

employee plans news

PROTECTING RETIREMENT BENEFITS THROUGH EDUCATING CUSTOMERS

Internal Revenue Service
Tax Exempt and Government
Entities Division

A Publication of Employee Plans

White Paper Results Are In

In [Announcement 2004-32](#), the IRS has announced that it will implement a system of staggered remedial amendment periods under section 401(b) of the Code for individually designed plans, beginning with remedial amendment periods for the Economic Growth and Tax Relief Reconciliation Act of 2001, Pub. L. 107-16 (EGTRRA). The IRS made this decision after considering public comments on the White Paper published last year which described the staggered remedial amendment period system. This system will establish regular five-year cycles for plan amendment and determination letter renewal. The cycles, based on taxpayer identification numbers, will ensure that employers will not have to file determination letter applications more frequently than every five years.

The IRS will closely monitor the implementation of this new system. If the experience of the IRS or its customers indicates that changes to the system are appropriate, the IRS will make the changes as quickly as possible.

Announcement 2004-32 also notes that the IRS is considering implementation of a system of six-year amendment/approval cycles for all pre-approved plans (that is, master and prototype and volume submitter plans), beginning with the submission of these plans for EGTRRA opinion and advisory letters. The remedial amendment period for pre-approved plans would be determined under this system, rather than under the five-year staggered system for individually designed plans.

See [Announcement 2004-32](#) for more details, including the opportunity to comment on pre-approved plans and on future guidance on the staggered remedial amendment period system. •

Asking For Comments: Pre-Approved Plans

In [Announcement 2004-33](#), the IRS has published a draft revenue procedure for issuing opinion and advisory letters on pre-approved plans (that is, master and prototype (M&P) plans and volume submitter (VS) plans). The Service is asking for public comments on the draft procedure to be submitted by August 2, 2004. When finalized, the revenue procedure will announce the opening of the pre-approved plan programs for the Economic Growth and Tax Relief Reconciliation Act of 2001, Pub. L. 107-16 (EGTRRA). The decision on when the programs will open has been reserved, pending a decision with regard to possible changes to the remedial amendment period rules, feedback on the draft revenue procedure, and other possible guidance.

The draft revenue procedure preserves both the M&P and VS programs and retains the most fundamental distinctions between the two types of plans. However, several significant changes are included in the draft revenue procedure. Among these changes are the following:

- (1) Adopting employers of nonstandardized defined contribution M&P plans will be able to adopt an allocation formula that is designed to be cross-tested for nondiscrimination on the basis of equivalent benefits without loss of M&P status.
- (2) VS plans will be permitted, but not required, to include a provision that allows the VS practitioner to amend the plan on behalf of adopting employers for changes in the Code, etc.

See [Announcement 2004-33](#) for more details, including where to send comments regarding the draft revenue procedure or the proposed six-year amendment/approval cycle for pre-approved plans (see the preceding article on [Announcement 2004-32](#)). •

Now That We Have Your Interest...

The IRS has issued [Notice 2004-34](#) providing guidance on the determination of the weighted average interest rate and the resulting permissible range of interest rates used to calculate current liability for the purpose of the additional funding requirements under section 412(l) of the Code and the minimum full funding limitation of section 412(c)(7)(E). In addition, this notice sets forth the interest rate under section 4006(a)(3)(E)(iii)(V) of ERISA, which is needed in the determination of unfunded vested benefits for purposes of determining premiums payable to the Pension Benefit Guaranty Corporation (PBGC). This notice implements changes to the rules regarding those interest rates that were enacted in section 101 of the Pension Funding Equity Act of 2004. •

In The Alternative...

In [Announcement 2004-38](#), the IRS sets forth the procedures for electing an alternative deficit reduction contribution under section 412(l)(12) of the Code as added by section 102 of the Pension Funding Equity Act of 2004. Section 412(l)(12) of the Code permits certain employers who are required to make additional contributions under section 412(l) to elect a reduced amount of those contributions in certain plan years. •

OK People, That's a RAP

[Revenue Procedure 2004-25](#) extends the remedial amendment period under section 401(b) of the Code with respect to certain disqualifying provisions until the end of the EGTRRA remedial amendment period. The EGTRRA remedial amendment period is available only if a plan has been timely amended in good faith for EGTRRA. (See [Notice 2001-42](#).) The EGTRRA remedial amendment period will not end before the end of a plan's 2005 plan year. •

Coming in the Summer 2004 Edition of *Employee Plans News*

Upcoming topics include:

- An interview with outgoing TE/GE Commissioner, Evelyn Petschek, on her TE/GE tenure, her upcoming role as Chief of Staff for IRS Commissioner, Mark Everson, and more
- Articles from EBSA and PBGC
- Updated Plan Information Packets, A New Newsletter, Web Spins, The Corner of Forms & Pubs

... and much more. Look for us in your email inbox in June 2004. •

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