

THE MANDATE TO RESTATE Your Company Retirement Plan



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The mandatory deadline for restating your company 401(k) plan is April 30, 2010 and it is fast approaching. If you are a business with a company qualified retirement plan, are you meeting the compliance guidelines required by law? Are you and your employees getting the most out of your company's retirement plan? If not, now is the time to review, renew or start anew!

About every 5-6 years, the federal government requires businesses to restate their 401(k)/profit sharing plans. During this restatement period, the required updates are based on significant legislative and regulatory changes resulting mostly from The Economic Growth and Tax Reconciliation Act of 2001. There are some additional amendments also required as a result of the Pension Protection Act of 2006 and Heroes Earnings Assistance and Relief Tax Act of 2008.

Be sure to review the rules and deadlines with your plan provider so that you can make necessary changes and not face any compliance violations. Technically, if you don't properly restate your plan, it is not in compliance and therefore fines can be assessed on your business and it can potentially lead to more serious plan and participant tax issues. It's important to have a plan provider who understands the rules, brings them to your attention and advises you on the best provisions for your objectives. If your provider does not appear knowledgeable on the rules and deadlines for restating, this is a red flag.

Beyond making the changes required by law, you can benefit from reviewing and restating your entire plan and it may be more cost effective to do both at the same time. Designate this time to also look at

your investment process and the design of your plan. What would you do differently? For example, are you satisfied with your current timeline for admitting employees and allowing them to make adjustments? Some businesses open it up for change annually; others prefer more frequently. It's up to you, but whatever you decide, you want to make sure you follow it! There are plans out there where the document says one thing and the business does another. Be careful, as often doing so can be a serious violation.

The design of your plan is important for employee benefit and your bottom line. It is well worth your while to spend time reviewing all aspects of it, including:

- *Who is allowed to participate in the plan?*
- *How often can employees enter into the plan (annually, quarterly, monthly)?*
- *What percent does your company match - does it need to change based on economic times? How often is that match deposited?*
- *What is the length of employment time required to be vested?*
- *What provisions are there for taking distributions?*
- *Do participants have the ability to borrow against the plan?*

There are many options and your plan provider can help you choose what works best for you and your business. It is an investment of time and money, so you want to be cost effective. One can expect to pay anywhere from \$1,000 - \$5,000 for the document restatement. Future amendments and changes will cost more, often \$200 - \$500 each. If there are changes you want to make, doing it within the restatement process can save you from higher costs later.

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Don't assume that what you have in your plan now is what you have to have going forward. Look at all of the pieces within your objectives and how the document can create a plan that enhances rather than detracts from those. And any time you are dealing with something so technical, seek assistance from an expert. You may even want a second opinion. A competitive review is a good thing, and, since the law is requiring you go through it anyway, it may well be the perfect time.



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