

Part IV. – Items of General Interest

Issuance of Opinion and Advisory Letters for Pre-approved Defined Contribution Plans for the Second Six-Year Cycle, Deadline for Employer Adoption, and Opening of Determination Letter Program for Pre-approved Plan Adopters

Announcement 2014-16

The Service will soon issue opinion and advisory letters for pre-approved (i.e., master and prototype (M&P) and volume submitter (VS)) defined contribution plans that were restated for changes in plan qualification requirements listed in Notice 2010-90, 2010-52 I.R.B. 909 (2010 Cumulative List) and that were filed with the Service during their second submission period under the remedial amendment cycle under Rev. Proc. 2007-44, 2007-2 C.B. 54. The Service expects to issue the letters on March 31, 2014, or, in some cases, as soon as possible thereafter. Employers using these pre-approved plan documents to restate a plan for the plan qualification requirements on the 2010 Cumulative List will be required to adopt the plan document by April 30, 2016. Starting May 1, 2014 and ending April 30, 2016, the Service will accept applications for individual determination letters from employers under the second six-year remedial amendment cycle for defined contribution pre-approved plans.

Background

Revenue Procedure 2011-49, 2011-44 I.R.B. 608, and Rev. Proc. 2007-44 (both as amended) describe a staggered remedial amendment system for plans that are qualified under § 401(a) of the Internal Revenue Code, with five-year amendment/approval cycles for individually designed plans and six-year cycles for pre-approved plans. The submission period for the second six-year cycle for pre-approved defined contribution plans was February 1, 2011, through January 31, 2012, which was extended to April 2, 2012, by Announcement 2012-3, 2012-4 I.R.B. 335. Revenue Procedures 2011-49 and 2007-44 require pre-approved sponsors and practitioners to restate their pre-approved defined contribution plans for the qualification requirements included on the 2010 Cumulative List and apply for new opinion or advisory letters during this submission period.

Section 16.03 of Rev. Proc. 2007-44 provides that when the review process for a cycle of pre-approved plans has neared completion, the Service will publish an announcement providing the date by which adopting employers must adopt the newly approved plans. This date is intended to give adopting employers a window of approximately two years in which to adopt plans, and if necessary, to apply for an individual determination letter.

Deadline for Employer Adoption of Pre-approved Defined Contribution M&P and VS Plans

The end of a pre-approved defined contribution plan's remedial amendment cycle with respect to the changes in plan qualification requirements on the 2010 Cumulative

List is April 30, 2016. An adopting employer whose defined contribution plan is eligible for the six-year remedial amendment cycle under section 17 of Rev. Proc. 2007-44 and who adopts, by April 30 2016, an M&P or VS defined contribution plan that was approved based on the 2010 Cumulative List, will be considered to have adopted the plan within the employer's six-year remedial amendment cycle.

Opening of Individual Determination Letter Program for Pre-approved Defined Contribution Plans

An adopting employer of an M&P plan (whether standardized or nonstandardized) may not apply for a determination letter for the plan on Form 5307. An adopting employer of a VS plan may apply for a determination letter for the plan on Form 5307 only if the employer has modified the terms of the approved plan and the modifications are not so extensive as to cause the plan to be treated as an individually designed plan. If an adopting employer of a VS plan has made limited modifications to the pre-approved defined contribution specimen plan that received a letter based on the 2010 Cumulative List for the second six year cycle, the employer may apply for an individual determination letter on Form 5307 beginning May 1, 2014 and ending April 30, 2016. Additional information regarding determination letter applications for pre-approved plans, including requirements for applications filed on Form 5300 and 5307, may be found in sections 8 and 9 of Rev. Proc. 2014-6, 2014-1 I.R.B. 198.