

# PPA Restatement Cycle

[ftwilliam.com](http://ftwilliam.com)

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# Agenda

- A few Basics About Restatement Cycles and Pre-Approved Plans
- What's New for the PPA Cycle?
- ftwilliam.com Product Offerings for PPA Cycle – Doc types
- Do I Need a Letter in My Own Name?
- Ftwilliam.com Product Offerings for PPA Cycle – software features/Demos
  - Batch amendments
  - E-signature/portal/workflow
  - Other upcoming enhancements

# Restatement Cycle Basics



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# Restatement Cycle

- All pre-approved defined contribution plans (401(a) plans) are on the same 6 year restatement cycle.
- Pre-approved DC plans last had to restate for EGTRRA by April 30, 2010
- DB and 403(b) plans are on a different cycle
  - Pre-approved DB plans must restate for EGTRRA by April 30, 2012
  - 403(b) plans cycles - yet to be determined

# Timeframes

1. ftwilliam.com submits documents to IRS  
April 2, 2012
  - Content of docs is determined by 2010 LRMs
2. IRS reviews documents – expected completion 2014?
3. Deadline to adopt PPA docs - early 2016?

# Types of "Letters" From IRS

- Opinion Letter: Pre-approval letter for a Prototype plan.
- Advisory Letter: Pre-approval letter for a volume submitter plan.
- Determination Letter: An IRS approval letter for a plan after it has been drafted for a particular employer (filed on a Form 5307 or 5300).

# Pre-approved vs. Individually Designed

- Most retirement plans that file a 5500 use a pre-approved plan document (at least 80%)
- Individually designed plans are on a 5-year restatement cycle (determined by EIN)
- Pre-approved plan (correctly drafted) generally requires no determination letter
- Filing fees for IRS determinations are much higher for individually designed plans

# Pre-approved vs. Individ. Designed Cont...

- An incorrectly drafted pre-approved plan can become individually designed
  - Format of the document is irrelevant
- Some document types must be indiv designed (no pre-approval process exists)
  - Cash balance plans, ESOPs
  - 403(b) plans will soon have a pre-approval process (no determination letter process exists currently)

# Interim Amendments

- Most retirement plans require an interim amendment nearly every year for changes in law.
  - Pre-approved plans must tack-on "good faith" language when restating
  - Individually drafted plans can incorporate/restate
- The following factors are generally irrelevant in determining whether interim amendment is required:
  - Pre-approval status
  - 5 or 6 year cycle
  - Restatement status
- What does matter? **Has the plan timely adopted/been updated for the interim requirement?**
  - Format may vary as described above (tack-on or incorporation)

# New Determination Letter Procedures

- Effective May 1, 2012 (Rev. Proc. 2012-6):
  - No 5307 applications for prototype plans
  - 5307 only accepted for vol subs with minor modifications
- New approach to audits by IRS? Remains to be seen....

# What's New for the PPA Cycle (IRS Requirements per Rev Proc 2011-49)



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# Summary of Changes

- Differences between vol subs and prototypes narrowing
- Interim amendment certification requirement
- Not much else

# Differences Btw Prototypes & Vol Subs

- Multiple employer plans can use prototype in upcoming PPA cycle (\*NEW\*) - currently only allowed in vol subs
- Differences still exist (next two slides)

# Differences Btw Prototypes & Vol Subs

## 1. Document Modifications

- Minor change to prototype document for a particular employer = *Individually designed plan* (Form 5300 determ letter, higher fee)
- Volume Submitters with minor modifications to pre-approved language can file 5307 for a particular employer

# Differences Btw Prototypes & Vol Subs Cont.

## 2. Cross Testing

- Not clear if differences have been eliminated
- EGTRRA:
  - Non-standardized prototype plans restrict the number of cross-tested allocation rate groups for non-highly compensated employees that may be used (LRM 94)
  - Each participant in own group - possible to the full extent in vol sub doc

## 3. Non-safe harbor hardship only allowed in Vol Sub

# Interim Amend Certification

- New requirement for PPA (Rev Proc 2011-49)
- Required now for applications for letter in own name
- This certification will be required of all [ftwilliam.com](http://ftwilliam.com) customers – even if no opinion letter

# Interim Amend Certification

## CERTIFICATION REGARDING INTERIM AMENDMENTS

Under penalties of perjury, I hereby certify to the best of my knowledge and belief that all necessary interim amendments required by the Internal Revenue Service to retain the qualified status of my master and prototype plans and/or volume submitter specimen plans have been made a part of such pre-approved plans timely and communicated timely to all my adopting employers.

\_\_\_\_\_  
Type or print name of M&P Sponsor and/or VS  
Practitioner

Signed \_\_\_\_\_  
(person authorized to sign for M&P Sponsor and/or  
VS Practitioner)

Dated \_\_\_\_\_

# ftwilliam.com PPA Documents



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# ftwilliam.com PPA Cycle Documents Offered

- Prototype - nonstandardized plans
  - 401(k)/Profit Sharing
  - 401(k)/Profit Sharing Answers Only
  - Money Purchase
  - Target
- Prototype - standardized plans
  - 401(k)/Profit Sharing
  - 401(k)/Profit Sharing Answers Only
  - Money Purchase

# ftwilliam.com PPA Cycle Documents Offered

- Volume Submitter plans
  - 401(k)/Profit Sharing AA format
  - 401(k)/Profit Sharing AA format Answers Only
  - Profit Sharing Governmental Plan AA format (no 401(k) provision)\*
  - Money Purchase Governmental Plan AA format\*
  - 401(k) IDP format
  - Profit Sharing IDP format
  - Money Purchase IDP format

*\* May not have mass submitter status*

# New AA Document Format – applies to all plans w/ AA

- See PDFs for complete examples of Old and New styles.
- Each question now has a heading.
- Sub-questions are now indented.
- More descriptive words instead of question numbers.
  - Instead of:
    - "The exclusion listed in B.1a for union employees applies for the following purposes:"
  - New style:
    - "The union employees exclusion listed above applies for the following purposes:"

# New AA Document Format Cont.

- Technical information removed from the question.
  - Instead of:
    - "If B.4a is selected, describe other excluded Employees from definition of Eligible Employee and indicate for what purposes (e.g., Elective Deferrals, Matching, etc.) the Employees are excluded: \_\_\_\_\_"
  - new style:
    - "Other Employees: \_\_\_\_\_"
    - "NOTE: If selected, describe other excluded Employees from definition of Eligible Employee and indicate for what purposes (e.g., Elective Deferrals, Matching, etc.) the Employees are excluded."

# Answers Only Option Example

## 1. Union Employees

a.  Any Employee who is included in a unit of Employees covered by a collective bargaining agreement, if retirement benefits were the subject of good faith bargaining, and if the collective bargaining agreement does not provide for participation in this Plan.

b. The union employees exclusion listed above applies for the following purposes:

- ~~i.  Elective Deferrals and Voluntary Contributions.~~
- ii.  Matching Contributions.
- iii.  Profit Sharing Contributions.

*Text crossed out above will not appear.*

*If 1.a. was not selected, entire question would not appear.*

# Answers Only Option Details

- BPD must include Appendix A showing an entire Adoption Agreement with all applicable text, notes, etc.
- Answers only AA must include the following statement:
  - "By signing this adoption agreement, the adopting employer acknowledges having reviewed the Appendix A and certifies that all choices reflected in this adoption agreement have been taken from such appendix."

# Prototype or Vol Sub?

- We generally recommend Volume Submitter in prototype format.
  - Checklist nearly identical to NS proto (only differences are those required by the IRS – Proto NS is generally not "simpler")
  - Differences weigh in favor of Vol Sub (minor mods and cross testing options)
  - Prototype format easier to read

# Pre-release program

- Participants can review draft copies of the VS prototype format and suggest improvements and possible new features.
- New document released this week.
- Enrollment agreement requirements:
  - do not disclose features to our competitors
  - any suggestions you recommend will become property of Wolters Kluwer Law & Business.
- Can download from recent email updates on select company page or email us for a copy

# Should I Get a Letter in My Own Name?

# No requirement to get a letter in your own name

- IRS does not require this; recognize "middlemen" that use a vendor's opinion/advisory letter
- Some document vendors require letter in own name to use their documents
- [ftwilliam.com](http://ftwilliam.com) allows customers to use its letters and/or apply for a letter in customer's name

# Do I need to be on a list with a vendor?

- If you had a letter in your own name for the EGTRRA cycle, you should consider getting a letter in your name for PPA
- If you had no letter last cycle, you certainly do not need a letter for PPA – there's no "list" applicable
- If you apply for a letter with one vendor – **you can change your mind**
- <http://www.ftwilliam.com/articles/FAQsNextCycle.html> for details

# Advantages of having letter in your own name

- You can use your company name on the document (instead of Wolters Kluwer or leaving blank)
- You can amend plans that use your letter on behalf of the plan sponsor (you can choose your own default amendment or apply different defaults to different plans)

# Dis-advantages of having letter in your own name

- You must amend plans using your letter for default provisions (ftwilliam.com signed default amendment will not apply)

# How Do I Apply For a Letter in My Firm's Name?

- Items needed (can download from recent email updates on select company page)
  - Order Form
  - 2848
  - Certification regarding interim amendments
  - Payment (\$300 per doc type)
- Timeframes – December 22 deadline to get in with [ftwilliam.com](http://ftwilliam.com) initial application
- You can still apply after this date
- Applications with another vendor can be transferred if letters have not yet been issued

# Ftwilliam.com Product Offerings for PPA Cycle Software Features



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# Restatement Process

- "Click of a button" restatement
- Answers from prior document will map
- Any new questions can be defaulted
- Conversions can be batched into groups
- If no changes during restatement, no data entry required to restate

# Current Software Features

- Batch amendments/Annual Notice
- Portal product
  - integration with batch amendments/annual notices
  - e-signature
- Live demonstration will follow power point presentation

# Other Anticipated Software Features

- Enhancements to edit checks and data entry of checklists
- Customizable documents, SPDs and forms
  - Add logo (to forms/spds)
  - Choose margins, spacing between paragraphs, etc.
  - Add custom language
- Reporting enhancements
- Workflow / practice management
- Multiple Employer plan software solution
- Fullfillment options for restatements, amendments and annual notice – Wolters Kluwer prints and mails