

employee plans news

PROTECTING RETIREMENT BENEFITS THROUGH EDUCATING CUSTOMERS

Internal Revenue Service
Tax Exempt and Government
Entities Division

A Publication of Employee Plans

Voluntary Correction Program Fee Discount Ending Soon

[Discounted fee](#) for VCP applications for late EGTRRA adoption of pre-approved plans will end April 30, 2011

Correcting a 403(b) Plan's Eligibility Failure

[403\(b\) plan correction procedures](#) for organizations with revoked tax-exempt status

Cycle A Controlled Group Election

Plan sponsors who are members of a controlled group or affiliated service group may [elect Cycle A](#) as their remedial amendment cycle regardless of the last digit of their EIN

EP Phone Forums:

- March 4, 2011 at 2:00 EST - [Technical Guidance](#) - Recent published guidance and updates on governmental and international IRS Initiatives
- March 24, 2011 at 2:00 EST - [Form 5330 Completion and Processing Tidbits](#) - Proper Form 5330 completion and processing, ways to avoid common mistakes

Covered Compensation Table Correction

[Announcement 2011-16](#) corrects a typographical error in Revenue Ruling 2011-3. The dollar amount in column three for the 1966 Calendar Year of Birth was incorrectly reported as \$100,220; the correct dollar amount for 1966 is \$101,220

Correcting an Eligibility Failure Due to Loss of Tax-Exempt Status

If a retirement plan was intended to satisfy the requirements of Code §403(b) but was adopted or operated by a plan sponsor that is not a tax-exempt organization described in Code §501(c)(3) or an educational organization described in Code §170(b)(1)(A)(ii), the plan may have an “eligibility failure”. The failure can, however, be corrected using the [Employee Plans Compliance Resolution System](#) under the Voluntary Correction Program (VCP) as stated in [Revenue Procedure 2008-50](#).

To correct the failure, the plan sponsor must complete all parts of [Appendix F](#), *Streamlined VCP Submission*, and [Schedule 6](#), *Employer Eligibility Failure (401(k) and 403(b) Plans only)*. For example, the sponsor must provide:

- the plan name, Employer Identification Number, and plan number information on each page of the submission;
- the year in which the sponsor was no longer eligible to adopt or operate a Code §403(b) plan; and
- a description of the proposed method of correction.

The plan sponsor must also include the correct amount of fees as stated in the [Appendix F instructions](#) with the submission.

Cycle A Controlled Group Election

Cycle A, which opened on February 1, 2011, contains an exception allowing plan sponsors to file a determination application using a controlled group election. Generally, the last digit of the plan sponsor’s [EIN](#) determines the [5-year](#) remedial amendment cycle for the plan. However, all plan sponsors who are members of a [controlled group](#) or [affiliated service group](#) may elect Cycle A as their remedial amendment cycle regardless of the last digit of their EIN.

Non parent-subsidiary controlled group - the Cycle A election must:

- be made by all members sponsoring qualified plans;
- list the names and EINs of all eligible members;
- contain the original election, copies of any additional elections executed by new members and an updated list with current information on any new determination letter applications; and
- be made by any new member within one year of joining the controlled group in order for other members to maintain the existing election.

Parent-subsidiary controlled group - the Cycle A election must:

- be made by all members of the controlled or affiliated service group (the parent company may elect for all members); and
- include the names and EINs of all eligible members.

The parent may also include a designation in its Cycle A election that:

- the election will also apply to the plans of future acquired subsidiaries eligible to make the election; and
- will not apply to subsidiaries’ plans that, in the future, are no longer in the controlled group.

If the parent includes this designation, then the parent must attach the original Cycle A election along with a copy of any additional elections executed by new members and an updated list with current information each time it files a determination letter application.

Alternatively, if there is more than one plan maintained by a parent-subsidary controlled group, the parent may elect that the remedial amendment cycle for each plan (other than a multiemployer, multiple employer, governmental or single employer collectively-bargained plan) be based on the last digit of the parent's EIN.

All controlled groups must:

- explain the Cycle A controlled group election in the determination letter application's cover letter and list all plan names & their EINs;
- have its members elect their cycle by the end of the earliest cycle (determined as of the date of their election) for which a determination letter application would be required to be submitted (or by the end of Cycle A, in the case of an election to choose Cycle A). For example, if one controlled group member is in Cycle B and another controlled group member is in Cycle C, members must choose a cycle by the last day of Cycle A.