Vanguard Individual 401(k) PPA Restatement - FAQ

Why do I need to restate my qualified retirement plan documents?
The IRS requires all employers with retirement plans using pre-approved documents to restate their plan documents every six years to reflect legislative and regulatory changes since the last restatement. Restating the plan documents in a timely manner is necessary to preserve your plan’s tax-qualified status. The “PPA restatement” is named after the 2006 legislation passed by Congress.

Which interim amendments are included in the PPA restated documents?
This restatement incorporates changes included in the final 415 regulations; the Pensions Protection Act (PPA); the Heroes Earnings Assistance and Relief Tax Act (HEART); the Worker, Retiree, and Employer Recovery Act (WRERA); and other optional interim amendments.

What must I do to restate my qualified plan for PPA?
We’ve created a restatement kit to help you successfully update your plan.

Step 1. Review the basic plan document and complete and sign the adoption agreement.
Note: You must select Part B in Section one and provide both the initial effective date of the plan and the effective date of this restatement.

Step 2. Mail a copy of your completed and signed adoption agreement to us at:

Vanguard
P.O. Box 1106
Valley Forge, PA 19482-1106

Step 3. Place the enclosed document components (basic plan document, and the IRS opinion letter) in your files. Vanguard will return the completed and signed adoption agreement for you to file with your other plan documents.

What date should I be using for the effective date of the restatement?
The restatement Effective Date is generally the first day of the Plan Year either following the year or in the year in which this Adoption Agreement is signed. For calendar year plans, if you’re signing the Adoption Agreement in 2014, you could use an Effective Date of 1/1/2014 or 1/1/2015. If you’re signing in Plan Year 2015, the earliest date you can use is 1/1/2015. The plan must be operated in compliance with the new document as of the effective date.

What is the deadline for signing a new adoption agreement and completing the PPA restatement process?
You should restate your plan as soon as possible. Vanguard has asked all plans to take action within 60 days of receipt of their restatement kit; however, the final restatement
deadline for most plans is **April 30, 2016**. If you continue to operate your plan in accordance with the old plan document provisions, you will not be operating your plan in compliance with the new rules. This will potentially subject you to severe tax consequences.

**What is the IRS opinion letter that is included in my PPA restatement kit?**
An opinion letter is issued by the IRS to us confirming that it has approved the form of the prototype plan documents we sponsor and that we have subsequently provided to you as an adopting employer. We are required to provide a copy of this letter to you so that you will be certain that the plan document we provide has been reviewed and approved by the IRS. An employer whose plan has been reviewed and approved by the IRS is generally said to have “reliance.” Essentially, “reliance” is the employer’s automatic assurance that the plan documents meet the requirements of the tax laws and regulations that apply to qualified retirement plans. While the opinion letter gives employers reliance with respect to the “form of the plan”, it is still the employers’ responsibility to ensure the plan is operated in compliance with the laws, regulations, and the basic plan document.

**If I intend to discontinue operating my qualified plan before the April 30, 2016 deadline, must I still restate it?**
There is no requirement to restate your plan if your plan will be discontinued (i.e., a plan termination) and will be liquidated before the amendment deadline. The plan documents must, however, be completely up-to-date before termination or the IRS could disqualify your plan, resulting in adverse tax consequences. Although not required, as a best practice you may wish to restate to the newly approved documents as all the language in these documents has been approved by the IRS, while the good-faith amendments for the EGTRRA document have not been approved by the IRS.

**If I am the only person in the plan, must I still restate it?**
Yes. The IRS could disqualify your plan, resulting in adverse tax consequences, if you do not restate your current document to include these rule changes. All qualified retirement plans, including one-person plans, must be restated for these changes.
Where can I get more information about the changes affecting my qualified plan?

Although you have been operating your plan according to PPA and other legislative and regulatory changes for quite some time, the following list highlights some of the plan changes as a result of PPA.

- Modifies the hardship distribution definition to include nonspouse, nondependent beneficiary hardships

- Allows guardsmen or reservists called to active duty for at least 180 days to take penalty-free distributions of deferral assets from 401(k) plans

- Encourages participation in 401(k) plans through automatic enrollment and automatic deferral increases including an opt out provision allowing contributions to be returned to employees without tax penalties if they opt out of participation within 90 days of being automatically enrolled

- Allows nonspouse beneficiaries of qualified retirement plans to roll assets to a beneficiary IRA

- Allows guardsmen or reservists called to active duty for at least 30 days to take distributions from their employee deferrals

- Modifies the vesting and benefit provisions for those who do not return to employment due to death or a disability incurred while performing qualified military service