

IRS Extends the GUST Remedial Amendment Period

On November 19, 2002, the IRS released [Revenue Procedure 2002-73](#), which extends the time for making various amendments to qualified retirement plans. Highlights of Rev. Proc. 2002-73 include:

- Extends the time for amending pre-approved plans (i.e., M&P and volume submitter plans) to comply with GUST to September 30, 2003. This extension also applies to other plans eligible for the extension of the GUST remedial amendment period under section 19 of [Rev. Proc. 2000-20](#). In addition, this extension applies to the TRA '86 remedial amendment period in the case of a governmental or nonelecting church plan that is eligible for the extension of the GUST remedial amendment period under section 19 of Rev. Proc. 2000-20.
- Extends the time for amending plans to comply with [Rev. Rul. 2001-62](#), regarding changes to the mortality tables under section 417(e), and [Rev. Rul. 2002-27](#), regarding the incorporation of deemed section 125 compensation in a plan's section 415(c)(3) definition of compensation, to the end of the plan's GUST remedial amendment period.
- Extends the time for amending plans to comply with section 314(e) of the Community Renewal Tax Relief Act of 2000 ("CRA") to the latest of the end of the first plan year beginning on or after January 1, 2002, the end of the plan's GUST remedial amendment period, or June 30, 2003.

These extensions apply only to the time for making plan amendments. The extensions do not extend any effective dates.

Rev. Proc. 2002-73 also provides that upon resolution of a determination letter application filed under the streamlined procedures in [Rev. Proc. 2002-35](#), the Service will refund without interest the fee paid under section 3.04 of that procedure if it determines that, except for CRA, the plan was otherwise amended for GUST within the plan's GUST remedial amendment period. Determination letter applicants that qualify for the refund (including those that have already received a favorable determination letter) need take no action. The Service will initiate the refund.

Rev. Proc. 2002-73 will appear in I.R.B. 2002-49 on December 9, 2002.

New FAQs about the New Minimum Distribution Rules

Recently, the IRS issued [Revenue Ruling 2002-62](#) regarding substantially equal periodic payments under section 72(t)(2)(A)(iv) of the Internal Revenue Code. This ruling grants relief from the required minimum distribution rules to annuitants, especially those with IRA balances that were becoming depleted due to the recent decline in the equities market.

The issuance of Rev. Rul. 2002-62 generated questions about section 72(t) and also about the revenue ruling itself. Accordingly, the IRS developed a list of FAQs on section 72(t) and the revenue ruling.

These FAQs have been distributed to IRS representatives in Customer Account Services ("CAS"). In addition, the FAQs have been placed on the landing page of the newly redesigned Retirement Plans website www.irs.gov/ep.

Among the FAQs you will find are ones discussing:

- Approved distribution calculation methods
- Effective dates and transitional rules
- Determination methods for interest rates, life expectancy and account balance
- Effects of account depletion

Go to the Retirement plans web page at www.irs.gov/ep for these and many other FAQs concerning the relief granted by the IRS under Rev. Rul. 2002-62.

Is Your Form 5307 Correct?

When the big crush of determination letter ("DL") applications recently ended, people in our DL Program set about reviewing the Forms 5307 that were processed through Technical Screening. This review was done to gain information on the percentage requiring contact and the reasons for the contact. This review uncovered that *over 60% of the determination letter submissions* for employer adoptions of the volume submitter and prototype plans required a DL specialist to make contact to secure missing or insufficient information.

Since volume submitter and prototype sponsors have a direct correlation to the proper completion of an application, DL staff are planning a mailing to each of them on the items we are lacking in application packages and hope that this will improve the quality of the submission packages.

Below is an example of the information that will be included in this mailing to the volume submitter and prototype sponsors. Answering these questions before submitting your Form 5307 could make your submission complete which will expedite the issuance of your determination letter.

1. Have you included the prior plan document or adoption agreement and the advisory or opinion letter, or have you included the certification of intent to adopt, **verifying you are entitled to the extended remedial amendment period?** To verify you are eligible for the extended remedial amendment period see, Revenue Procedure 2000-20 section 19 and [Revenue Procedure 2002-6](#), section 6 and the new Rev. Proc. 2002-73.

2. Have you included the current adoption agreement or plan document signed **after** the date of the advisory or opinion letter? If not, your submission is considered an individually designed plan. See Revenue Procedure 2002-6 section 9.
 3. Has the correct user fee been paid? Do you qualify for a waiver of the user fee? If you qualify for the waiver of the user fee has the [Form 8717](#) (Rev. February/2002) certification been signed? To see if you qualify for a waiver of the user fee see [Notice 2002-1](#).
 4. Have you completed all the items on the [Form 5307](#)?
 5. Have any modifications been made to the plan or trust of an approved volume submitter? Have you identified the differences by describing the location, nature and effect of such modifications via the cover letter or separate schedule? See Revenue Procedure 2002-6 section 9.
 6. If you do not have a determination letter for TRA '86 or you have a TRA '86 determination letter that was not issued in accordance with Rev. Proc. 93-39, have you submitted all the necessary documents verifying timely TRA 86 adoption including IRC sections 401(a)(17) and 401(a)(31)?"
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PWBA and IRS Announce New Compliance Effort

In a [press release](#) dated October 7, 2002, the Pension and Welfare Benefits Administration (PWBA) and the IRS announced a joint project to locate employee benefit plans whose sponsors may not have been filing Form 5500 annual return-reports. The two agencies are conducting research of various databases to identify potential non-filers. Beginning next month, the agencies will mail letters of inquiry to those identified as potential non-filers.

Delinquent filers are reminded of the availability of a program to assist plan administrators in filing delinquent reports. The PWBA's Delinquent Filer Voluntary Compliance (DFVC) Program has been updated to substantially reduce the penalties associated with the late filing of Form 5500 reports. As an added incentive, the IRS has stated in [Notice 2002-23](#) that it will not assess penalties on delinquent filers who satisfy the requirements of the DFVC Program. Plan administrators, however, should be warned that notification by the PWBA, concerning a delinquent filing (beyond the IRS letter of inquiry), eliminates them from participation in the DFVC Program.

Additional information concerning this project is available from the PWBA at (202) 693-8360 or the IRS at 1-877-829-5500. Information about the DFVC Program is available on the PWBA website at www.dol.gov/pwba or by calling the PWBA number mentioned above.

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