

Defined Contribution Plans Required and Optional Amendments

Following is a list of required or optional amendments for defined contribution plans since the GUST restatement. The amendments and due dates listed are applicable to DATAIR Plans. The amendments are based on a good faith interpretation of the related regulations and unless otherwise noted, have not been submitted to the IRS.

EGTRRA Plans	Due Date
<p>2007 Interim Amendment: An “interim” amendment adopted by DATAIR to incorporate the plan qualification requirements from the 2006 Cumulative List, including the final 415 Regulations. It includes provisions for Normal Retirement Age, Final 415 Compensation and Post-Severance Compensation.</p> <p>Required for all Defined Contribution Plans, and amends a restated EGTRRA document. The 2007 Interim amendment was adopted on behalf of all adopting employers for all prototypes and EGTRRA volume submitter plans, and if no selections were made to the adoption section, it does not need to be signed by the employer.</p>	<p>Later of the last day of the: plan years beginning on or after January 1, 2007 or limitation years beginning on or after July 1, 2007.</p> <p>Must readopt with the EGTRRA Restatement, if employer made selections within the adoption section.</p>
<p>2009 Interim Amendment: An “interim” amendment for Defined Contribution Plans to incorporate the plan qualification requirements from the 2008 Cumulative List, PPA’06 and technical corrections and from the Workers, Retiree, and Employer Recovery Act of 2008 (includes provisions for HEART, timing of annuity consent and notice and employer securities diversification requirements based on proposed regulations).</p> <p>The effective date should be the first day of the Plan Year beginning on or after January 1, 2009.</p> <p>Required for all Defined Contribution Plans, and amends a restated EGTRRA document.</p>	<p>Last day of the Plan Year that begins in 2009.</p> <p>Must readopt with the EGTRRA Restatement.</p>
<p>Safe Harbor Contribution Suspension Amendment. An amendment to reduce or stop Non-Elective Safe Harbor Contributions to a Safe Harbor 401(k) Plan based on a substantial business hardship. If the Employer wishes to reduce or cease making the Safe Harbor Contribution, the Amendment must be effective no sooner than the later of the adoption date of this Amendment or 30 days after the date the Suspension Notice is given to Participants.</p> <p>Optional, needed only for 401(k) Safe Harbor Plans that are suspending the Non-Elective Safe Harbor Contributions.</p>	<p>No sooner than 30 days after the Suspension Notice is given to Participants.</p>
<p>QACA Stand Alone Amendment: For any 401(k) plan seeking to add Qualified Automatic Contribution Arrangement (QACA) features.</p> <p>Optional. A discretionary, good faith amendment to adopt the provisions for a Qualified Automatic Contribution Arrangement.</p>	<p>For Plans adopting the QACA provisions on or after January 1, 2010.</p>

EGTRRA Plans	Due Date
<p>EACA Stand Alone Amendment: For any 401(k) plan seeking to add Eligible Automatic Contribution Arrangement (EACA) features.</p> <p>Optional. A discretionary, good faith amendment to adopt the provisions for an Eligible Automatic Contribution Arrangement.</p>	<p>For Plans adopting the EACA provisions on or after January 1, 2010.</p>
<p>Paid Time Off Contribution Amendment: For any DC plan. A discretionary, good faith amendment that adds provisions to DC plans, allowing employers that sponsor a bona-fide paid time-off plan to contribute the value of unused time-off to the DC plan.</p> <p>Optional, Discretionary Amendment.</p>	<p>For plans adopting the Paid Time Off provisions on or after January 1, 2010.</p>
<p>In-Plan Roth Conversion Amendment: For a 401(k) plan seeking to add an in-plan Roth conversion feature pursuant to the guidance under IRS Notice 2010-84. A discretionary, good faith amendment that adds provisions to DC plans, allowing employers that sponsor a bona-fide paid time-off plan to contribute the value of unused time-off to the DC plan.</p> <p>Optional. A discretionary, good faith amendment to adopt the provisions for an in-plan Roth conversion feature.</p>	<p>For plans adopting in-plan Roth conversion features on or after September 27, 2010.</p> <p>Plans that permitted in-plan Roth conversion during 2010 must adopt by December 31, 2011.</p>

Special Core Amendments	Due Date
<p>Special Core Amendments. DATAIR has adopted these amendments on behalf of all EGTRRA Prototype, Volume Submitter Adoption Agreement, and Volume Submitter IDP Plans. No Employer/plan sponsor signatures are required for EGTRRA documents.</p> <p>For a GUST or Post GUST document, a signature will be required for a GUST or Post GUST plan to adopt the following.</p> <ul style="list-style-type: none"> ▪ 2009 Waiver of Required Minimum Distribution Amendment ▪ DATAIR Trust Amendment 	
<p>2010 Core Amendments. For all EGTRRA DC plans. This amendment was adopted by DATAIR to bring plan language into compliance with the final regulations under 1.401(a)(35)-1; the diversification for DC plans that hold publicly traded employer securities published on May 18, 2010. The 2010 DC Core amendment updates the 2009 Interim Amendment language that does not comply with the final regulations.</p>	<p>Must be delivered to adopting employers by the last day of the 2010 plan year.</p>
<p>2009 Core Amendments. DATAIR has adopted as part of the core documents the following five amendments:</p>	<p>Unless otherwise stated, the 2009 Core Amendments are immediately incorporated as provisions of the core plan.</p>

Special Core Amendments	Due Date
<ul style="list-style-type: none"> ▪ <u>2009 Waiver Of Required Minimum Distribution</u> - For all documents; GUST, Post-GUST and EGTRRA Prototype and Volume Submitter Defined Contribution Plans. This amendment waives the required minimum distribution for the 2009 calendar year and includes a summary of material modifications and a participant election form. The participant election form will allow the participant who still wishes to take the distribution to request it from the Plan as an eligible rollover. ▪ <u>Catch-Up</u> - For EGTRRA 401(k) Prototype and Volume Submitter Defined Contribution Plans. This amendment provides that Catch-up Contributions for a Participant for a taxable year may not exceed the lesser of: (1) the dollar limit on Catch-up Contributions under Code section 414(v)(2)(B)(i), or (2) when added to the Participant's other Elective Deferrals, one hundred percent 100% of the Participant's Compensation for the taxable year that is available after all other withholdings. ▪ <u>Roth Deferrals</u> - For EGTRRA 401(k) Prototype Defined Contribution Plans. This amendment allows for Roth Deferrals in for the short form prototypes for both 401(k) standardized and non-standardized. ▪ <u>DATAIR Trust Amendment</u> - For all documents; GUST, Post- GUST and EGTRRA Prototypes and Volume Submitter Defined Contribution Plans using the DATAIR Trust. This amendment is an insertion or replacement of language regarding the Trustees' responsibility to collect delinquent contributions. ▪ <u>Cross Tested Plan Designs</u> - For EGTRRA Prototypes and Volume Submitter Defined Contribution Plans. This amendment has been requested by the IRS and is a clarification of the language regarding the additional contribution for a participant receiving a Top Heavy Minimum contribution or an additional amount to satisfy the gateway requirements of 401(a)(4). The amount needed to satisfy gateway may not be made to another plan including the Top Heavy portion of the contribution. This amended provision shall apply to any Plan Year in which the Employer intends to rely on Treasury Regulations section 1.401(a)(4)-8 (cross testing) in satisfying Code section 401(a)(4) on or after June 5, 2009. 	<p>Unless otherwise stated, the 2009 Core Amendments are immediately incorporated as provisions of the core plan.</p>

Post-GUST Amendments	Due Date
<p>Economic Growth and Tax Relief Reconciliation Act 2001 (EGTRRA) Restatement: All Defined Contribution Plans must restate the document for EGTRRA.</p> <p>Required for all Defined Contribution Plans.</p>	<p>No later than April 30, 2010</p>
<p>Required Minimum Distribution Final Regulations: An amendment to adopt the final §401(a)(9) regulations.</p> <p>Required for all Defined Contribution Plans.</p>	<p>December 31, 2003</p>

Post-GUST Amendments	Due Date
<p>Deemed Section 125 Compensation: A “model” amendment to adopt the provisions of Revenue Ruling 2002-27, which addresses the issue of how to include amounts from group health coverage, Deemed Section 125 compensation, as 415 Compensation.</p> <p>Optional amendment.</p>	<p>Latest of (1) end of the 2002 Plan Year, (2) Last day of the 1st Plan Year this definition of Compensation used or (3) End of the GUST remedial amendment period.</p>
<p>Economic Growth and Tax Relief Reconciliation Act (EGTRRA) Amendment: A “good faith” amendment to adopt several changes to the Internal Revenue Code impacted by EGTRRA. This amendment also includes EGTRRA technical corrections.</p> <p>Required for all Defined Contribution Plans.</p>	<p>Latest of the end of the (1) plan’s GUST remedial amendment period or (2) plan year that includes the effective date of the EGTRRA change</p>
<p>Automatic Rollover Amendment: An amendment to adopt the provisions of IRC §401(a)(31) to address how to treat mandatory distributions from the plan.</p> <p>Required for all Defined Contribution Plans.</p>	<p>Latest of (1) December 31, 2005, (2) the end of the plan year that contains March 28, 2005, or (3) the tax filing deadline for the employer’s tax year containing March 28, 2005.</p>
<p>Roth Amendment: An amendment to allow participants to designate elective deferrals as Roth contributions. Effective for participant tax years beginning after January 1, 2006. It should be adopted if the Employer wants to allow for Roth Contributions in the Plan.</p> <p>Optional amendment.</p>	<p>End of plan year in which amendment is effective.</p>
<p>Katrina Amendment (KETRA): An amendment to provide relief given under the Katrina Emergency Tax Relief Act of 2005 (KETRA), Notice 2005-92 and Announcement 2005-70. It should be adopted if the Employer allowed distributions from the Plan under KETRA. Gulf Opportunity Zone Act extended the due date in order to provide relief for Hurricanes Wilma and Rita.</p> <p>Optional amendment.</p>	<p>Originally, December 31, 2006 was extended to the last day of the first plan year beginning on or after January 1, 2007</p>
<p>401(k) Final Regulations Amendment: An amendment that adopts changes to §401(k) and §401(m) of the Code. Also included is Post-Severance Compensation under 415 of the Code.</p> <p>Required for all 401(k) Plans.</p>	<p>End of 1st Plan Year beginning on or after January 1, 2006.</p>
<p>2007 Interim Amendment: An “interim” amendment to adopt the required changes from the 2006 Cumulative List of Changes in Plan Qualifications. It includes changes in Normal Retirement Age, Code section 415 Compensation, Excess Annual Additions, and Restorative Payments; along with an election for Post-Severance Compensation.</p> <p>Required for all Defined Contribution Plans and must be re-adopted when the plan is restated for EGTRRA.</p>	<p>Plan effective date. Later of the last day of the: plan years beginning on or after January 1, 2007 or limitation years beginning on or after July 1, 2007.</p> <p>Must readopt with the EGTRRA Restatement.</p>

Post-GUST Amendments	Due Date
<p>2009 Interim Amendment: An “interim” amendment for Defined Contribution Plans to be included the plan qualification requirements from the 2008 Cumulative List, PPA’06 and technical corrections from the Workers, Retiree, and Employer Recovery Act of 2008 (includes provisions for HEART, timing of annuity consent and notice and employer securities diversification requirements based on proposed regulations).</p> <p>The effective date should be the first day of the Plan Year beginning on or after January 1, 2009.</p> <p>Required for all Defined Contribution Plans and must be re-adopted when the plan is restated for EGTRRA.</p>	<p>Last day of the 2009 Plan Year.</p> <p>Must readopt with the EGTRRA Restatement.</p>
<p>Safe Harbor Contribution Suspension Amendment. An amendment to stop non-elective contributions to a Defined Contribution Plan based on a substantial business hardship. If the Employer wishes to cease making the Safe Harbor Contribution, the Amendment must be effective no sooner than the later of the adoption date of this Amendment or 30 days after the date the Suspension Notice is given to Participants.</p> <p>Optional, needed only for Safe Harbor Plans that are suspending the Non-Elective Safe Harbor Contributions.</p>	<p>No sooner than 30 days after the Suspension Notice is give to Participant.</p>

Plan Termination Amendments	Due Date
<p>Amendment for DC Plan Terminating in 2008: An amendment for defined contributions plans terminating in 2008. This amendment includes the required plan qualification provision from 2007 Cumulative List and the PPA 2006 provisions.</p> <p>Required for all Defined Contribution plans terminating in 2008.</p>	<p>Date of 2008 Plan Termination</p>
<p>Amendment for DC Plan Terminating in 2009: An amendment for defined contribution plans terminating in 2009. This amendment includes the plan qualification requirements from the 2008 Cumulative List, provisions from PPA ’06, EESA’08, WRERA ’08 and HEART. The effective date should be the first day of the Plan Year beginning on or after January 1, 2009. * Do not need the 2008 termination amendment.</p> <p>Required for all Defined Contribution plans terminating in 2009.</p>	<p>Date of 2009 Plan Termination.</p>

Note: As of the date of this posting, DC plans terminating in 2011 and those that terminated in 2010 do not need a 2011 nor a 2010 Termination Amendment, provided that the EGTRRA restatement and all applicable amendments have been timely executed.