



Flashpoint: Riders, Feet on the Pedals! DC Tricycle Restatements Are About to Begin!

The IRS has just announced (Announcement 2020-07) the key details for the third cycle (“Tricycle”) of restatements for preapproved defined contribution plans. Document providers submitted their draft documents in 2018, and the IRS anticipates completing its review and issuing opinion letters for these preapproved plans on June 30, 2020.

This will begin the formal restatement process. Employers who previously adopted a prototype or volume submitter defined contribution plan, or who wish to migrate from an individually designed plan to a preapproved plan, must restate their document onto a Tricycle preapproved document by no later than July 31, 2022. If the employer modifies the language of the preapproved document (“colors outside the lines”), it can submit a request for a determination letter on Form 5307 during the two-year period ending July 31, 2022. The formal end of the third restatement cycle is January 31, 2023.

Tricycle documents are based on an IRS cumulative list issued in 2017. They do not reflect any of the changes that have taken place since that cumulative list. They do not reflect the recent changes to hardships, the SECURE Act, or CARES.

In reviewing these documents, the IRS insisted on several “describe line” limitations where greater flexibility has been allowed in the past. However, document sponsors recently won two major victories, allowing plans to retain flexible discretionary match provisions and automatic escalation provisions for affirmative deferral elections. Not surprisingly, matching provisions for student loan repayments were not allowed in the preapproved documents for this cycle.

In other news related to plan documents, the IRS in Notice 2020–35 reconfirmed extensions previously announced on the IRS website for 403(b) and defined benefit plan restatements. The IRS postponed the 403(b) restatement deadline and end of the 403(b) remedial amendment period from March 31 to June 30, 2020. The IRS postponed the second cycle defined benefit restatement deadline from April 30 to July 31, 2020. Also important for some defined benefit plans, the Notice also extended to July 15 many deadlines relating to funding rules for multiemployer plans and for CSEC plans.

Additionally, the Notice extended to July 15, 2020, the due date for any Form 5330 retirement plan excise tax returns (commonly used for penalties for prohibited transactions and late ADP/ACP refunds) which would have been due from March 30 to July 15. Interest and nonfiling penalties will not run during that period.

One important document deadline has not been extended. The deadline for individually designed cash balance and other hybrid plans to request a determination letter upon plan amendment will expire August 31, 2020. Rev. Proc. 2019–20 opened a limited window for these plans to receive new determination letters, and the clock is still ticking.



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