

DEFINED CONTRIBUTION PLAN TERMINATION CHECKLIST

When deciding to terminate a plan, the following should be considered:

1. Contact all service providers notifying them of the intent to terminate the plan. This includes recordkeepers, advisors, TPA, attorneys and auditors. Early communication will identify procedures and responsibilities, avoid delays and help facilitate a smooth process.
2. Identify a potential termination date. When choosing a termination date, be aware there are certain steps which must be completed within a certain time, even before the termination date. If you have a safe harbor plan, you may want to set the termination date for the end of the plan year to avoid ADP testing. Recordkeeping platforms typically require 60-90 days advance notice, so be sure to check your contract.
3. Adopt a resolution to terminate the plan and freeze all accruals as of the termination date.
4. Distribute participant notices. Unless your plan is a safe harbor plan, the employer is not required to provide participants with a notice with the intent to terminate the plan. However, a notice is strongly encouraged to communicate to the participants the plan will be terminating and what the participants will need to do with their account. If your plan is a safe harbor plan, a 30-day notice is required if terminating the plan on a date other than the end of the plan year.
5. Contact your document provider to update your plan document. Plans must amend their plans for any changes in the law. Generally, plans have some time to amend their plan by a given due date. However, terminated plans must amend their plan to reflect these regulatory changes that apply through the date of termination.
6. Decide whether or not the plan will file with the IRS for a favorable determination letter for terminating the plan. This is not required, and a plan may terminate without this. Filing a favorable determination letter will delay the plan termination process, as it may take several months to get an approval letter and will also incur a cost. The main advantage of obtaining a favorable determination letter upon plan termination is reliance that your plan document meets the qualification requirements.
7. Provide distribution forms or instructions for electing a distribution to all participants with balances in the plan, including prior terminated employees. This will also include the Special Tax Notice and automatic rollover information.
8. Determine any final contribution allocations, such as safe harbor, matching or profit sharing and fund the contributions into the participants accounts. Your TPA will assist with any limits and testing necessary for these contributions.
9. Allocate any fees to be paid from the Plan as soon as possible so that participants share those costs before distributions are processed.
10. Process distributions according to participant directions. All participants must be 100% vested as of the plan termination date, including any prior terminated participants who still have an account balance in the plan. Participants who have not elected a distribution may have an involuntary distribution processed by either a cash distribution or an automatic rollover into an IRA. Generally, all assets must be distributed within 1 year of the termination date.
11. File a Final Form 5500. The deadline to file is the end of the 7th month after all assets are fully distributed. The plan must continue to file a Form 5500 as long as assets remain in the plan.