

Part IV. – Items of General Interest

Issuance of Opinion and Advisory Letters and Opening of the EGTRRA Determination Letter Program for Pre-Approved Defined Benefit Plans

Announcement 2010-20

The Service will soon issue opinion and advisory letters for pre-approved (i.e., master and prototype (M&P) and volume submitter (VS)) defined benefit plans that were restated for the Economic Growth and Tax Relief Reconciliation Act of 2001, Pub. L. 107-16, (“EGTRRA”) and other changes in plan qualification requirements listed in Notice 2007-3, 2007-1 C.B. 255 (“the 2006 Cumulative List”) and that were filed with the Service. The Service expects to issue the letters on March 31, 2010, or, in some cases, as soon as possible thereafter. A plan that receives a favorable letter with respect to its restatement for EGTRRA and the 2006 Cumulative List is referred to as an “EGTRRA-approved plan.” Employers using these pre-approved plan documents to restate a plan for EGTRRA and the 2006 Cumulative List will be required to adopt the EGTRRA-approved plan document by April 30, 2012. The Service will accept applications for individual determination letters submitted by adopters of these pre-approved plans starting on May 1, 2010.

Background

Rev. Proc. 2005-16, 2005-1 C.B. 674, and Rev. Proc. 2007-44, 2007-2, C.B. 54, as modified by Rev. Proc. 2008-56, 2008-2 C.B. 826, 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. These revenue procedures require sponsors and practitioners to restate their pre-approved defined benefit plans for EGTRRA and the 2006 Cumulative List and apply for new opinion or advisory letters.

Section 16.03 of Rev. Proc. 2007-44 provides that when the review of a cycle for 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 the plans.

Deadline for Employer Adoption of EGTRRA-approved Defined Benefit M&P and VS Plans

An adopting employer whose defined benefit plan is eligible for the six-year remedial amendment cycle under section 17 of Rev. Proc. 2007-44, as modified by Rev. Proc. 2008-56, and who adopts an EGTRRA-approved M&P or VS defined benefit plan by April 30, 2012, will have adopted the plan within the

employer's six-year remedial amendment cycle. The end of the plan's remedial amendment cycle with respect to EGTRRA and the changes in plan qualification requirements on the 2006 Cumulative List is April 30, 2012.

Opening of Individual Determination Letter Program for EGTRRA-approved Defined Benefit M&P and VS Plans

Adopting employers may apply for individual determination letters with respect to an EGTRRA-approved M&P or VS defined benefit plan beginning May 1, 2010. Additional information regarding determination letter applications for pre-approved plans, including the application forms and other documents that must be submitted with an application, may be found in section 9 of Rev. Proc. 2010-6, 2010-1 I.R.B. 193, and the frequently asked questions at: [Retirement Plans FAQs Regarding EGTRRA Determination Letter Program for Pre-Approved Plans](#)