

Ask Kidder.

Will my plan document need to be updated in 2014?

Starting in 2014, the IRS will require document restatements for virtually all 401(k) plans, profit sharing plans, and money purchase plans. This is commonly known as the "PPA" restatement due to the Pension Protection Act of 2006 which included several hundred pages of retirement plan legislation. A restatement involves amending your qualified plan in its entirety.

When does this actually begin?

Based on commentary from the IRS, Kidder believes the IRS will issue approval letters shortly after March 31, 2014, although the exact date is not yet known. After IRS approvals and Kidder system checks are made, the restatement process will begin in the summer of 2014.

Why restate?

A qualified plan keeps its tax-favored status only by maintaining a document with language that satisfies the law and regulations and has operated under the terms of such document. The IRS has been given the authority by Congress to determine qualification regarding the written document requirement. As such, the IRS requires qualified plans to adopt restated documents every five or six years.

What will change in the document?

This restatement takes the language from the prior Economic Growth and Tax Relief Reconciliation Act (EGTRRA) document and includes any new laws added by Congress and any guidance issued by the IRS through the fall of 2010. This includes the Pension Funding Equity Act of 2004 (PFEA), the Pension Protection Act of 2006 (PPA), the Heroes Earnings Assistance and Relief Tax Act of 2008 (HEART), the Worker, Retiree, and Employer Recovery Act of 2008 (WRERA), and the Small Business Jobs Act of 2010 (SBJA). The full IRS explanation can be found [here](#).

What will it cost?

Qualified plans that utilize the Kidder budget billing option are prepaying for the restatement, and no additional restatement cost will be incurred. For all others, the cost will depend on several factors, including, but not limited to: the payment plan chosen, paper or electronic delivery; the number of non-owner employees and requirements for a summary plan description. Any plan changes completed with the restatement will generally not increase the cost to restate, unless special testing or studies are needed.

Please consult with your Primary Administrator or Pension Consultant

regarding any possible document changes and how to proceed with the process. [Click here](#) for contact information.

What about DOMA?

On June 26, 2013, the Supreme Court ruled that Section 3 of the Defense of Marriage Act (DOMA), originally signed by President Clinton in 1996, is unconstitutional. Section 3 defined **marriage** as a legal union between one man and one woman as husband and wife. **Spouse** only referred to a person of the opposite sex of a husband or wife.

President Obama has directed the Attorney General to work with all federal departments and agencies to review and implement the Supreme Court's decision. This will affect every tax qualified plan.

The Department of Labor (DOL) and the IRS have both announced that **spouse** now refers to any individuals who were legally married under the laws of a state, regardless of sex and regardless of current domicile. **Marriage** is defined as to include same-sex unions that are recognized as a marriage under any state law. Therefore, marriages are recognized based on where the ceremony occurred. However, the terms spouse and marriage do not include individuals in relationships not declared a marriage under state law (e.g., civil unions and domestic partnerships) even if these relationships have the same rights and benefits as those married under state law.

No guidance has been issued yet regarding the retroactive application of this ruling. So far, the announcements and rulings apply only to the operation of plans after September 16, 2013. However, when a law is declared unconstitutional, it means the law could not be applied from the beginning. This can have a far-reaching impact and opens a long list of potential plan qualification issues if retroactive treatment is required. We will update you as this issue is clarified.

Kidder Benefits CEFEX Designation renewed - 3 years running

For the third year in a row, Kidder successfully completed its renewal assessment from The Centre for Fiduciary Excellence (CEFEX). Kidder has been certified for its adherence to the American Society for Pension Professionals & Actuaries (ASPPA) Standard of Practice for Retirement Plan Service Providers. This independent on-site review determines whether a firm demonstrates best practices in providing services to clients and conducts its business to the highest standard. Kidder is one of only thirty-two Third Party Administration firms in the United States to receive this designation. Visit www.cefex.org for the listing of all firms holding the CEFEX designation.

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