

VOL 9: INTERIM AMENDMENTS

Cycle 3 Restatements + Interim Amendments

The U.S. government has taken significant strides to improve overall retirement security for the public. Recent legislation, passed with substantial bipartisan support, now helps Americans save more for retirement, improves retirement plan rules and increases incentives to employers to set up retirement plans.

Keeping up with the new regulations and critical deadlines for retirement plans can be challenging, and Definiti is your trusted source for industry news affecting your plan. This ERISA Connection provides information about Cycle 3 restatements and upcoming interim amendments required for more recent legislative changes. This summer, we'll provide information about the [Securing a Strong Retirement Act of 2022](#), dubbed SECURE Act 2.0, which is awaiting Senate action.

If you have questions about plan restatements, plan amendments or other information shared here, contact your Retirement Plan Consultant — or call us at 1 (888) 912-3653 or email sales@definiti-llc.com.

Cycle 3 Restatements

We are fast approaching the Cycle 3 defined contribution pre-approved plan restatement deadline of July 31, 2022.

This restatement applies to 401(k), profit sharing, money purchase and ESOP plans. Employers who miss the deadline will need to correct their “non-amender” failures under the IRS’s Employee Plans Compliance Resolution System or may be subject to IRS-imposed penalties. (Read our [recent Insights article](#) for more details on Cycle 3 restatements.)

Timing of Interim Plan Amendments for Recent Acts

All plan sponsors using a pre-approved plan document must restate their plan based on a six-year restatement cycle. Every cycle, the documents are drafted based on legislative and regulatory changes set forth by Congress, the Treasury Department and the Department of Labor. The IRS guidelines for the most recent restatement, the Cycle 3 plan document, do not consider legislative and regulatory changes enacted after February 1, 2017. This means the provisions required under the recent legislative and regulatory changes since then must be addressed in separate interim amendments rather than in the Cycle 3 restated plan documents.

The current deadlines require these interim amendments to be adopted by plan sponsors no later than the last day of the plan year beginning on or after January 1, 2022 (or, in the case of a governmental plan, January 1, 2024).

SECURE Act

The Setting Every Community Up for Retirement Enhancement (SECURE) Act, which became law on January 1, 2020, made significant changes to qualified retirement plans. Most notably, the SECURE Act increased the required minimum distribution age from 70 ½ to 72, created the term “long-term, part-time” employee status (please refer to our article regarding the new eligibility requirements [here](#)), increased tax credits for small businesses that provide retirement plans, extended the deadline for adopting qualified plans, and created the penalty-free birth/adoption in-service distribution of up to \$5,000.

Also included in the same legislative package as the SECURE Act was the Miners Act, which reduces the minimum age for in-service distributions from money purchase pension plans and defined benefit plans from age 62 to age 59-1/2 and, for governmental 457(b) plans, from age 70-1/2 to age 59-1/2.

CARES Act

Signed into law on March 27, 2020, the Coronavirus Aid, Relief, and Economic Security (CARES) Act provides assistance for retirement plans and participants in response to the pandemic. In particular, the CARES Act allowed eligible participants to take a coronavirus-related distribution from a tax-qualified retirement plan totaling up to \$100,000 from January 1, 2020, to December 30, 2020. In addition, eligible participants were allowed to take a coronavirus-related loan up to the lesser of \$100,000 or 100% of their vested account balance between March 27, 2020, to September 22, 2020.

Consolidated Appropriations Act, 2021

This Act, signed into law in December 2020, also impacted qualified retirement plans. Code Section 411(d)(3) requires a plan to fully vest affected participants in a partial plan termination. The Act provided temporary relief from the 100%-vesting requirement under Code section 411(d)(3) for turnover due to COVID-19. Specifically, a plan will not incur a partial plan termination for any plan year that includes the period beginning March 13, 2020, and ending March 31, 2021, provided the number of active participants covered by the plan on March 31, 2021, is at least 80% of the active participants on March 13, 2020.

The Act also provided special disaster-related distributions and loan rules (similar to the CARES Act) for FEMA-declared disasters that occurred in 2020.

Brooke Cozort is an ERISA Attorney with significant experience working on ERISA matters and qualified plans. She provides guidance on plan design considerations, operational compliance, fiduciary responsibilities, legislative and regulatory changes and industry trends.



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