

## Employee Plans News

Issue 2014-21, December 3, 2014

[Pension equity plan guidelines](#) – New procedural guidelines for IRS employees improve the determination letter process for PEP plans.

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### Pension Equity Plan Determination Letters – New Guidelines

We've recently improved our processing of determination letter applications for pension equity plans by training a specialized cadre in EP Determinations and issuing these procedural guidelines for IRS employees:

- [PEP Determinations Worksheet](#)
- [Explanation of PEP Plan Issues](#) (corresponds to the Worksheet)
- [Memorandum to the EP Determinations PEP Cadre on the PEP accrued benefit](#) (PEP Memorandum)

#### What is a PEP?

A PEP is a type of hybrid pension plan under which the benefit is expressed as a lump sum amount rather than as an annuity payable at normal retirement age. Under a PEP formula, the benefit is usually defined as a percentage of a participant's final average pay. The percentage typically accumulates over a participant's career according to an annual schedule based on a participant's age or years of service. A PEP also generally provides for hypothetical interest on a participant's accumulated benefit.

#### What issues do the Procedural Guidelines address?

The PEP Determinations Worksheet and Explanation of PEP Plan Issues are for IRS employees to use in processing determination letter applications. These documents explain the issues unique to PEP plans that we will take into account when reviewing plan documents, such as how the provision of hypothetical interest impacts the plan's compliance with the accrual rules of Internal Revenue Code Section 411(b)(1).

The PEP Memorandum highlights the plan document's compliance with IRC Section 411(b)(1)(G), which generally provides that a participant's accrued benefit under a qualified defined benefit plan cannot be reduced on account of any increase in the participant's age or service.

The PEP Memorandum states that, in order to resolve the pending requests for determination letters for PEPs, an EP Determinations employee should review the plan documents to determine if any of the following provisions are included:

1. Notwithstanding any other provision in the plan, a participant's accrued benefit as of any determination date will never be less than the benefit required to comply with IRC Section 411(b)(1)(G);
2. Notwithstanding any other provision in the plan, a participant's accrued benefit may not be reduced on account of an increase in a participant's age or service;
3. A participant's accrued benefit as of any determination date shall not be less than the accrued benefit to which the participant would have been entitled if he had ceased accruals at the end of any prior plan year;
4. A participant's accrued benefit shall be the lesser of the annuity benefit that the participant has accumulated to date (including interest projected to normal retirement age) and the annuity benefit the participant would accumulate if he or she worked to normal retirement age; or
5. The accumulated benefit determined under the PEP formula as of any determination date cannot be less than the accumulated benefit as of the end of any prior year with interest credited to the determination date, determined as if the participant had ceased accruals as of the end of that prior plan year.

If a PEP does not have any of the of these provisions, we'll generally ask the plan sponsor to amend the PEP retroactively to add provision 1 ("Notwithstanding any other provision in the plan, a participant's accrued benefit as of any determination date will never be less than the benefit required to comply with section 411(b)(1)(G) of the Code"). While a plan sponsor may choose to add one of the other provisions, we note that provision 4 generally cannot be implemented in an ongoing plan without creating a cutback of benefits in violation of IRC Section 411(d)(6).

#### **Additional resources**

- [Defined Benefit Plans](#)
- [Determination, Opinion and Advisory Letters](#)
- [Alert Guidelines, Explanations and Plan Deficiency Paragraphs](#)
- [Determination Letter Review Process](#)