

Employee Plans News

Issue 2014-4, March 19, 2014

Withdrawal of Cycle C applications - Cycle C determination letter applicants who intend to adopt a pre-approved cash balance plan may [withdraw](#) their applications by May 31, 2014, if they sign Form 8905, *Certification of Intent to Adopt a Pre-approved Plan*, by March 31, 2014

[FAQs](#) on withdrawing Cycle C applications

[Unreasonable Assumptions](#) in actuarial certifications of post-retirement medical benefit reserves may have consequences

Withdrawal of Cycle C Cash Balance Applications

Cycle C determination letter applicants who intend to adopt a pre-approved cash balance plan may withdraw their applications for individually designed cash balance plans by May 31, 2014, if they sign Form 8905, *Certification of Intent to Adopt a Pre-approved Plan*, by March 31, 2014.

Background

[Announcement 2014-4](#) extended the submission period for pre-approved defined benefit pension plans from January 31, 2014, to February 2, 2015, to allow time for the IRS to expand the pre-approved program to permit plans with cash balance features. The announcement also allowed Cycle C plan sponsors who want to adopt a pre-approved cash balance plan to complete Form 8905 by March 31, 2014, instead of submitting determination letter applications for individually designed plans by the Cycle C deadline of January 31, 2014.

Withdrawals for Cycle C applicants

Cycle C applicants who already submitted their applications for individually-designed cash balance plans during the second Cycle C remedial amendment cycle that ended January 31, 2014, and who instead wish to adopt a pre-approved cash balance plan, may sign the Form 8905, withdraw the application, and request a refund of the user fee by complying with the instructions below.

How to request a withdrawal and user fee refund

Request the return of your Cycle C determination letter application and a refund of the user fee in writing. Your request must be postmarked (or faxed) by **May 31, 2014**. You must include:

1. the name of the plan sponsor
2. plan number
3. EIN
4. the document locator number, if known (shown on your IRS acknowledgement letter)
5. the following statement in bold letters: **“Per Announcement 2014-4, we are withdrawing this application in order to submit under the pre-approved program.”**

Fax or mail your request

Mail address:

Internal Revenue Service
550 Main Street
Cincinnati, OH 45202
Attn: Joyce Heinbuch

Fax number:

Attn: Ms. Heinbuch, (513) 263-4699 (not a toll-free call).

Additional resources

- [Form 8905](#), *Certification of Intent to Adopt a Pre-approved Plan*
- [Deadline Extended For Pre-Approved Defined Benefit Plans](#)
- [FAQs on Withdrawing Cycle C Applications](#)

FAQs on Withdrawing Cycle C Applications

Announcement 2014-4 [extends the deadline](#) to submit applications for opinion and advisory letters for pre-approved defined benefit plans' second six-year remedial amendment cycle in order to allow time for the IRS to develop a pre-approved program for plans with cash balance features.

1. **May a plan sponsor who signs a Form 8905 under Announcement 2014-4 intending to adopt a pre-approved cash balance plan subsequently adopt an individually designed plan without losing reliance?**

Yes, a plan sponsor who originally intended to adopt a pre-approved cash balance plan may later adopt an individually designed cash balance plan as long as the plan sponsor adopts the individually designed plan within the two-year

window for pre-approved defined benefit plans, which will be announced in future guidance (see Revenue Procedure 2007-44, [Section 19.03\(1\)](#)).

- 2. May a Cycle C plan sponsor who submitted an application for an individually designed cash balance plan during the second Cycle C remedial amendment cycle that ended January 31, 2014, sign Form 8905, withdraw its pending application, and receive a refund of the user fee paid?**

Yes, a Cycle C plan sponsor who timely submitted an application for an individually designed cash balance plan during the second Cycle C remedial amendment cycle that ended on January 31, 2014, may withdraw the application and request a refund of the user fee, provided the plan sponsor signs Form 8905 by March 31, 2014. The plan sponsor should request the withdrawal and user fee refund in writing postmarked (or faxed) by May 31, 2014. The request must include the name of the plan sponsor, plan number, EIN, and the document locator number, if known. That number is identified on the letter the IRS sends to acknowledge receipt of the application. See "[How to request a withdrawal.](#)"

The request must also state in bold letters: "**Per Announcement 2014-4, we are withdrawing this application in order to submit under the pre-approved program.**"

Mail requests to:
Internal Revenue Service
550 Main Street
Cincinnati, OH 45202
Attn: Joyce Heinbuch

Fax requests to Ms. Heinbuch at (513) 263-4699 (not a toll-free call).

- 3. Do the special withdrawal procedures for Cycle C filers described above apply to other cycle filers who submitted determination letter applications for individually designed cash balance plans?**

No. The special relief for withdrawing pending applications applies only to Cycle C plan sponsors whose remedial amendment cycle ended January 31, 2014. Other plan sponsors who submitted individually designed cash balance plans in prior cycles (for example, sponsors in Cycle A and Cycle B) who withdraw their applications under the normal determination letter application withdrawal procedures (Section 6.17 of Revenue Procedure 2014-6) will not receive a refund of their user fees and will lose reliance on their current favorable determination letters (if any). In addition, if such plan sponsors withdraw their applications now, they will lose the benefit of having the extended remedial amendment period that results from the filing of a timely submitted determination letter request (see section 1.401(b)-1(e)(3) of the Income Tax Regulations).

Unreasonable Assumptions in Actuarial Certifications May Have Consequences

Employee Plans actuaries generally review the actuarial certifications of reserves for post-retirement medical benefits. Some of the certifications reviewed were clearly determined using unreasonable assumptions. For example, in one case, the actuary assumed that plan participants would incur \$50,000 in medical costs above those provided by Medicare every year of their lives. In another case, the actuary failed to consider the time value of money. In a third case, the actuary assumed that plan participants would incur over \$500,000 of medical benefits on their first day of retirement.

Actuarial certifications based on unreasonable actuarial assumptions may result in:

- Disallowance of deductions for contributions to a welfare benefit fund
- Penalties under Internal Revenue Code Section [6701](#) for the actuary and the actuary's firm
- Referral to the Joint Board for the Enrollment of Actuaries for actuaries enrolled under ERISA

Additionally, an actuary who is involved in the planning or design of an inappropriate arrangement may be subject to penalties under IRC Section 6700 and possible injunction.

A welfare benefit fund is a trust or other fund that is part of a plan through which an employer provides welfare benefits to its employees. Companies may deduct contributions made to a welfare benefit fund for post-retirement medical benefits if the plan meets the requirements of IRC Sections 419 and [419A](#). Among other requirements, any reserve established for post-retirement medical benefits must be:

- funded over the working lives of the covered employees,
- actuarially determined on a level basis, using assumptions that are reasonable in the aggregate, and
- determined on the basis of current medical costs.