

# IRS mandated update to qualified retirement plan documents

## Questions and answers

**Q1.** *Why am I receiving this correspondence from UBS Financial Services Inc.?*

**A1.** The Internal Revenue Service (IRS) requires qualified retirement plans to be amended or restated periodically to incorporate new provisions created by tax-law changes governing qualified retirement plans. The legislation affecting qualified retirement plan operations – and mandating the current restatement – was the Economic Growth and Tax Relief Reconciliation Act of 2001 (EGTRRA). For your reference, a partial listing of key EGTRRA changes appears on the reverse side of this Q&A. As your prototype document sponsor, UBS Financial Services Inc. provides you with these IRS-mandated document changes.

**Q2.** *How often do plans have to be fully restated?*

**A2.** The IRS has established a recurring restatement cycle which, for most employers, is every six years. By restating onto a new plan document, you are generally assured that your plan document remains qualified and its content is approved by the IRS.

**Q3.** *What must I do to effectively restate my plan?*

**A3.** Restating your plan means that you execute new documentation. You are not required to provide restated documents to the IRS. Once you have completed and returned your Plan Document Restatement Questionnaire to us, we will provide you all the documentation needed to restate your plan.

**Q4.** *If I intend to terminate my plan, must I still restate it?*

**A4.** Yes, plans must be restated to incorporate the new provisions before terminating. If your plan is terminated without being restated, the IRS could disqualify your plan resulting in adverse

tax consequences. You should consult with your legal or tax advisors for advice before taking action to terminate your plan.

**Q5.** *If I am the only person in the plan, must I still restate it?*

**A5.** Yes, you must restate your plan to incorporate the new provisions. If you do not restate your plan, the IRS could disqualify it resulting in adverse tax consequences.

**Q6.** *What happens if I don't return the Plan Document Restatement Questionnaire by the March 31, 2009, deadline?*

**A6.** If you do not return the Questionnaire, you cannot continue in the UBS prototype program. You will then be responsible for updating your own plan documents.

**Q7.** *What if I do not want electronic delivery of my business' plan documents?*

**A7.** To control the costs of providing prototype document services and to protect the environment at the same time, UBS will only provide our prototype document service through electronic delivery.

**Q8.** *What should I do if the Plan Document Restatement Questionnaire (PDQ) I received is not for the type of qualified plan I maintain, or I maintain additional types of plans for which we did not receive PDQs?*

**A8.** The PDQ you received is based on the information contained in our records for your UBS brokerage account. Please contact your Financial Advisor to update your account information. In addition, you may print a copy of the appropriate PDQ from the UBS Internet site at [www.ubs.com/qpforms](http://www.ubs.com/qpforms).

## Summary of key EGTRRA changes:

### Increased deferrals

EGTRRA increased the annual elective deferral limit for 401(k) plans to \$11,000 (subject to cost-of-living adjustments; \$16,500 in 2009).

### Roth contribution program

Plan permitting, Roth IRA-like contributions may be made by participants in 401(k) plans on a salary deferral basis—with the benefit of receiving tax-free distributions if certain requirements are met.

### Catch-up contributions

EGTRRA created catch-up contributions allowing participants who are age 50 or older to increase their elective deferrals to 401(k) plans by \$1,000 (subject to cost-of-living adjustments; \$5,500 in 2009).

### Plan loans for owner-employees

Plan permitting, sole proprietors, partners or Subchapter S corporation owners may be allowed to take plan loans.

### Transfers and rollovers

EGTRRA allows for greater asset portability between employer sponsored plans and IRAs.

- Surviving spouses of plan participants may complete a rollover to another qualified plan or an IRA
- Employee after-tax contributions may be included in eligible rollovers to another defined contribution plan or an IRA
- The 60-day rollover rule may be waived if a participant incurs a hardship
- Assets may be transferred between defined contribution plans
- Employer cashouts of balances more than \$1,000 but less than \$5,000 must be directly rolled to an IRA

### Annual additions

The maximum annual contribution to a defined contribution plan increased to 100% (up from 25%) of compensation, or \$40,000 (whichever is less). This amount is subject to cost-of-living adjustments and increases to \$49,000 in 2009.

### Compensation cap

The compensation cap used to determine annual additions increased to \$200,000 (subject to cost-of-living adjustments; increases to \$245,000 in 2009).

### Modified top-heavy rules

Safe harbor 401(k) plans are exempt from the top-heavy rules.

### Deduction limit

The employer's maximum deduction limit excludes employee deferrals.

### Faster vesting for matching contributions

Maximum vesting schedules for employer matching contributions are a three-year cliff and a six-year graded schedule.