

ftwilliam.com
Admin User Group
April 1, 2014



Document Design
Strategies to Simplify
Compliance Testing

Presented by:
Aimee Nash

Agenda

- Overview of Pre-Approved DC IRS Procedures
- Compensation
- HCE elections
- Elective deferral restrictions
- 410(b) corrections
- New Comparability/Cross Tested Plans
- QNECs
 - Vol subs vs prototypes
- Top Heavy Minimums

Restatement Cycles

- 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 submitted documents to IRS April 2, 2012
 - Content of docs is determined by 2010 LRMs
2. IRS reviews documents - expected completion early 2014
3. Deadline to adopt PPA docs - early 2016

Restatement period opens in 2014 and will remain open for two years

Exact date for program opening not yet announced

Goal: Administrative Simplification/flexibility

- Document Design recommendations in this presentation are being made with the goal of simplifying administration and maximizing flexibility when completing compliance tests
- This presentation is not trying to suggest that these recommendations apply to all plans/plan designs
- Recommendations are suggested merely as a possible "default" plan design and should not be used if plan/payroll/employer circumstances suggest otherwise
- Please also note: All PPA document language shown/discussed is not approved by the IRS and is subject to change

Compensation

- Keep it simple: W-2 compensation with no/limited modifications (i.e. don't exclude taxable fringe, don't add in deemed 125 compensation)
 - Avoids 414(s) testing
 - Avoids data collection of numerous data elements that need calculations/mapping
- Determine compensation over calendar year to keep in line with W-2 data
 - Post Year End compensation should not be selected
- Keep 415 Compensation the same as used for allocations (W-2)
 - "Statutory Compensation" in PPA - name change from "Testing Compensation"
- ftwilliam.com document does not restrict compensation used for ADP/ACP testing - "Section 414(s) Compensation"

Compensation - Bonuses

- If your document excludes bonuses, you must test the compensation under 414(s)
- If excluding bonuses because Participants cannot defer bonuses, note ftwilliam.com document Section 4.01(c) language
 - PPA draft language - same concept applies to EGTRRA document

(c) Procedures. A Participant shall make an election described in Subsection (b) in such form and manner as may be prescribed by procedures established by the Plan Administrator. Such procedures may include, but not be limited to: specifying that elections be made at such time in advance as the Plan Administrator may require, allowing on a nondiscriminatory basis a Participant to make a separate election as to any bonuses or other special pay, and/or requiring elections be made in a dollar amount or percentage of pay.

HCE Determinations

- Top paid group election (perhaps review before the end of each plan year)
- Calendar year election
 - Non-calendar year plans will need to track 2 sets of data

If unanswered these provisions may default to YES.

Service

- Break in service rules (rule of parity)
 - Don't use them
 - They rarely apply and are difficult to measure and administer
 - Rule of parity requires:
 - five (5) consecutive One-Year Breaks in Service/Periods of Severance and
 - Employee does not have any nonforfeitable right to the Account balance derived from Employer contributions
- Hours of service vs elapsed time
 - Use elapsed time only for short eligibility periods (3 months)
 - Note that Elapsed time accumulates over multiple plan years and over terminations and rehires

Elective Deferrals

- Review maximum deferrals for all participants
 - If unanswered may default to 75%

410(b) corrections

- Recommend that document select "Do not automatically fix"
- Selecting other options (add just enough/add all) will mean the document does not allow use of the average benefit percentage test

New Comparability/Cross Tested Plans

- Consider defaulting to each participant in his/her own group for maximum flexibility
 - No last day or 1,000 hours in document
- If using defined groups, put owner's children and spouse in separate groups
- Restrict 3% safe harbor to NHCEs only
- ftwilliam.com does not require cross-testing if using new comparability formula - any method to pass 401(a)(4) is acceptable
- PPA document work similar to EGTRRA:
 - No gateway formula/minimums in BPD
 - Eligibility/allocation requirements may be waived to meet gateway
 - Prototypes will work same as Volume submitters (no limitations on number of groups based on number of NHCEs)

Profit Sharing

- Allocate on last day of plan year for maximum flexibility
- Section 3.06(c):
 - (c) A Participant shall be treated as benefiting under the Plan for any Plan Year during which the Participant received or is deemed to receive an allocation in accordance with Treas. Reg. section 1.410(b)-3(a). Notwithstanding any provision of the Plan to the contrary, no Participant shall earn an allocation hereunder except as provided under the terms of the Plan as in effect on the last day of the Plan Year after giving effect to all retroactive amendments that may be permitted under applicable Internal Revenue Service procedures and other applicable law; including, without limitation, any amendment permitted under Treas. Reg. section 1.401(a)(4)-11.

QNECs

- For maximum flexibility, use volume submitter document
- Prototype document must specify QNEC formula and allocation rules (last day, 1000 hours, etc.) in document.

If using Prototype Suggest allocating to NHCE's only and not have last day and/or 1000 hours.

PPA Vol Sub QNEC AA Language

26. QNECs

[] The following limitations, conditions and/or special rules apply to Qualified Non-Elective Contributions: _____ (Section 4.04(b))

Subject to D.26 if applicable, the Company's Qualified Nonelective Contribution (in addition to any nonelective contribution made pursuant to C.1 or C.24) shall be allocated in such manner as determined by the Company. The Company shall notify the Plan Administrator and/or the Trustee in writing of the manner in which such contributions shall be allocated.

NOTE: A Qualified Nonelective Contribution of a Nonhighly Compensated Employee will not be taken into account in satisfying the requirements of Section 5.02 to the extent it is a disproportionate contribution within the meaning of Treas. Reg. sections 1.401(k)-2(a)(6)(iv) and/or 1.401(m)-2(a)(6)(v).

PPA BPD QNEC language

(b) ... the Company in its discretion may make additional Qualified Non-Elective Contributions for the benefit of such Participants as determined by the Company. A Qualified Non-Elective Contribution of a Nonhighly Compensated Employee will not be taken into account in satisfying the requirements of Section 5.02 to the extent it: (1) it does not qualify for inclusion in the Actual Deferral Ratio; or (2) is a disproportionate contribution ...

(1) Participants Eligible to Receive Qualified Non-Elective Contributions. The Company may determine, in its discretion whether allocations of Qualified Non-Elective Contributions shall be limited to Participants who are credited with at least a certain number of Hours of Service during the Plan Year and/or who remain in the Company's employ on the last day of the Plan Year. The Company may limit Qualified Non-Elective Contributions contributed under this Subsection to Non-Highly Compensated Employees eligible to make Elective Deferrals during the Plan Year that meet any additional requirements determined by the Company. The Company may also provide Qualified Non-Elective Contributions to those in any or all portions of a disaggregated plan as provided in Section 5.03.

Prototype vs. Volume Submitter

	Prototype	Volume Submitter
Document format	Adoption agreement and basic plan document	All-in-one document or adoption agreement ("prototype") format
Modifications to pre-approved language	Plan becomes individually designed	Most changes are 'minor modifications'
Hardship	Safe harbor only	Safe harbor or non-safe harbor permitted
Participant waiver/ Irrevocable opt-out	Not permitted	Permitted

Prototype vs. Volume Submitter

- If minor changes are made to the volume submitter document
 - May be submitted on a Form 5307
 - Do not lose reliance
- If minor changes are made to a prototype document
 - Individually designed and
 - Form 5300 with a higher user fee
- Participant opt out (should never/rarely be used)
- May use non-safe harbor hardship requirements
- Choice of document formats (adoption agreement or "all-in-one"/traditional vol sub)
- Other differences may arise during the IRS review process
 - QNEC formulas
 - Other profit sharing formula option
 - See recent email for blackline comparison

Forfeitures

13. Forfeitures

Forfeitures will be used in the following manner (Articles 5 and 6):

- a. Any permissible method (restore forfeitures, reduce Company contributions (or reallocate as Company contributions) made pursuant to Article 4 or to pay Plan expenses)
- b. Other: _____

NOTE: E.13b is limited to one or a combination of the options described in E.13a. E.13b may be used to further restrict the uses of forfeiture and must be applied in a consistent and non-discriminatory manner.

Top Heavy Minimums

- If allocating to "this plan" suggest making allocations to non-key participants only

8. Top Heavy Allocations

Top-Heavy allocations are made to

- a. This Plan. Participants who share in Top-Heavy minimum allocations:
 - i. **Non-Key only.** Any Participant who is employed by the Employer on the last day of the Plan Year and is not a Key Employee
 - ii. **All Participants.** Any Participant who is employed by the Employer on the last day of the Plan Year
 - iii. Participants covered by a collective bargaining agreement will share in Top-Heavy minimum allocations provided retirement benefits were the subject of good faith bargaining.
- b. Pursuant to the terms of _____ plan
- c. Other (include information about which plan allocations are made to and which Participants in this Plan will share in Top-Heavy minimums): _____

Document Defaults (zzz) - New UI

The screenshot displays the Wolters Kluwer application interface. At the top left is the Wolters Kluwer logo and name. To the right is a search bar with the text "Select a Plan..." and a "Go" button. Below the logo is a navigation menu with the following items: Home, Edit Profile, Company / Plan, Batches, ftwClient Manager, ftwPortal Pro, Reports, Downloads, Administrative Tasks, Support, and Log Out. The "Administrative Tasks" menu is expanded, showing a list of options: Portal / Workflow, Create Custom Checklist Edit Checks, Document Print Settings, SAR/AFN Print Settings, Check Out New DC PPA AA Styles, Defaults, and Account Profile. The "Defaults" option is further expanded to show "SAR/AFN/8955-SSA Defaults" and "ZZZ-Defaults". The "ZZZ-Defaults" option is circled in blue. On the left side of the interface, there are two notification boxes: "Determination Letter Applications - 3/20/2014" and "Defined Contribution PPA Restatement Update - 3/14/2014".


Document Defaults (zzz) - Old UI

Select Company

Company:



Select Plan

Company: **ZZZ - Default Plans** ID: 

Plan:

Excel Uploads Can Modify Existing Plans in Batch

The image displays three screenshots of the Wolters Kluwer portal interface. The leftmost screenshot, titled "Select Company", features a "Company:" input field with a "Select Company" button below it. Below this is a "Batches:" dropdown menu with the text "----- Choose a Selection". Underneath are "Quick Links:" including [ftwPortal Pro](#), [Recent Technical Updates](#), [Recent Email Updates](#), and [Upload Plan Document Data](#), with the last link circled in blue. The middle screenshot shows the main portal header with the Wolters Kluwer logo and a "Select" dropdown. Below the header are buttons for "Add Company", "Add Plan", "Batches / Workflow", and "ftwPortal Pro". The "Upload Company/Plan Data" button is circled in blue. The rightmost screenshot shows a "Company / Plan Uploads" section with two links: "Add/Modify Company and Plan Data" (circled in blue) and "Add Companies and Plans (Old Version)".

- Video tutorial coming soon
- Sample Upload spreadsheets provided

Open Forum

- Next meeting - Tuesday, May 6, 2014
- Ideas for future agenda items?
- Questions, ideas, suggestions.....
- Thank you for attending!