

Actuarial Systems Corporation

Cycle 3 ASC Defined Contribution Plan Documents and DGEM Session 3

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Presented by:
John P. Griffin, J.D., LL.M. and Dawn Johnson, CRSP
ASC Institute, LLC
www.asc-net.com

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Agenda

- Overview of the ASC pre-approved Cycle 3 Defined Contribution Basic Plan Document
- Further explanation of the Cycle 3 trust provisions
- Discussion of the “interim amendment” requirements
- Answers to document questions raised since the 8/20/2020 webcast
- Other ASC Cycle 3 plan documents
 - Owners-Only Plan
 - Governmental Plans
 - Employee Stock Ownership Plan (ESOP)
 - Church Plans
- Further discussion on DGEM Cycle 3 processing
- Answers to DGEM questions raised since the 9/10/2020 webcast

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Reasons for Changing Document Provisions

- New laws, regulations and other guidance
 - Revenue Procedure 2017-41
 - Cycle 3 plans reviewed based on 2017 IRS Cumulative List
 - New IRS positions on pre-approved plans
- Incorporation of previous interim amendments
- Suggestions by clients
- Clarification/revisions/improvements based on DGEM support questions

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Cycle 3 Defined Contribution Basic Plan Document

- General Defined Contribution Plans (BPD #01)
 - Nonstandardized Profit Sharing/401(k) Plan (AA #01-001)
 - Nonstandardized Profit Sharing/401(k) Plan – Collapsible (AA #01-002)
 - Standardized Profit Sharing/401(k) Plan (AA #01-003)
 - Standardized Profit Sharing/401(k) Plan – Collapsible (AA #01-004)
 - Nonstandardized Money Purchase Pension Plan (AA #01-005)
- [BPD #01 - compare](#)

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Cycle 3 Trust Provisions

- Under Revenue Procedure 2017-41, the IRS will no longer review the trust or custodial provisions of a Pre-Approved Plan and trust and custodial provisions
 - Trust provisions must be in a document separate from the plan provisions
- ASC Trust Agreement
 - Not IRS approved
 - Providers and adopting employers should review with legal counsel
- A different trust agreement can be used
 - Plan provisions must override any conflicting trust provision
- [Trust Declaration](#)
- [ASC Trust Agreement](#)

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Pre-Approved Plan Interim Amendments

- What is an interim amendment?
 - Interim amendments are required to keep a pre-approved plan up to date between a plan's submission periods during the applicable remedial amendment cycles
 - Disqualifying defect may result due to a change in the law or regulations or issuance of other published guidance
 - A disqualifying provision includes the absence of a plan provision required by or, if applicable, integral to the applicable qualification change
 - An amendment that addresses a disqualifying provision is an interim amendment

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Pre-Approved Plan Interim Amendments

- Extension of remedial amendment period (RAP) applies to an amendment to an existing plan if the amendment was timely adopted and in good faith with the intent of maintaining the qualified status of the plan (“good-faith interim amendment amendment”)
 - The extension of RAP also applies when the provider or employer determines, reasonably and in good faith, that the plan did not require an interim amendment
- NO DEFINITIVE GUIDANCE ON REQUIRED INTERIM AMENDMENTS!!!
- IRS does not approve interim amendments

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Pre-Approved Plan Interim Amendments

- PPA documents had a series of interim amendments
- Providers “certified” that they timely adopted interim amendments and provided them to adopting employers
- PPA document interim amendment provisions were incorporated into the Cycle 3 documents

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Pre-Approved Plan Interim Amendments

- Cycle 3 plans include the new interim amendment for the final hardship distribution regulations
- Provider should adopt the interim amendment for the final hardship distribution regulations even if Provider adopted it for its PPA (Cycle 2) plans
- Cycle 3 documents will need interim amendments for the SECURE Act, Miners Act and CARES Act
 - Generally, due by last day of the 2022 plan year
 - Combined SECURE/Miners/CARES Acts interim amendment
 - Additional legislation and guidance may require interim amendments

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Questions raised on Adoption Agreement

- Designation of type of automatic contribution arrangement
 - Automatic Contribution Arrangement (ACA)
 - Eligible Automatic Contribution Arrangement (EACA)
 - Qualified Automatic Contribution Arrangement (QACA)
 - [AA §6A-8](#)
- Partial lump sums
 - [AA §9-1](#)
- Definition of Disabled
 - [AA §2-8](#)
- Deferrals on bonuses
 - [AA §6A-2](#)

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Owners-Only Profit Sharing/401(k) Plan

- Owners-Only Profit Sharing/401(k) Plan (BPD #02 - AA #001)
- Designed for “owners only”
- Generally is exempt from the requirements of Title I of ERISA
- Appropriate for certain sole proprietors, partnerships and LLCs that do not have common law employees
- Owners-Only AA

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Governmental Plans

- Governmental Defined Contribution Plans (BPD #03)
- Nonstandardized Profit Sharing/401(k) Plan (AA #03-001)
 - Designed for governmental entities and Indian tribal governments adopting or maintaining a profit-sharing plan, including a plan with “grandfathered” 401(k) plan features
 - Note that such entities **MUST** use this pre-approved plan document and **CANNOT** use the Nonstandardized Profit Sharing/401(k) Plan
 - The plan is exempt from the requirements of Title I of ERISA and the coverage and nondiscrimination requirements

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Governmental Plans

- Nonstandardized Money Purchase Pension Plan (AA #03-002)
 - Designed for governmental entities and Indian tribal governments adopting or maintaining a money purchase pension plan
 - Such entities **MUST** use this pre-approved plan document and **CANNOT** use the Nonstandardized Money Purchase Pension Plan
 - Exempt from the requirements of Title I of ERISA and the coverage and nondiscrimination requirements

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Governmental Plans

- Plan based on non-Governmental profit sharing 401(k) and money purchase plans
- Comparison documents show changes between PPA (Cycle 2) Governmental plans and Cycle 3 Governmental plans
- Multiple Employer Plan election – AA §2-8
- Contributions of accrued sick/PTO and or vacation leave – AA §6-4
- ASC Trust Agreement - Governmental

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Employee Stock Ownership Plan

- Employee Stock Ownership Plan (BPD #04 - AA #001)
- Newly allowed type of pre-approved plan
- Designed for entities adopting or maintaining employee stock ownership plans (ESOPs)
- Includes non-leveraged, leveraged and 401(k) features
- Pre-approved ESOP must meet extensive requirements of RP 2017-41
- Pre-approved ESOP cannot have certain features
 - Cannot hold preferred stock
 - Cannot be designed as combination stock bonus and money purchase pension plan

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Employee Stock Ownership Plan

- ESOP provisions allow considerable flexibility
- Comparison document shows between ESOP and Cycle 3 General Profit Sharing/401(k) Plan, with special ESOP features highlighted
- ESOP rules are complicated and require specialized expertise
- Providers and adopting employers should retain outside experts when designing the ESOP and completing ESOP documents
- Form 5307 determination letter application may be appropriate

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Church Plans

- Church Defined Contribution Plans (BPD #05)
 - Newly allowed type of pre-approved plan
- Nonstandardized Profit Sharing/401(k) Plan (AA #05-001)
 - Designed for “non-electing” churches adopting or maintaining a profit-sharing plan, including a plan with 401(k) plan features
 - Non-electing churches **MUST** use this pre-approved plan document and **CANNOT** use the Nonstandardized Profit Sharing/401(k) Plan
 - Exempt from the requirements of Title I of ERISA

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Church Plans

- Nonstandardized Money Purchase Pension Plan (AA #05-002)
 - Designed for “non-electing” churches adopting or maintaining a money purchase pension plan
 - Non-electing churches **MUST** use this pre-approved plan document and **CANNOT** use the Nonstandardized Money Purchase Pension Plan
 - Exempt from the requirements of Title I of ERISA

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Church Plans

- Plan based on General Profit Sharing/401(k) and Money Purchase Pension Plans
- Comparison documents show changes Church Plans and the General Profit Sharing/401(k) and Money Purchase Pension Plans
- Multiple Employer Plan election – AA §2-8
- ASC Trust Agreement - Church

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Church Plans

- Application of qualification requirements, including nondiscrimination rules
 - [BPD §11.08](#)
- IRS Issue Snapshot - Qualification Requirements for Non-Electing Church Plans under IRC Section 401(a)
 - <https://www.irs.gov/retirement-plans/issue-snapshot-qualification-requirements-for-non-electing-church-plans-under-irc-section-401a>

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Church Plans

11.08 Special Church Plan Rules.

- (a) **Church Plan Exemption from Title I of ERISA.** A Church Plan that meets the definition of church plan under ERISA §3(33) is not subject to the requirements of Title I of ERISA. An Employer that has Church Plan status may complete the entire Adoption Agreement, including elections that are otherwise inapplicable to Church Plans. However, the Employer is not bound by the ERISA Title I restrictions applicable to such provisions and the completion of those provisions that are inapplicable to Church Plans will not affect the Plan's status as exempt from ERISA Title I.
- (b) **Code provisions from which Church Plans are exempt.** As a non-electing Church Plan, the Plan is exempt from the following qualification requirements:
- (1) Code §401(a)(11) – Joint and survivor annuities
 - (2) Code §401(a)(12) – Mergers and transfers of assets and liabilities
 - (3) Code §401(a)(13) – Assignment and alienation
 - (4) Code §401(a)(14) – Commencement of benefit requirements
 - (5) Code §401(a)(15) – Reductions in benefits due to Social Security increases
 - (6) Code §401(a)(19) – Forfeiture of mandatory contributions
 - (7) Code §401(a)(20) – Total distributions

Therefore, the Employer is not bound by these qualification rules and the Employer may complete the Adoption Agreement accordingly. No elections under the Adoption Agreement change the Plan's status as a non-electing Church Plan.

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Church Plans

- (b) **Special application of certain qualification requirements.** As a non-electing Church Plan, certain qualification provisions are applied in a special manner. The Employer may complete the Adoption Agreement accordingly.
- (1) **Nondiscrimination rules.** As a Church Plan, the Plan is not subject to nondiscrimination testing pursuant to IRS Notice 2001-46, which provides that the regulations under Code §§401(a)(4), 401(a)(5), 401(l), and 414(s) will not apply to a non-electing Church Plan until further notice. However, until such notice is provided, non-electing Church Plans must be operated in accordance with a reasonable, good faith interpretation of these statutory provisions. Satisfaction of the regulations under Code §§401(a)(4), 401(a)(5), 401(l), and 414(s) will be deemed to satisfy the reasonable, good faith standard.
 - (2) **Vesting rules.** As a Church Plan, the Plan is not subject to the requirements of Code §411 and may modify the vesting rules (including the Break in Service rules), provided the Plan satisfies the requirements of Code §§401(a)(4) and (7) as in effect before the enactment of ERISA.
 - (3) **Participation and coverage rules.** As a Church Plan, the Plan is not subject to the current minimum age and service requirements under Code §410(a) or the coverage requirements under Code §410(b). However, a Church Plan is subject to the requirements for participation and coverage under Code §§401(a)(3) and 401(a)(5) that were in effect on September 1, 1974, prior to the enactment of ERISA.

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Cycle 3 – MEPs - Restatements

- MEP Restatements are processed individually, not in batch
- From Lead ER's **Manage Documents** page, select latest PPA version of document and **Create Restatement** (same process as used to restate non-MEP plans)
 - All Participating ER's checklists are automatically restated to Cycle 3
- **Edit** Lead Plan as needed. Be sure to update restatement effective date and validate!
- Review for changes that need to be copied to Participating ER's plans

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Cycle 3 – MEPs - Restatements

- To copy changes from Lead ER plan to Participating ER plans, select **Update Adopting Plans**

Manage Documents - Queen Creek Farms

Manage Plan Documents and 5500 Forms

Filter:

Document Type	Plan Version	Status	Date	Show Old	User
C3 PS/401(k) NStd (01-001/002) AA	001 V1.	in process	10/19/2020	<input type="checkbox"/>	Dawn
PPA PS/401(k) VS AA	001 V1.2 sub	in process	10/19/2020	<input type="checkbox"/>	Dawn

Customized Documents

Create New Document

Edit

- Browse
- Delete
- View Docs and AA Package
- E-Sign Documents
- View Pre-populated Forms
- Manage Document Status
- Process Multiple Employer Plan
- Batch LOM and Part Emp page
- Update Adopting Plans

Next >

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Cycle 3 – MEPs - Restatements

- Check the boxes for questions that need to be copied to Participating ER's Plans
 - ER Signature and Trust Declaration are not used under Participating ER Plans, so do not need to be checked.
- Select plans to update
- Click **Next>**
- “Updated adopting plans” message will appear
- Changes copied to Participating ER Plans override existing provisions!

Update Adopting Plans

Client Queen Creek Farms
 Plan Number 001
 Document C3 PS/401(k) NStd (01-001/002) AA
 Version V1

Questions To Update:

- [General Information, Types of Contributions](#)
- [Section 6C, Question 2](#)
- [Employer Signature Page, Purpose of Execution](#)
- [Employer Signature Page, Pre-Approved Provider](#)
- [Trust Declaration, Effective Date of Trustee Declaration](#)

Adopting Plans:

(Executed adopting plans are not listed as they cannot be updated.)

Filter	Client	Version	Plan	Status	Account	PYE
	QC Labs	v1mult	001	pending execut	123-QCF-PE1	
	QC M111	v1mult	001	pending execut	123-QCF-PE2	



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Cycle 3 – MEPs - Restatements

- **Edit** Participating Employer's checklists
 - Review all provisions and make any additional required changes
 - Update effective dates on **Participating Employer Adoption Page**
 - Validate and address any validation messages
- **Generate** MEP package for Participating ER. Package includes:
 - List of Modifications, includes Participating Employer Adoption Page (under **Options for Multiple Employer Plans**)
 - Employer Resolution (under **Options for Multiple Employer Plans**)
 - SPD (reflects Participating ER's plan provisions)
 - Plan Summary (reflects Participating ER's plan provisions)
 - Adoption Agreement of Lead ER (generate under Lead ER)
- Deliver via e-sign, email or hard copy



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Cycle 3 – MEPs - New

- Create **New Client** records for the Lead and all Participating ERs
 - Can use the 3-part account numbering options to associate the Client records”

Lead ER:

Edit Client

Client Name: Queen Creek Farms

Account Number: 123

Sponsoring ID: QCF

Sponsoring Employer ID: Lead

Participating ER:

Edit Client

Client Name: QC Labs

Account Number: 123

Sponsoring ID: QCF

Sponsoring Employer ID: PE1

- Create **New Doc** for Lead ER



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Cycle 3 – MEPs - New

- Under Lead plan, select **Process Multiple Employer Plan**

Manage Documents - Queen Creek Farms

Manage Plan Documents and 5500 Forms

Document Type	Plan Version	Status	Date	User
C3 PS/401(K) NStd (01-001/002) AA	001 V1.	In process	10/19/2020	Dawn

Create New Document

- Process Multiple Employer Plan
- Batch LOM and Part Emp page
- Update Adopting Plans



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Cycle 3 – MEPs - New

- Select Participating ERs (to select more than one at a time, Ctrl + Click), **Next>**

Process Multiple Employer Plan

Client Queen Creek Farms
 Plan Number 001
 Document C3 PS/401(k) NStd (01-001/002) AA
 Version V1

Filter Select: All, None

123456.....78-1234567...1 Cycle 3 Test
987654321-0123-0...65-0364008...ADJ Sample co
123-QCF-PE1.....508914444...QC Labs
123-QCF-PE2.....508913333...QC M111

Process Multiple Employer Plan **Next >**

- Message appears, “PEO successful...”

PEO successful for:
 QC Labs
 QC Mill

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Cycle 3 – MEPs - New

- Under Participating ER, the Lead ER’s checklist is copied over and document Version is identified as “**mult**”:

Manage Documents - QC Labs

Manage Plan Documents and 5500 Forms

Filter: Show Old

Document Type	Plan Version	Status	Date	User
C3 PS/401(k) NStd (01-001/002) AA	001 V1.	mult pending execution	10/19/2020	Dawn

Edit **Next >**

- Edit** mult checklist for any of Participating ER’s unique elections
- Generate MEP package for Participating ER (as listed on slide 26)

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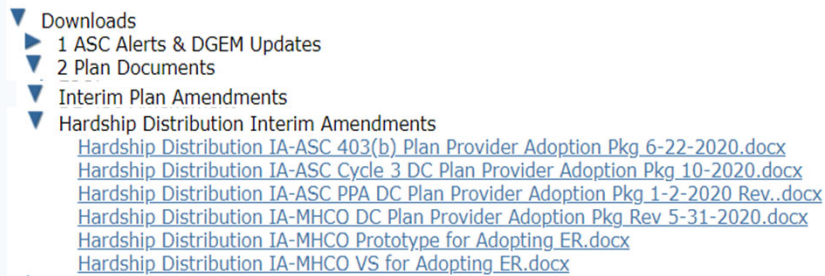
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Hardship Distribution Interim Amendments

- All Plan Providers must adopt the Hardship Distribution Interim Amendment (HDIA) no later than 12/31/2021
 - **Plan Provider Packages** are on the DGEM Download page



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Hardship Distribution Interim Amendments

- Plan Providers must adopt Cycle 3 HDIA even if PPA HDIA was previously adopted
 - Review Q&As
 - Execute **Adoption of Pre-approved Defined Contribution Plan Hardship Distribution Interim Amendment by Pre-approved Plan Provider for Cycle 3 Documents** (page 5)
 - Complete **Elective Provisions** (pages 10-11)
 - Execute **Owners Only** version (page 13) if you also licensed that document
 - No Elective Provisions for Owners Only plans
 - File with your permanent plan document records
 - Do NOT send this to ASC, IRS or your plan sponsors

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Hardship Distribution Interim Amendments

- Elective provisions portion of HDIA included in the Cycle 3 AA checklist
 - Automatically maps to Cycle 3 checklist if HDIA previously created using Wizard or if elections in PPA checklist
- BPD amendment of the HDIA (pages 6-9; for Owners Only, see pages 14- 16) have been added to Cycle 3 BPDs (see Appendix B – Interim Amendment #1)
- Plans that are not restated onto a Cycle 3 document by 12/31/2021 or were not previously provided with the PPA version will need to receive the snap-on PPA HDIA

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Safe Harbor Notices for 2021

- Safe Harbor Notices can be generated either individually (for new plans) or in batch (for existing plans on DGEM)
- Notices for plans that have operationally increased their QACA limits to greater than 10% or are allowing Qualified Birth and Adoption Distributions (QBADs) should include that information
 - To include in Notices, use new **import SECURE Act Data** tool on Annual notice Wizard Page

Safe Harbor and Annual Notices Wizard

To import SECURE Act Data [click here](#).

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Safe Harbor Notices for 2021

- **Hover over Choose File** to see file format requirements
- Create Excel file
- Upload to DGEM
 - Click **Import SECURE QACA and P/A Distribution** button
 1. **Import is complete** message if import is good
 2. **Check for errors** if problems
- Elections not otherwise stored in DGEM!

Manage Notice Data

Import/Export SECURE Act Data

File: Choose File No file chosen

Key off: EIN Account ID

File format:

Column 1:	Key field (EIN or Account ID) [11-1111111 or 111111-1111-1111]
Column 2:	Plan Number [001]
Column 3:	QACA Limit [Numeric greater than 10, and no more than 15]
Column 4:	Birth/Adoption Distribution [Yes/No]
No Column Headers	

Import SECURE Act Data

Export SECURE Act Data

Manage Notice Data

Import is complete.

Manage Notice Data

Import is complete. Check for errors at https://dgem.asc-net.com/TPA/asc9982/import_errors.xls.

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DGEM Docs FAQs

- Where can I find the Cycle 3 Basic Plan Documents (BPDs) for my plans?
 - All BPDs are on the DGEM Download page under 2 Plan Documents. For Cycle 3 BPDs, go to Defined Contribution > Cycle 3 > BPD (link to Download page is at the bottom of each DGEM screen)
- Where can I find the Cycle 3 ASC Trust Agreement?
 - On the DGEM Download page, go to 2 Plan Documents > Cycle 3 > Trust Agreements
- When I print a full AA, why does it have a watermark?
 - This happens if you have only licensed the collapsed AA. The full AA with elections may be printed for your internal use only, but the Employer cannot execute an AA with a watermark.
- When will the SECURE and CARES Acts interim amendment be available?
 - Guidance is still needed for many provisions covered by the SECURE and CARES Acts. After guidance is released, we will release a combined SECURE and CARES Act interim amendment. We do not expect the needed guidance in 2020.

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DGEM Docs FAQs

- Does ASC have a restatement cover letter and FAQs we can provide to our employers?
 - Yes. Our sample cover letter/FAQs are in DGEM under either (1) Pre-Populated Forms or (2) View Docs & AA Package.
- Our company name/business address/phone number has changed. How do we update this so the right information prints on the ER Signature Page?
 - Send the updated information to ASC Support by clicking on the **Support** link at the bottom of the DGEM screen.
- How can I sign up for E-Sign?
 - Send your request to ASC Support by clicking on the **Support** link at the bottom of the DGEM screen.

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How to get help from ASC Support!

- Click the “Support” link at the bottom of any DGEM screen to submit directly to ASC Support

User Logins | Email Log | Archived Clients | **Support** | Download | User Guides/FAQ | Reset Password
 Annual Notice Wizard | 5500 Wizards | Import/Export Email Addresses | ASCVal Plan Data
 Upload Custom Docs/Cover Letters/IRS Letters/E-Sign Text | Batch View Docs | E-Library | View Blank AA
 Hardship Interim Amendment Wizard | Batch Print AA Package | Batch Print LOMs

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We're here to help!

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Thank you for attending!

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