

## **Part III. Administrative, Procedural, and Miscellaneous**

### **Notice Providing Disaster Relief to Sponsors of Pre-Approved Defined Contribution Plans**

#### **Notice 2010-48**

#### **I. PURPOSE**

This notice provides relief to sponsors of defined contribution pre-approved plans (i.e., master and prototype (“M&P”) and volume submitter (“VS”) plans) affected by recent federally declared disasters (as defined in § 165(h)(3)(C)(i) of the Internal Revenue Code (the “Code”). The relief provided by this notice extends to July 30, 2010, the April 30, 2010, deadline for restating affected pre-approved defined contribution plans and, if applicable, for submitting determination letters to the Service. The § 401(b) remedial amendment period with respect to these plans is also extended to July 30, 2010. The relief provided by this notice is in addition to the relief already provided by the Internal Revenue Service (IRS) to those affected by the federally declared disasters identified in this notice.

#### **II. BACKGROUND**

##### **A. Provisions Relating to Disaster Relief**

Under § 7508A of the Code, relief may be provided by the Secretary when there has been a federally declared disaster or a terroristic or military action (as defined in § 692(c)(2)). Under Treas. Reg. § 301.7508A-1(a), affected taxpayers are eligible for the postponement of certain tax-related deadlines to file returns, pay taxes, or perform other acts related to income taxes administered by the IRS. Pursuant to § 7508A, the IRS has provided relief to certain counties in the following states:

Connecticut victims of March 2010 severe storms and flooding. See, [News Release CT-2010-35](#), June 1, 2010.

Tennessee victims of April-May 2010 severe storms and flooding. See, [News Release AL/TN-2010-56T](#), May 5, 2010.

Alabama victims of April 2010 severe storms and flooding. See, [News Release AL/TN-2010-55A](#), May 4, 2010.

Mississippi victims of April 2010 severe storms, tornadoes and flooding. See, [News Release LA/MS-2010-21](#), April 30, 2010.

New Jersey victims of March 2010 storms and flooding. See, [News Release NJ-2010-32](#), April 5, 2010.

Massachusetts victims of March storms and flooding. See, [News Release](#) MA-2010-15, March 31, 2010.

Rhode Island victims of March storms and flooding. See, [News Release](#) RI-2010-11, March 31, 2010.

West Virginia victims of March storms and flooding. See, [News Release](#) WVA-2010-12, March 31, 2010.

## **B. Provisions Relating to Defined Contribution Pre-approved Plan Program Adoption Deadlines**

Revenue Procedure 2007-44, 2007-2 C.B. 54 (as modified by Rev. Proc. 2008-56, 2008-2 C.B. 826; Rev. Proc. 2009-36, 2009-35 I.R.B. 304; and Notice 2009-97, 2009-52 I.R.B. 972) 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 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 cycle for pre-approved defined contribution plans was February 17, 2005, through January 31, 2006. Plan sponsors and practitioners were required to restate their pre-approved defined contribution plans for the Economic Growth and Tax Relief Reconciliation Act of 2001, Pub. L. 107-16, (EGTRRA) and Notice 2004-84, 2004-2 C.B. 1030 (the "2004 Cumulative List") and apply for new opinion or advisory letters during that submission period.

Section 16.03 of Rev. Proc. 2007-44 provides that when the review of a cycle for pre-approved plans has neared completion, the IRS 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 period of approximately two years in which to adopt the plans.

Announcement 2008-23, 2008-1 C.B. 731, provides the deadline by which adopting employers must adopt EGTRRA-approved M&P and VS defined contribution plans. The two-year window in which to adopt a pre-approved defined contribution plan ended on April 30, 2010, and the Service accepted applications for determination letters from May 1, 2008, through April 30, 2010. Thus, the end of the six-year remedial amendment cycle for pre-approved defined contribution plans was April 30, 2010.

## **III. RELIEF**

### **A. Provision of Disaster Relief**

Due to damage caused by the federally declared disasters identified in section II.A. of this notice, employers that maintain M&P or VS defined contribution plans may have missed the April 30, 2010, deadline to adopt an EGTRRA-approved M&P or VS defined contribution plan and/or to submit, if applicable, a determination letter application to the IRS. As a result, the IRS believes that it is appropriate to provide an administrative

extension to adversely affected employers. Thus, the deadline by which an employer that maintains an Affected Plan (as defined in III.B.) must adopt an EGTRRA-approved M&P or VS defined contribution plan and submit a determination letter application, if applicable, is extended to July 30, 2010. The remedial amendment period is also extended to July 30, 2010.

## **B. Definition of Affected Plan**

A plan is an Affected Plan only if any of the following locations relating to the plan were in the federally declared disaster areas (identified in section II.A. of this notice) at the time of the disasters:

1. The principal place of business of the employer that maintains the plan (in the case of a single-employer plan, determined by disregarding the rules of § 414(b) and (c) of the Code);
2. The principal place of business of the employer that employs more than 50% of the active participants covered by the plan (in the case of a plan covering employees of more than one employer, determined by disregarding the rules of § 414(b) and (c));
3. The office of the plan or the plan administrator;
4. The office of the primary recordkeeper serving the plan; or
5. The office of any advisor that had been retained by the plan or the employer at the time of the storms or other severe weather that is directly involved with the adoption of the EGTRRA-approved M&P or VS defined contribution plan or that is directly involved in submitting a determination letter application to the IRS by the due date of April 30, 2010.

For purposes of items 3, 4, and 5, above, the term "office" includes only the worksite of those individuals, and the location of any records, necessary to adopt the EGTRRA-approved M&P or VS defined contribution plan or to submit the plan's determination letter application to the IRS.

## **IV. SUBMISSION OF A DETERMINATION LETTER APPLICATION**

In addition to the general requirements for submitting a determination letter application set forth in Rev. Proc. 2010-6, 2010-1 I.R.B. 193, an employer submitting a determination letter application pursuant to this notice should write "Extension Relief per Notice 2010-48" in the upper margin of the cover letter (do not write this on the determination letter application form).

## **V. EFFECT ON OTHER DOCUMENTS**

Rev. Proc. 2007-44 is modified.

**DRAFTING INFORMATION**

The principal author of this notice is Angelique Carrington of the Employee Plans, Tax Exempt and Government Entities Division. For further information regarding this notice, please contact the Employee Plans taxpayer assistance answering service at 1-877-829-5500 (a toll-free number) or e-mail Ms. Carrington at [RetirementPlanQuestions@irs.gov](mailto:RetirementPlanQuestions@irs.gov).