

What happens if your Plan Documents require a change?

Understanding Plan Amendments



Key Point

Changes affecting the provisions of your plan may require that your plan document be amended. Plan amendments are usually made by either the company that created the original plan document or the company's ERISA attorney.

What is a plan amendment?

An amendment is a modification to your plan document resulting from changes in the tax laws or other rules governing 401(k) plans. Because your plan document is the basis of your plan's day-to-day operation and management, changes affecting the provisions of your plan may require that your plan document be amended on an ongoing basis.

What sources should I monitor that may initiate a change to the plan?

Changes may come from a variety of sources, including Congress, the IRS, and the Department of Labor (DOL), as well as your own organization. Revisions to your plan may result from legislative updates, changes in tax laws, revised benefit contribution limits, the addition or removal of plan features, new plan trustees or company ownership, or an acquisition or merger. Your plan vendor is also an important resource and may furnish amendments you can formally adopt.



Take Action

- ▶ Ask your financial professional for a **Plan Review Checklist** to help you understand and address all critical issues on your plan that might dictate a change to your plan document.
- ▶ Be sure to distribute your plan's Summary of Material Modification (explains changes) to plan participants as indicated by ERISA.

What is the typical time limit for amending a plan?

The dates by which you must comply with changes, such as new tax laws or Congressional updates, are specified by law. For instance, you may be required to amend your plan document by the end of a plan year during which a provision is enacted. There may be times when you will need to make an amendment retroactive to a new law's effective date. A required amendment must be made retroactive to the effective date of each new law. A voluntary amendment may be retroactive to the first day of the current plan year.

Making timely amendments to your plan document is important for compliance purposes. You may be required to produce your original plan document, along with all amendments and adoption agreements, during an IRS audit.

Who must receive a copy of the plan amendment?

Everyone who services your plan should be notified immediately of any amendments or changes in your plan's operations. People involved in servicing your plan may include employees, attorneys, tax professionals, and fiduciaries. Communicating plan amendments and operational changes is important in satisfying your plan's compliance requirements.

As a general rule, anytime you adopt a plan amendment, you should also amend your summary plan description. If the amendment involves a material modification to your plan, a summary of material modification must be furnished to plan participants within 210 days of the close of the plan year in which you made the change.

Disclaimers:

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