

Revenue Procedure 2014-28

SECTION 1. PURPOSE

This revenue procedure modifies Rev. Proc. 2013-22, 2013-18 I.R.B. 985, which sets forth the procedures of the Internal Revenue Service (Service) for issuing opinion and advisory letters for § 403(b) pre-approved plans (that is, § 403(b) prototype plans and § 403(b) volume submitter plans). Under the program established by Rev. Proc. 2013-22, as modified by this revenue procedure, the Service will accept applications for opinion and advisory letters regarding the acceptability under § 403(b) of the Internal Revenue Code of the form of prototype plans and volume submitter plans, respectively, through April 30, 2015. This revenue procedure also makes certain modifications to the program established by Rev. Proc. 2013-22 that are intended to allow more plan sponsors and eligible employers to participate in the § 403(b) pre-approved plan program. The appendix to Rev. Proc. 2013-22 is revised accordingly.

SECTION 2. BACKGROUND

.01 Rev. Proc. 2013-22 established a new program for the submission of § 403(b) pre-approved plans to the Service, modeled after the program for pre-approved § 401(a) qualified plans, which is described in Rev. Proc. 2011-49, 2011-44 I.R.B. 608.

.02 The Service has received comments from pre-approved plan sponsors requesting that the § 403(b) pre-approved plan program be modified to reflect the differing needs of plan sponsors of § 401(a) qualified plans and § 403(b) plans, and to extend the deadline to submit applications to the Service under the § 403(b) pre-approved plan program.

SECTION 3. MODIFICATION OF REV. PROC. 2013-22

After evaluation and consideration of comments from pre-approved plan sponsors, the Service makes the following changes to Rev. Proc. 2013-22:

.01 Sections 11.01 and 11.02, which required that, to qualify as a § 403(b) pre-approved plan sponsor, a person must expect at least 30 eligible employers to adopt its § 403(b) prototype plan basic plan document(s) or § 403(b) volume submitter specimen plan(s), as applicable, are modified to reduce the required number of eligible employers to 15.

.02 Section 11.03, which required that, to qualify as a mass submitter, a person must submit opinion or advisory letter applications on behalf of at least 30 prototype sponsors, or 30 volume submitters, respectively, each of which is sponsoring, on a word-for-word identical basis, the same basic plan document or specimen plan, is modified to reduce the required number of prototype sponsors or volume submitters, as applicable, to 15. Section 11.03 is also modified to allow a person to sponsor a plan as a minor modifier of a § 403(b) volume submitter specimen plan of a mass submitter under the same conditions listed in section 11.03 for a person sponsoring a plan as a minor modifier of a § 403(b) prototype plan of a mass submitter.

.03 Section 17.03, which allowed an application for an advisory letter for a § 403(b) volume submitter specimen plan to be filed by a volume submitter practitioner, by a mass submitter with respect to its mass submitter plan, or by a mass submitter on behalf of a word-for-word identical adopter of the mass submitter's plan, is modified to also allow an application for an advisory letter for a § 403(b) volume submitter specimen plan to be filed by a mass submitter on behalf of a minor modifier of the mass submitter's plan.

.04 Section 17.04, which required that a mass submitter's initial submission under the § 403(b) pre-approved plan program be accompanied by the applications for opinion or advisory letters filed on behalf of at least 30 word-for-word identical adopters of the basic plan document or specimen plan, as applicable, unless the mass submitter had already satisfied this requirement in connection with a previous application under Rev. Proc. 2013-22 involving another basic plan document or specimen plan, as applicable, is modified to reduce the required number of accompanying applications for opinion or advisory letters to 15. Section 17.04 is also modified to permit a mass submitter to submit additional applications on behalf of other pre-approved plan sponsors as minor modifiers of a § 403(b) volume submitter specimen plan of the mass submitter after the 15 word-for-word identical adopter requirement has been met.

.05 The deadline specified in section 21.04 of Rev. Proc. 2013-22 to submit § 403(b) pre-approved plans to the Service for opinion and advisory letters is extended to April 30, 2015.

.06 The Appendix to Rev. Proc. 2013-22 is amended by revising lines 4, 12, 13 and 16 thereof and, as amended, is attached to this revenue procedure.

SECTION 4. PAPERWORK REDUCTION ACT

The collections of information contained in this revenue procedure have been reviewed and approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act (44 U.S.C. 3507) under control number 1545-1520.

SECTION 5. EFFECT ON OTHER DOCUMENTS

Rev. Proc. 2013-22 is modified.

SECTION 6. EFFECTIVE DATE

The modification in this revenue procedure is effective as of April 14, 2014.

DRAFTING INFORMATION

The principal author of this revenue procedure is Eric Slack of the Employee Plans, Tax Exempt and Government Entities Division. For further information regarding this revenue procedure, please contact Mr. Slack via e-mail at RetirementPlanQuestions@irs.gov.

APPENDIX

Application for Approval of § 403(b) Pre-approved Plan

1. Enter amount of user fee submitted: \$

2. Name of applicant:

a. EIN:

b. Address:

c. Phone:

3. Person to contact:

a. Phone:

b. Email address:

c. Power of attorney attached?

4. Type of applicant (check one):

a. Prototype sponsor

b. Prototype mass submitter

c. Volume submitter practitioner

d. Volume submitter mass submitter

e. Identical adopter of mass submitter plan

f. Minor modifier of mass submitter plan

5. Form of plan (check one);

a. Prototype plan

b. Volume submitter specimen plan without adoption agreement

c. Volume submitter specimen plan with adoption agreement

6. If the plan is a prototype plan, indicate whether the plan is a (check one):

a. Standardized plan

b. Nonstandardized plan

7.a. Prototype plan basic plan document number (Each of the prototype sponsor's or prototype mass submitter's basic plan documents must be assigned a 2-digit number, starting with 01. Enter the number you have assigned to the basic plan document that is associated with the adoption agreement for which this application is filed.):

7.b. Prototype plan adoption agreement number (Each different adoption agreement associated with a single basic plan document must be assigned a 3-digit number, beginning with 001. Enter the number you have assigned to the adoption agreement for which this application is filed.):

7.c. Volume submitter specimen plan number (Each of the volume submitter practitioner's or volume submitter mass submitter's specimen plans must be assigned a 2-digit number, starting with 01. Enter the number you have assigned to the specimen plan for which this application is filed.):

7.d. Volume submitter plan adoption agreement number, if applicable (Each different adoption agreement associated with a single specimen plan must be assigned a 3-digit number, beginning with 001. Enter the number you have assigned to the adoption agreement for which this application is filed.):

8. If 4.e. or 4.f. is checked, complete the following information for the mass submitter's plan on which this application is based, to the extent the information is available when this application is filed:

a. Name of mass submitter:

b. File folder number:

c. Letter serial number:

d. Date of letter:

e. Basic plan document number or specimen plan number (if b, c, and d not available):

f. Adoption agreement number, if applicable (if b, c, and d not available)

9. Investment arrangement(s) permitted under the prototype or specimen plan:

a. Annuity contracts issued by an insurance company

b. Custodial accounts

c. Retirement income accounts

10. Type(s) of contributions permitted under the prototype or specimen plan:

a. Elective deferrals (other than Roth)

b. Roth elective deferrals

c. After-tax employee contributions

d. Matching contributions

e. Other nonelective employer contributions

11. Are the following documents included with the application:

a. Basic plan document or specimen plan?

b. Adoption agreement (if the application is for a prototype plan or for a specimen plan that uses an adoption agreement)?

12. If 4.a. or 4.c. is checked, do you expect at least 15 eligible employers to adopt your § 403(b) prototype plan basic plan document(s) or volume submitter specimen plan(s)?

13. If 4.b. or 4.d. is checked, are applications on behalf of at least 15 prototype sponsors or volume submitters who are sponsoring the identical basic plan document or specimen plan included with this application?

14. If the answer to 13 is "no," enter the number of the basic plan document or specimen plan for which the requirement described in 13 is met:

15. Applicant's signature under penalties of perjury (required if 4a, b, c, or d checked):

Under penalties of perjury, I declare that I have examined this application, including accompanying statements, and to the best of my knowledge and belief it is true, correct, and complete.

Signature:

Title:

Date:

16. Prototype sponsor's or volume submitter's and mass submitter's signatures under penalties of perjury (required if 4e or 4f checked):

Under penalties of perjury, I declare that the prototype sponsor or volume submitter practitioner identified in line 2 of this application has adopted a prototype plan or a specimen plan that is identical to the mass submitter plan identified in line 7, or is a minor modifier of the mass submitter plan identified in line 7.

Prototype sponsor's or volume submitter's signature:

Title: _____ Date: _____

Mass submitter's signature:

Title: _____ Date: _____