

Reminder About Key 2021 Year-End Amendments

October 26, 2021

As the end of the calendar year approaches, plan sponsors are reminded to adopt certain amendments that may be required for their benefit plans to conform to regulations or reflect certain legal and/or plan design changes.

Retirement Plans

2019 Required Amendments List

In Notice 2019-64, the IRS published the 2019 Required Amendments List (the "**List**"), which lists the amendments required to be adopted by December 31, 2021. Pursuant to the List, plans offering hardship distributions must be amended in accordance with the final regulations issued under the Bipartisan Budget Act of 2018. In addition, the List provides that collectively bargained cash balance/hybrid defined benefit plans maintained pursuant to collective bargaining agreements ratified on or before November 13, 2015 must be amended to comply with the final cash balance/hybrid plan regulations. The List also includes certain periodic changes that took effect in 2019, such as adjustments to various dollar limits for cost-of-living increases, which may require amendments depending on the terms of the plan.

The List is available [here](#).

Discretionary Amendments

Discretionary amendments to reflect optional plan design changes that took effect during a plan year generally must be adopted by the end of such plan year. Thus, for calendar year plans, retirement plan sponsors will generally need to adopt amendments by December 31, 2021 to implement any 2021 optional plan design changes.

Health and Welfare Plans

Flexible Spending Accounts

Employers who made certain optional changes to their flexible spending accounts as permitted under COVID-19 pandemic-related relief are reminded to adopt amendments reflecting those changes before December 31, 2021. Some of these optional changes included permitting carryovers across plan years, extending grace period deadlines, and permitting election changes without a change in status event.

Group Health Plans

Employers should also consider whether group health plan amendments are required to comply with the Consolidated Appropriations Act of 2021. Amendments may be required to reflect required continuity of care when a provider leaves the plan's network; requirements regarding surprise medical bills for emergency services, air ambulance services, and out-of-network providers; and changes to external review provisions.