

Third Six-Year Cycle Pre-Approved Defined Contribution Plans: Issuance of Opinion Letters; Plan Adoption Deadline; and Opening of Determination Letter Program

Announcement 2020-7

The Internal Revenue Service (IRS) intends to issue opinion letters for pre-approved defined contribution plans that were restated for changes in plan qualification requirements listed in Notice 2017-37, 2017-29 I.R.B. 89 (the 2017 Cumulative List) and that were filed with the IRS during the submission period for the third six-year remedial amendment cycle under Rev. Proc. 2016-37, 2016-29 I.R.B. 136 (newly approved plans). The IRS expects to issue the letters on June 30, 2020, or, in some cases, as soon as possible thereafter. An employer adopting a newly approved plan will be required to adopt the plan document by July 31, 2022. Starting August 1, 2020, and ending July 31, 2022, the IRS will accept from any employer eligible to submit a determination letter request an application for an individual determination letter under the third six-year remedial amendment cycle for pre-approved defined contribution plans.

Background

Rev. Proc. 2016-37 describes a staggered remedial amendment system for pre-approved plans that are qualified under § 401(a) of the Internal Revenue Code (Code). The revenue procedure provides separate six-year remedial amendment cycles for pre-approved defined benefit and pre-approved defined contribution plans.

Rev. Proc. 2017-41, 2017-29 I.R.B. 92, modifies the pre-approved letter program by combining the former master and prototype and volume submitter programs into a single opinion letter program. Under this program, providers of pre-approved plans may continue to apply for new opinion letters once every six years. Rev. Proc. 2017-41 sets forth the

procedures for providers to obtain opinion letters for qualified pre-approved plans submitted with respect to the third (and subsequent) six-year remedial amendment cycles.

The on-cycle submission period for providers of pre-approved defined contribution plans to submit opinion letter requests under the third six-year remedial amendment cycle (set forth in Rev. Proc. 2016-37, and extended by Rev. Proc. 2017-41 and Rev. Proc. 2018-42, 2018-36 I.R.B. 424) was October 2, 2017, through December 31, 2018. Rev. Proc. 2017-41 required pre-approved plan providers to restate their pre-approved defined contribution plans for the qualification requirements included on the 2017 Cumulative List and to apply for new opinion letters during this submission period.

Rev. Proc. 2016-37 and Rev. Proc. 2017-41 provide that the IRS will review plans that have been submitted during the applicable on-cycle submission period for a six-year remedial amendment cycle, taking into account the applicable Cumulative List of Changes in Plan Qualification Requirements that identifies changes in the qualification requirements of the Code. When the review process for a cycle of pre-approved plans has neared completion, the IRS will announce the date by which an adopting employer must adopt a newly approved plan. Depending on the date the review process is completed, employers will have approximately two years to adopt the newly approved plans and, if eligible, to apply for an individual determination letter.

Deadline for Employer Adoption of Pre-approved Defined Contribution Plans

The end of the third six-year remedial amendment cycle for pre-approved defined contribution plans is January 31, 2023. An adopting employer whose defined contribution plan is eligible for the six-year remedial amendment cycle and who adopts, by July 31, 2022, a newly approved plan, will be considered to have adopted the plan within the third six-year remedial amendment cycle.

Opening of Individual Determination Letter Program for Pre-approved Defined Contribution Plans

An adopting employer of a pre-approved defined contribution plan may apply for an individual determination letter (if otherwise eligible) during the period beginning August 1, 2020, and ending July 31, 2022. See Rev. Proc. 2020-4, 2020-1 I.R.B. 148, for additional information regarding determination letter application procedures for adopting employers of pre-approved plans with respect to the third six-year remedial amendment cycle, including sections 8 and 12B of the revenue procedure, relating to the circumstances under which an employer may apply for a determination letter.

Effective Date

This announcement is effective as of June 1, 2020.

Paperwork Reduction Act

The collection of information contained in Rev. Proc. 2017-41 has 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 1545-1674.

Drafting Information

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