GUST and EGTRRA Qualified Plan Restatement Requirements

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Q: What are GUST and EGTRRA?

A: 'GUST' is an acronym that stands for a series of four recent tax laws that also made changes to how retirement plans are operated. “EGTRRA” is the acronym for the tax law enacted in 2001.

Q: What exactly does G.U.S.T. stand for?

A: GUST is an acronym that stands for GATT, USERRA, SBJPA, and TRA; all tax law changes that have been passed during the last 6 years.

Q: What Does E.G.T.R.R.A. stand for?

A: EGTRRA is an acronym that stands for the Economic Growth and Tax Relief Reconciliation Act enacted in 2001.

Q: What sorts of changes are being made to retirement plans because of the amendments required by these tax laws?

A: The changes impact both employers and employees. Because of GUST and EGTRRA, employers can:

- Receive tax credits for starting a retirement plan
- Receive tax credits for educating their employees about the retirement plan
- Have higher deductible amounts for contributions to their plan
- Receive higher benefits at retirement

But employers are not the only people who benefit because of retirement plan changes made by GUST and EGTRRA. As a result of these recent law changes, employees can:

- Receive tax credits for contributing toward retirement
- Make additional “catch-up” contributions if they are age 50 or over
- Take out smaller required distributions from their IRA
- Make larger contributions to their 401(k) plans

Q: What would happen to an employer with one of these plans who didn't adopt the updated version?

A: Because the plans would no longer be in compliance with the law, the plans could lose their tax-favored status. The loss of tax-favored status could cause a loss of deductibility for the employer’s contributions to the plan.

Generally, a plan restatement supersedes prior versions of the plan, including all amendments thereto, as of the effective date of the restatement. However, in the event a GUST restatement is treated as superseding previously adopted EGTRRA amendments because the restatement does not incorporate or reflect the amendments, the restatement may result in the plan not being operated in accord with its terms, decrease or eliminate accrued benefits in violation of the anti-cutback rules, or otherwise fail a qualification requirement.

The IRS technical guidance confirms that a GUST plan restatement should not be treated as superseding previously adopted EGTRRA plan amendments that are not incorporated or reflected in the restatement, provided the plan is operated in a manner consistent with the EGTRRA amendments. A plan will also be presumed to be in operational compliance with the EGTRRA plan amendments in any case (e.g., determination letter applications) in which the operation of the plan cannot be determined.