

What's Inside

Census: Core of Your Retirement Plan.....	1
Cash Balance Plans as a Savings Strategy	3
Compliance Reminders	4
FAQs for Sponsors of 403(b) or Defined Benefit Plans.....	5

Census: Core of Your Retirement Plan

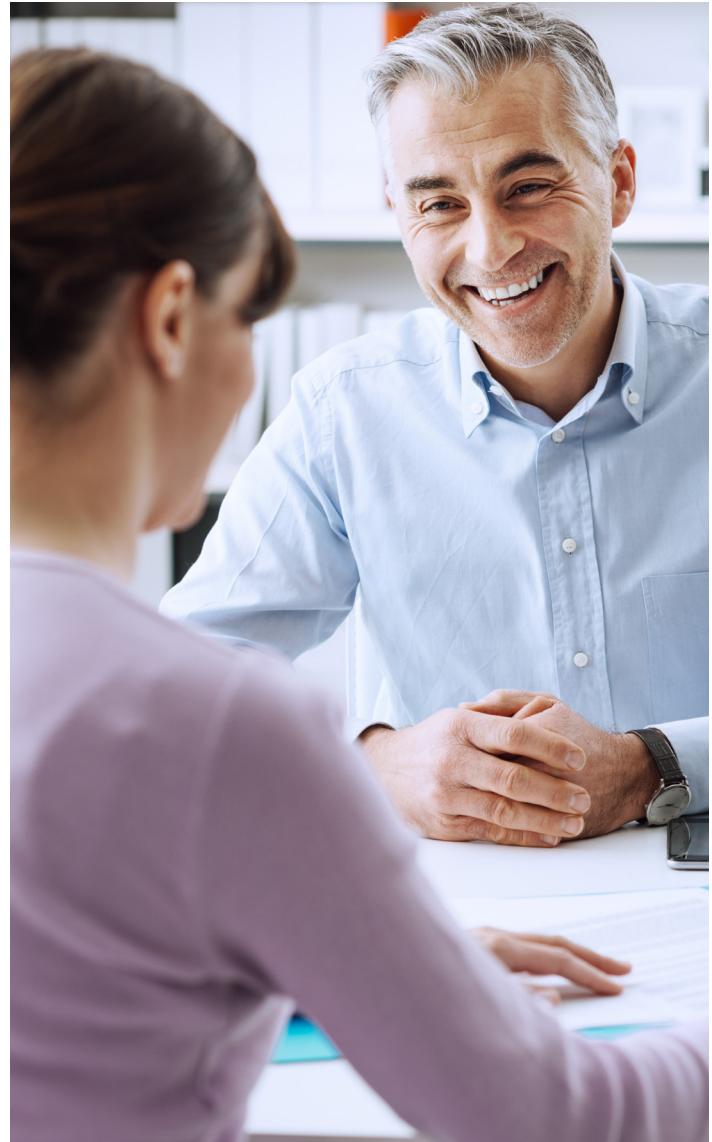
A retirement plan census appears to be a routine list of information about a company's employees, but it's actually a core component to maintaining the tax-qualified status of your retirement plan. Most pension professionals would agree that compliant plan operations start with complete and accurate census information. While you may not need to provide your year-end census data for a few more months, consider getting ready now. The better prepared you are, the more likely your plan administration will go smoothly.

We're here for you

Your retirement plan consultant is well-versed in plan census matters and will be available to help you with any questions. Please don't hesitate to contact them now to work out a plan and be ready for the next round of census data collection for your plan. We want to help you be successful.

Tips for Success: Start Planning Now

Now's the time for administrators of December 31 year-end plans to start reviewing census data.



continued on page 2

BENEFITS ADVANTAGE

continued from page 1

Employee data required for most plans	Data required if applicable to the plan
<ul style="list-style-type: none">• SS#• Last Name• First Name• Relationship to Owner (Spouse, child, parent)• Date of Birth• Date of Hire• Employment Status• Rehire Date• Employee Type• Date of Termination• HCE/Key Employee Status• Gross Annual Compensation• Employee Deferral• Profit Sharing• Roth Employee Deferral• Employer Match• % Ownership• Officer Status• Hours• Loan Payments	<ul style="list-style-type: none">• Entry Date Compensation• Overtime• Bonus• Commission• Earned income for Self Employed Income (SEI)• Union (Y/N)

The impact of an inaccurate, incomplete, late, or missing census

If we don't have good data, or if it comes in late, we have less time to consult and find solutions that benefit your plan. Plans with complete data, submitted early, are worked on first, with less cost. Inaccurate, incomplete, or late censuses will often get held until the missing or corrected data is received.

Complete and accurate census data is necessary to timely prepare contribution allocations and complete all required compliance testing. We also need it to meet deadlines if your plan needs to take corrective measures to fix a compliance failure.

Additionally, the census data is used to complete the Department of Labor's Form 5500, an annual report most qualified plans must complete. While completing this Form, we review the participant count on the first day of the plan year to see if you're a small plan filer or a large plan filer. Large plans must be audited by an independent qualified public accountant. Plans that can maintain their small plan filing status avoid the audit or continue to file as a small plan filer under the 80-120 participant rule.

In general, accurate census data helps maintain your plan's tax-qualified status and reduces the risk it might be disqualified by the Internal Revenue Service (IRS).

According to the IRS, there are at least five consequences when a plan becomes disqualified:

1. General rule - Employees include contributions in gross income
2. Employer deductions are limited
3. Plan trust owes income taxes on the trust earnings
4. Rollovers are disallowed
5. Contributions subject to Social Security, Medicare, and Federal Unemployment Taxes

Please contact your plan's consultant with questions about your plan's census. ■

These actions will help ensure your census's accuracy

- Reconcile the compensation amounts compared to year-end payroll data.
- Compare randomly chosen census data to the data that your human resources department has on file.
- Examine the overall data for inconsistencies, such as
 - o active employees with no compensation data, and
 - o employees with 401(k) contributions but no employer match contributions (if applicable).

BENEFITS ADVANTAGE

Cash Balance Plans as a Savings Strategy

Combining a Cash Balance plan with a 401(k) plan – with proper design – can provide for a retirement strategy with maximum deductibility and significantly higher contributions at a lower cost than a conventional 401(k) or defined benefit plan alone.

How it Works

Defined contribution (DC) plans, such as 401(k) plans, allow employees to make contributions based on their compensation. Defined benefit (DB) plans, such as Cash Balance plans, provide a specific benefit at retirement that is funded by the employer. So, employees receive retirement savings outside of what they save on their own.

In a 401(k) plan, the participant's retirement benefit amount depends on employee (and possibly employer) contributions, gains, and losses. Employer contributions in the 401(k) plan are usually lower than in a Cash Balance plan. Participant accounts in Cash Balance plans grow through annual employer contributions and interest credits. The plan actuary generates participant statements annually expressing the participant's benefit as a hypothetical account balance. In other words, a Cash Balance plan defines the accrued benefit in terms of a stated account balance. Older participants have the capability to receive a higher benefit accrual because they have fewer years to save toward a very significant (up to \$2.9 million*) lump sum allowed in the plan.

When a Cash Balance plan is partnered with a 401(k) plan, the plan design of the profit sharing portion often uses a new comparability allocation formula with individual allocation groups. This allocation formula gives the actuary ultimate flexibility in funding contributions to minimize an employer's funding obligation and satisfy annual coverage and general nondiscrimination compliance testing.

How Cash Balance and 401(k) plans compare

Features	Cash Balance Plan	401(k) Plan
Employee Participation	Not affected by employees contributing	May be affected by employees choosing to contribute
Contribution Funding Obligation	Mandatory	Discretionary
IRS Sec. 415 Annual Benefits/ Additions Limit	2019 annual benefits limited to lesser of 100% of average compensation or \$225,000	2019 annual additions, (mostly employer and employee contributions) limited to lesser of 100% of Sec. 415 compensation or \$56,000
Minimum Participation Test IRC Sec. 401(a)(26)	Yes	No
IRC Sec. 410(b) Coverage and IRC Sec. 401(a)(4) General Nondiscrimination Testing	Yes	Yes
Annuities	Must offer as a lifetime annuity	May offer as a lifetime annuity
Investment Risk	Employer bears risk	Employee bears risk
Creditor Protection	Yes	Yes
Federal Guarantee	May be insured by PBGC	Not insured by PBGC

continued on page 4

BENEFITS ADVANTAGE

continued from page 3

A growing strategy

Using Cash Balance plans as a retirement planning strategy is growing. Kravitz, Inc., an Ascensus company, released the [2018 National Cash Balance Research Report](#), showing a 15% net increase in the number of new Cash Balance plans compared with a 1% increase in new 401(k) plans. Cash Balance plans now make up 37% of all defined benefit plans, up from just 2.9% in 2001.

Ideal candidates for Cash Balance plans include:

- Principals seeking a tax deduction of more than \$50,000 or making more than \$250,000 per year
- Consistently highly profitable companies of all types and sizes
- Consistently successful family businesses and closely held businesses
- CPA and law firms, medical groups, and professional service employers
- Older business owners who may have neglected saving for retirement

Partnering with a 401(k) plan

If you're considering combining a Cash Balance plan with an existing 401(k) plan, it may require an amendment to the existing plan. If you're adopting a new Cash Balance plan, you have until the end of the intended plan year to do so. In either case, to get the most from a Cash Balance plan, you should work with your financial professional, outside counsel, actuary, and TPA to be sure that you completely understand future obligations and how certain situations may affect your plan. Under the right circumstances, Cash Balance plans—alone or partnered with a 401(k) plan—may be just the right solution to help your business meet your retirement savings goals.

*2019 Cash Balance maximum lump sum payable at retirement age 62. (Actual amount is \$2,887,495.) ■

Compliance Reminders 4Q2019

The following list highlights some important compliance dates for retirement plan administrators. Please contact your consultant with questions about compliance dates for your plan.

OCTOBER 2019

Due October 1

- **Defined benefit pension plan benefit restrictions** – Imposition of **defined benefit pension plan benefit restrictions** if the Adjusted Funding Target Percentage (AFTAP) hasn't been certified for the current year (for December 31 plan year end).

Due October 15

- **Minimum funding requirements** for defined benefit, money purchase, and target benefit plan years ended January 31, 2019, must be met by October 15 in order to avoid excise taxes. An electronic transfer must be completed or a check mailed by this date.
- **Retirement plan employer contributions** are due in order to be deducted on employer tax returns due to be filed October 15, 2019.
- **Form 5500 Series/8955-SSA** – Forms that are on extension are due for the plan year ended December 31, 2018.
- **Corrective (11-g) amendment** deadline for the plan document to cure certain coverage, participation, and non-discrimination requirements on behalf of the prior 2018 calendar year end.

Due October 31

- **Form 5500 Series/8955-SSA** – Forms are due for the March 31, 2019, plan year that aren't on extension.

continued on page 5

BENEFITS ADVANTAGE

continued from page 4

NOVEMBER 2019

Due November 15

- Minimum funding requirements for defined benefit, money purchase, and target benefit pension plan years ended February 28, 2019, must be met by November 15 in order to avoid excise taxes. An electronic transfer must be completed or a check mailed by this date.
- Retirement plan employer contributions are due in order to be deducted on employer tax returns due to be filed November 15, 2019.
- Form 5500 Series/8955-SSA – Forms that are on extension are due for the plan year ending January 31, 2019.

DECEMBER 2019

Due December 1

- Safe harbor notices for calendar 2020 Section 401(k)/403(b) safe harbor plans are required to be distributed to plan participants in order to satisfy the timing requirement in federal regulations.

Due December 2

- Form 5500 Series/8955-SSA – Forms are due for the April 30, 2019, plan year that aren't on extension.

Due December 15

- Minimum funding requirements for defined benefit, money purchase, and target benefit pension plan years ended March 31, 2019, must be met by December 15 to avoid excise taxes. An electronic transfer must be completed or a check mailed by this date.
- September 30 plan year 401(k) plans must process corrective distributions for failed nondiscrimination tests to avoid a 10% excise tax.

Due December 16

- Retirement plan employer contributions are due to be deducted on employer tax returns due to be filed December 16, 2019.

- Form 5500 Series/8955-SSA – Forms that are on extension are due for the plan year ending February 28, 2019.

Due December 31

- Deadline for the pension plan's enrolled actuary to prepare the funding adequacy related AFTAP calculation for a March 2019 year end to avoid certain plan level restrictions.
- Form 5500 Series/8955-SSA – Forms are due for the plan year ending May 31, 2019, that aren't on extension.
- Required Minimum Distribution (RMD) deadline for those separated employee/participants who have attained age 70 ½, and have already started taking their age 70 ½ minimum distributions, to continue taking their RMDs for the calendar year.
- AFTAP deadline for pension plan's enrolled actuary to calculate a specific funding adequacy calculation/AFTAP, if a range AFTAP was previously issued.
- Discretionary amendments – Recommended deadline to draft and execute discretionary amendments to the controlling retirement plan document on behalf of the 2019 calendar plan year. ■

For Sponsors of 403(b) or Defined Benefit Plans: A Timely FAQ about Restating your Plan Document

As stated in prior issues of the *Benefits Advantage*, the Internal Revenue Service (IRS) requires that plan documents for qualified retirement plans be amended and restated at certain intervals – called restatement cycles – to maintain the plan's tax qualified status. Periodic restatements assure that various laws and regulations that have been put into effect are incorporated into your retirement plan document, which allow your plan to retain, or in some cases, establish, its IRS pre-approved status. This current restatement cycle includes defined benefit pension plans and 403(b) retirement plans. Let's review why completing restatement is so important.

continued on page 6

BENEFITS ADVANTAGE

continued from page 5

Defined benefit plans: Traditional defined benefit and Cash Balance plans

- Q What is the deadline to restate pre-approved defined benefit pension plans for compliance with the Pension Protection Act (PPA)?**
- A April 30, 2020.** If a plan isn't restated by April 30, 2020, it may lose its tax-qualified status and could subject your company, and possibly your employees, to substantial tax sanctions.
- Q Why start the restatement process now if the deadline isn't until April 2020?**
- A** Most plan sponsors start the restatement process early to ensure timely compliance with the restatement deadlines. Starting now will also provide you with enough time to review your plan document and request any desired operational changes to the plan design.
- Q What are some of the changes in the new PPA document?**
- A**
- The most significant change is the methodology for calculating the employer's minimum funding obligations, which now has mandated cost methods and interest rates.
 - Cash Balance plans are now permitted to adopt a prototype plan document. Restated Cash Balance plans will gain pre-approved status, which is beneficial for many reasons including mitigating scrutiny if ever audited by the IRS and/or DOL.
 - Introduction of benefit restriction rules when the plan is underfunded, along with a new definition of how to determine the level of underfunding.
 - New mortality tables, segment interest rates, and new minimum lump sum payout calculations must now be incorporated into the plan document.

Most of these changes have been operationally in effect for several years but are now mandated to be incorporated into the document.

- Q My plan has all the necessary interim amendments; can the restatement be skipped?**

- A**
- No. Although the interim amendments were drafted in good faith to comply with updated regulations, the language in these interim amendments hasn't been subjected to IRS review and, therefore, hasn't been approved.
 - The restated plan is different because it incorporates the actual IRS-approved language into the Adoption Agreement and underlying basic plan document.

- Q Will I have to submit the plan document to the IRS for an approval letter?**

- A**
- No, pursuant to a revenue procedure issued by the IRS earlier this year, the IRS currently won't permit you to request a separate IRS approval letter for your defined benefit plan document unless filing on termination, start-up, or during a short window; filing with respect to a hybrid plan; or following a plan merger.
 - Restating onto a pre-approved plan document will provide you with reliance on the associated IRS advisory letter which states that your plan is accepted in form. Accordingly, you'll have assurance that your plan document is in compliance provided that the resulting restatement, with or without discretionary changes, doesn't significantly deviate from the IRS-approved document.

What about Defined Contribution plans?

A restatement cycle is approaching for employers who sponsor defined contribution (DC) qualified retirement plans (e.g., 401(k) and profit sharing plans). This restatement cycle is the third for DC plans, so it's also known as "Cycle Three."

We anticipate the IRS providing approval to use the new Cycle Three plan documents sometime in 2020. At that time, the IRS will provide a date by which all employers sponsoring a DC plan must restate onto the newly approved documents.

We'll let you know when you need to take action to amend onto the new Cycle Three documents in order to keep your plan up to date. For now, just be aware that this event is coming and keep it on your planning radar.

continued on page 7

BENEFITS ADVANTAGE

continued from page 6

Q My retirement plan is terminating. Do I still need to restate the plan document?

A The IRS—which establishes laws for the set up and administration of retirement plans—requires that a qualified retirement plan is in full compliance with all applicable legislation upon termination.

While the law doesn't require that the plan is restated to demonstrate compliance, it does require that the plan is fundamentally and operationally compliant and that the plan sponsor can provide assurance that all applicable amendments were timely and properly adopted.

Q How is assurance obtained that all applicable amendments were timely and properly adopted?

A Unfortunately, there's no way to have assurance that a plan is in compliance by simply relying on discretionary and interim model amendments. Accordingly, it's generally accepted in the retirement plan industry that restating a plan is the sole way to guarantee compliance when terminating.

To this end, restating your retirement plan prior to termination is the surest way for you to gain confidence that your plan document is in compliance.

Q I understand; however, I still don't wish to restate my plan. What can happen?

A If your plan is audited and the IRS finds it wasn't in compliance upon termination, the risks are:

- Corrections could be required resulting in additional fees and possible penalties and interest based on the failure.
- Possible disqualification of the plan. The consequences of plan disqualification are explained in the IRS publication, *Tax Consequences of Plan Disqualification*, available on their [website](#).

Q If my plan is frozen, does it need to be restated?

A Plans with a benefit structure that's currently frozen, but not terminated, are required to be restated.

Q If I'm merging two plans, do both plans have to be restated?

A No, you don't need to restate both documents separately provided the plan asset merger occurs prior to April 30, 2020. If that's the case, then both plans can be restated on the same document.

403(b) plans

Q What is the deadline to restate 403(b) plans?

A All 403(b) plans need to be restated by the IRS-mandated deadline of March 31, 2020.

Q Why start the restatement process now if the deadline isn't until March 2020?

A Most plan sponsors start the restatement process early to ensure timely compliance with the restatement deadlines. Starting now will also provide you with enough time to review your plan document and request any desired operational changes to the plan design.

Q What types of 403(b) plans must be restated?

A If you're a 403(b) plan sponsor, such as a tax exempt/501(c)(3) organization, public school, or hospital, etc., and you were previously using a 403(b) specimen document, your 403(b) plan document needs to be restated.

Q What do I gain by restating to the new IRS pre-approved 403(b) plan document?

A • Restated 403(b) plans will gain pre-approved status, which is beneficial for many reasons including mitigating scrutiny if ever audited by the IRS and/or DOL.

continued on page 8

BENEFITS ADVANTAGE

continued from page 7

- Restated 403(b) plans will now exist on a comprehensive document meant to clearly define the operational terms of the plan and to stay current with any and all new legislation as it becomes effective. This means that 403(b) plan documents will be formatted closer to 401(k) plan documents and will be more straightforward to review and administer.

Q My 403(b) plan just started in 2016—can I skip this restatement cycle?

A No. All 403(b) plans are required to restate from the current version, which is a non-approved specimen plan, to a pre-approved prototype or volume submitter document.

Q Will I have to submit my 403(b) plan document to the IRS?

A

- No, the IRS currently will not permit you to request a separate IRS approval letter for your 403(b) plan document.
- Restating onto a pre-approved document will provide you with reliance on the associated IRS advisory letter which states that your plan is accepted in form. Accordingly, you'll have assurance that your plan document is in compliance provided that the resulting restatement, with our without discretionary changes, doesn't significantly deviate from the IRS-approved document.

Q If a plan terminates, does it need to be restated?

A

- The 403(b) restatement period began March 31, 2017, and will end on March 31, 2020. As you will have no reliance that your current document is qualified, we recommend that terminating 403(b) plans be restated if the plan termination effective date is on or after March 31, 2017 (the date the 403(b) restatement period began), to ensure the qualified status of the plan in form.
- We also recommend that plans with a plan termination effective date prior to March 31, 2017,

be restated if plan assets weren't distributed by the one-year anniversary of the plan's termination date. This is recommended as the IRS doesn't generally consider a retirement plan to have properly terminated if assets aren't distributed within one year of the termination date. In this case, the IRS may elect to recharacterize the plan as frozen rather than terminated. Frozen plans are required to be updated for any new legislative requirements that became effective after the now invalid termination date. ■

BENEFITS ADVANTAGE

Retirement Plans to Suit Your Needs from a National TPA

We offer the strength and resources of a national firm combined with the services and relationships you'd expect to find at a local level. We're committed to providing customized retirement plan design and administration services; competitive, transparent pricing; and the highest level of efficient, accurate service.



Strong Client Relationships



Technology & Data Security



Independent & Conflict-Free

Employers

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On April 7, 2019, TPA Solutions launched its new go-to-market brand at the National Plan Advisors Association (NAPA) conference in Las Vegas: FuturePlan by Ascensus. The FuturePlan brand allows our sales consultants to communicate the independence, flexibility, expertise, and investments in technology that Ascensus has brought together to create the nation's largest retirement third-party administrator (TPA).

FuturePlan by Ascensus is the nation's largest retirement TPA, combining high-touch local service with the strength and security of an industry leader. A business division of Ascensus, FuturePlan by Ascensus' dedicated team serves more than 44,000 retirement plan sponsors in 47 locations across the country.

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