“It's time for PPA Restatements”](#) on our website and view the [IRS' VCP Submission Kit](#) for a missed restatement deadline for correction details.