

LEGAL UPDATES

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Time to Restate? It's Not Too Late! Upcoming Restatement Deadlines for Pre-Approved Retirement Plans

Key deadlines

March 15, 2025, for defined benefit pension plans.

The deadline for adopting any required plan amendment made pursuant to the SECURE 2.0 Act is December 31, 2026.

Overview of remedial amendment cycles

The Internal Revenue Service (IRS) regularly requires retirement plans to incorporate new laws and regulations. To ensure that pre-approved retirement plans incorporate these required legal and regulatory updates, the IRS implemented a cyclical plan review process – each cycle a “remedial amendment cycle” – whereby pre-approved retirement plan providers generally submit restated plan documents for approval to the IRS every six years. If the pre-approved retirement plan remains compliant with current laws and continues to provide the intended benefits to participants, the IRS issues an “opinion letter” stating that the plan meets all legal requirements. After issuing opinion letters, the IRS then sets a deadline for employers to adopt the new, restated plans.

Restated documents and upcoming deadlines

Employers using a pre-approved retirement plan should expect to receive restated plan documents from their retirement plan provider. The employer will then need to adopt the restated plan by the following deadlines:

Defined benefit plans, including cash balance plans: The third remedial amendment cycle for pre-approved defined benefit plans, including

cash balance plans (Cycle 3) ended in 2023, and the IRS subsequently issued opinion letters. The IRS announced that employers adopting a Cycle 3 plan restatement must do so by March 31, 2025.

Defined contribution plans, including 401(k) and ESOPs: The fourth remedial amendment cycle for pre-approved defined contribution plans (Cycle 4) is currently open. The deadline for adopting a Cycle 4 plan is forthcoming. Employers should keep in mind that the deadline for adopting any required plan amendment made pursuant to the SECURE 2.0 Act is December 31, 2026.

What should employers do?

Review the restated plan document. Plan fiduciaries must follow the terms of the plan document. Thus, it is important to review and understand the restated plan's terms.

Consider converting individually designed plans to a pre-approved format. The deadlines described in this article generally do not apply to individually-designed plans that are not based on a pre-approved document. However, under the right circumstances, individually-designed plans may be restated using a pre-approved plan document.

Consider making discretionary amendments. The restatement process is a great opportunity to make changes to plan design. Employers should consider whether the current plan design continues to confirm with their goals and objectives of the plan and consult with counsel about possible amendments.

Timely adopt the restated plan. It is important to complete the restatement process by the applicable deadline. If an employer fails to timely restate its pre-approved retirement plan, it will risk losing the plan's pre-approved status. This could have negative and costly tax implications and could potentially disrupt the plan's operation.

Contact us

If you have any questions about the restatement process or need assistance with your retirement plan, please contact a member of our Employee Benefits & Executive Compensation team.