

Delegation Order 7-16 (formerly DO 7-1d)

Effective: December 20, 2018

(1) Amendment of Employee Plans after the Expiration of the Remedial Amendment Period

(2) **Authority:** To allow a plan to be amended after the expiration of its remedial amendment period described in section 401(b) of the Code for any plan year in which a request for a determination letter is made or is pending with the Service, and for the plan year prior to the plan year in which the plan is submitted for a determination letter if the plan is submitted by the end of the time for filing the tax return of the employer (including extensions) for the taxable year of the employer beginning with or within that prior plan year, provided that the following conditions are met: (1) the plan is retroactively amended to comply with the qualification requirements as of the time the defect in the plan arose, and (2) employee benefit rights are retroactively restored to the levels they would have been at had the plan been in compliance with the qualification requirements from the date the defect in the plan arose.

(3) **Delegated to:** Director, EP Rulings and Agreements.

(4) **Redelegation:** This authority may be redelegated no lower than to EP Determinations Area Managers.

(5) **Authority:** To grant discretionary extensions of the remedial amendment period or allow a particular plan to be amended after the expiration of its remedial amendment period any applicable extension of such period, after having considered all of the factors described in section 1.401(b)–1(e) of the Income Tax Regulations. Those factors include, among others, whether substantial hardship to the employer would result if such an extension were not granted, whether such an extension is in the best interest of plan participants, and whether the extension is adverse to the interests of the government.

(6) **Delegated to:** Director, EP Rulings and Agreements.

(7) **Redelegation:** This authority may be redelegated no lower than to EP Determinations Area Managers

(8) **Source of Authority:** Treasury Order 150–10

(9) To the extent that the authority previously exercised consistent with this order may require ratification, it is hereby approved and ratified. This order supersedes Delegation Order 7-1d effective September 29, 1997.

(10) **Signed:** Kirsten B. Wielobob, Deputy Commissioner for Services and Enforcement