

## Keeping Your Plan Documents Up to Date

### Discretionary Plan Amendments

If you want to change the features of the retirement plan you offer to your employees, or have already implemented changes this year, be sure to amend your plan documents to reflect your choices by December 31 (for calendar-year plans).

Over time, you may find that your plan features need to be adjusted as your employee demographics and business objectives change. Some employers modify their matching contribution to encourage their employees to save more for retirement. Others relax the eligibility requirements to allow more employees to enter the plan earlier.

To make these types of discretionary plan design changes, you must amend your plan documents. Depending on the type of change you want to make, you may be able to implement the change during the plan year so long as you execute a plan amendment by the last day of the plan year in which the change occurred. For example, if you allowed Roth contributions or plan loans for the first time in 2018, your plan documents must be amended to reflect those features by December 31, 2018. Some types of changes, however, require a plan amendment and notice to participants before the effective date of the change. For example, if you want to add a safe harbor feature to an existing 401(k) plan, the safe harbor feature generally cannot be effective until the beginning of the next plan year and the plan must be amended by the end of the prior plan year.

### Required Plan Amendments

When the laws affecting retirement plans change, you must amend your plan documents to incorporate these changes to maintain the plan's qualified status. These required amendments are sometimes referred to as "interim amendments." The IRS will generally establish a deadline by which interim amendments must be adopted. These amendments keep your plan documents current for law changes between documents restatement periods. For pre-approved defined contribution plans, restatement occurs every six years, when documents providers will re-write plan documents to incorporate interim amendments that have been required during the cycle and any new rule changes. Pre-approved defined contribution plans subject to this restatement requirement include profit sharing plans and 401(k) plans that are established using a plan documents that has been submitted to the IRS for approval by the plan documents provider. Pre-approved plans were last required to be restated by April 30, 2016.

## Delivering Annual Notices

Plan sponsors are responsible for delivering a variety of plan-related notices and disclosures to plan participants each year, as required by Treasury and Labor Department regulations. Many of these notices are delivered in the last months of the year, as illustrated in the chart below. Most plan sponsors rely on their documents providers, third party administrators, and recordkeepers to fulfill these responsibilities. With the appropriate systems in place, delivering these notices electronically may reduce costs and help plan sponsors track the delivery and receipt of required notices.

The system requirements and process for electronic delivery vary depending on whether the notice is required by the Treasury or the Department of Labor (DOL). Plan sponsors may use electronic delivery as the default delivery method if the delivery procedures meet the requirements of the applicable agency's regulations. Alternatively, electronic delivery may be made if the participant affirmatively consents to electronic delivery prior to receiving an electronic notice or disclosure. If the requirements for either default delivery or affirmative consent cannot be met, paper notices must be provided to participants.

Notice	Content	Deadline (for calendar-year plan)
<b>Summary Annual Report – DOL</b>	Disclose plan's financial activities & status	<ul style="list-style-type: none"> <li>▶ September 30 (or, if later, 2 months after Form 5500 is due)</li> </ul>
<b>Safe Harbor 401(k) Plan Notice – Treasury</b>	Explain safe harbor features that will apply in the coming year (e.g., employer contributions)	<ul style="list-style-type: none"> <li>▶ Annually by December 1</li> <li>▶ When new employees become eligible to enter the plan</li> </ul>
<b>Automatic Contribution Arrangement Notice – Treasury</b>	Explain automatic enrollment features	<ul style="list-style-type: none"> <li>▶ Annually by December 1</li> <li>▶ When new employees become eligible to enter the plan</li> </ul>
<b>Qualified Default Investment Alternative (QDIA) Notice – DOL</b>	Explain default investment rules & identify QDIA	<ul style="list-style-type: none"> <li>▶ Annually by December 1</li> <li>▶ 30 days before employee becomes eligible to participate or initial investment in QDIA</li> </ul>

**Newport Group Solution:** If you have any questions about plan documents amendments that apply to your plan or want to explore changes in your plan's features, contact your Newport Group Representative.

### Disclaimer

*Newport Group and its affiliates do not provide tax, legal or accounting advice. You should consult your own tax, legal and accounting advisors before making any decisions.*