

FAQ: Third Cycle Restatement

Q: What is a Third Cycle Restatement?

A: Under IRS rules, every six years, plan sponsors using IRS pre-approved defined contribution plan documents must formally restate their plan documents onto a new plan document that reflects legal/regulatory guidance issued over a period of time. This includes plan sponsors using an Empower-provided 401(a) or 401(k) plan document.

As this is the third restatement period since the IRS started requiring restatements every six years, it is called the Third Cycle Restatement. Empower has been busy preparing and planning for these restatements to assist your plan in meeting the IRS restatement requirements.

Q: What changes are included in Third Cycle plan documents?

A: The previous plan document restatement, called the PPA Restatement, required plan documents to be restated to reflect PPA (The Pension Protection Act of 2006) and other guidance. The IRS now requires a formal restatement of your Plan Document onto a Third Cycle plan document.

Legal and regulatory changes incorporated into Third Cycle plan documents will include in-plan Roth transfers and the use of forfeitures to reduce safe harbor contributions. Those items were initially addressed in interim “snap on” amendments to the PPA documents.

Third Cycle plan documents will also reflect IRS changes designed to streamline its pre-approved plan document program such as:

- There will no longer be separate volume submitter and prototype documents – all plan documents will be mapped to an updated non-standardized IRS pre-approved plan document.
- Plan trust provisions will be contained in a separate Trust document.

Q: What is the Third Cycle Restatement timeline?

A: We expect to begin the restatement of plans using our plan document services late-2020. The IRS deadline to adopt a restated document is July 31, 2022.

Q: Will there be a fee for a Third Cycle Restatement? Can it be paid from plan assets?

A: The fee for restating your plan is \$1500, which will be billed when your Plan Document is restated. Prior guidance from the Department of Labor has indicated that expenses required to maintain the plan’s tax



qualified status can be paid from plan assets. Any discretionary amendments you might choose to make to your plan after the restatement process has begun will be handled separately and may be subject to additional fees according to your plan's fee schedule.

Q: Will Third Cycle plan documents include recent developments such as BBA, SECURE and CARES?

A: Given the timing of this IRS cycle, Third Cycle documents will not include updates for BBA, SECURE and CARES legislation. That is the case for any Third Cycle documents, not just those provided by Empower. We will provide interim “snap-on” regulatory amendments for BBA, SECURE and CARES to meet those requirements.