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Benefit Plan Audit Specialists

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IRS Provides Guidance on Revised Employee Plans Determination Letter Program



On January 4, 2016, the Internal Revenue Service (“IRS”) announced guidance in anticipation of the elimination of the 5-year remedial amendment cycle system for individually designed plans under the

Employee Plans determination letter program, effective January 1, 2017.

Specifically, in Notice 2016-3, IRS described the following changes that will be reflected in an **update to Rev Proc 2007-44**. According to the IRS, employers may rely on this guidance until Rev Proc 2007-44 is updated to implement these changes.

Modifications

Rev Proc 2007-44 will be modified to provide that **expiration dates included in determination letters issued before January 4, 2016, are no longer operative**. Future guidance will clarify the extent to which an employer may rely on a determination letter after a subsequent change in law or plan amendment.

Rev Proc 2007-44 will be modified to provide that **controlled groups and affiliated service groups that maintain more than one plan** are permitted to submit **determination letter applications** during the **Cycle A submission period** beginning February 1, 2016, and ending January 31, 2017, provided that a prior Cycle A election with respect to the controlled group or affiliated service group had been made by January 31, 2012 (i.e., the last day of the previous Cycle A submission period).

Rev Proc 2007-44 will be **modified to provide that the deadline** for an employer to adopt a current defined contribution pre-approved plan and to apply for a determination letter, if otherwise permissible, is **extended from April 30, 2016, to**



April 30, 2017, with respect to any defined contribution pre-approved plan adopted on or after January 1, 2016, other than a plan that is adopted as a modification and restatement of a defined contribution pre-approved plan that had been maintained by the employer before January 1, 2016. This extension will **facilitate a plan sponsor’s ability to convert an existing individually designed plan into a current defined contribution pre-approved plan**. For this purpose, a “current defined contribution pre-approved plan” is one that was approved based on the 2010 Cumulative List. An employer that had adopted a defined contribution pre-approved plan before January 1, 2016, continues to have until April 30, 2016, to adopt a modification and restatement of the defined contribution pre-approved plan within the current 6-year remedial amendment cycle for defined contribution plans and to apply for a determination letter, if permissible.



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Who We Are

Torrillo & Associates, LLC specializes in employee benefit plan audits including 401k audits, 403b audits, pension plan audits, and other retirement plan audits. We are licensed in 10 states including Pennsylvania, New Jersey, Delaware, New York and Florida. We are also able to practice in additional states that have passed firm mobility.

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