

Part IV. – Items of General Interest

Temporary Closing of the Determination Letter Program for Adopters of Pre-Approved Defined Contribution Plans

Announcement 2007-90

On December 18, 2007, the Service will temporarily stop accepting applications for determination letters for defined contribution plans that are filed on Form 5307, *Application for Determination for Adopters of Master or Prototype or Volume Submitter Plans*. The Service is taking this action because all pre-approved (*i.e.*, master and prototype and volume submitter) defined contribution plans are required to be restated to comply with the Economic Growth and Tax Relief Reconciliation Act of 2001, Pub. L. 107-16, (“EGTRRA”) and to be submitted to the Service for a determination letter (if needed) using Form 5307 during the approximately two-year period which the Service expects to announce early in 2008. The temporary hiatus in accepting Form 5307 applications will allow the Service to prepare to receive the EGTRRA applications.

Rev. Proc. 2007-44, 2007-28 I.R.B. 54, and Rev. Proc. 2005-16, 2005-1 C.B. 674, 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 initial six-year cycle for pre-approved defined contribution plans ran from February 17, 2005, to January 31, 2006. Sponsors and practitioners were required to restate their pre-approved defined contribution plans for EGTRRA and other changes in plan qualification requirements described in Notice 2004-84, 2004-2 C.B. 1030, the “2004 Cumulative List,” and apply for new opinion or advisory letters during this submission period. As provided in Rev. Proc. 2007-44, when the review of the pre-approved defined contribution plans is near completion, the Service will publish an announcement providing the date by which adopting employers must adopt the newly approved plans. This date will also be the deadline for adopting employers to file Form 5307 determination letter applications for their EGTRRA-restated pre-approved defined contribution plans. The Service expects to publish this announcement early next year and anticipates that adopting employers will have approximately two years to adopt the restated plans and request determination letters.

In order to prepare to receive the Form 5307 applications for the EGTRRA-restated defined contribution plans that will be filed starting next year, the Service will temporarily stop accepting determination letter applications for defined contribution plans filed on Form 5307, beginning December 18, 2007. The Service will continue to process determination letter applications for defined contribution plans filed on Form

5307 before December 18, 2007, provided the plan has a favorable GUST¹ opinion or advisory letter. Any determination letter application for a defined contribution plan filed on Form 5307 on or after December 18, 2007 and before the opening of the approximately two-year period for adopting EGTRRA- restated pre-approved defined contribution plans will be returned to the applicant.

This announcement does not affect the ability of adopting employers to apply for determination letters on Form 5307 for pre-approved defined benefit plans. The Service will continue to accept and process such applications until further notice. This announcement also does not affect the ability of adopting employers of pre-approved plans (whether defined contribution or defined benefit) to apply on Form 5307 for a determination letter for plan amendments related to a voluntary correction program (VCP) submission or as required under the correction on audit program (Audit CAP), under the procedures described in Rev. Proc. 2006-27, 2006-1 C.B. 945.

¹ The term “GUST” refers to the following:

- the Uruguay Round Agreements Act, Pub. L. 103–465;
- the Uniformed Services Employment and Reemployment Rights Act of 1994, Pub. L. 103–353;
- the Small Business Job Protection Act of 1996, Pub. L. 104–188;
- the Taxpayer Relief Act of 1997, Pub. L. 105–34;
- the Internal Revenue Service Restructuring and Reform Act of 1998, Pub. L. 105–206; and
- the Community Renewal Tax Relief Act of 2000, Pub. L. 106–554.