

employee plans news

PROTECTING RETIREMENT BENEFITS THROUGH EDUCATING CUSTOMERS

Cycle D Submission Period Ends on February 1, 2010

An individually designed plan is in Cycle D if it is a multiemployer plan under [Code §414\(f\)](#) or if the plan is:

- a single employer plan, and
- the last digit of the plan sponsor's employer identification number is 4 or 9.

The 12-month submission period for determination letters for Cycle D plans is February 1, 2009 - January 31, 2010. However, because January 31, 2010, is a Sunday, the submission period is extended to the next workday, making Monday, February 1, 2010, the last day to submit applications.

Note that this does not affect the special rule under section IV of the [2008 Cumulative List](#) in Notice 2008-108 allowing certain Cycle D plans to make a one-time election to file under Cycle E. Under that special rule, if a Cycle D plan's plan year ends on or after February 1, 2010, the plan sponsor may elect to postpone submitting the plan for a determination letter beyond the end of the Cycle D submission period. This would be a one-time election to treat the plan as a Cycle E plan only for this current cycle. A plan sponsor makes this election by submitting a determination letter application during the Cycle E submission period that runs from February 1, 2010 to January 31, 2011.

If a filer meeting the conditions of [Notice 2008-108](#) to elect Cycle E decides to file on the first day of the Cycle E submission period (February 1, 2010), the IRS requests that the filer note this on a cover letter or on the application. In any event, such Cycle E applications must be updated for the [2009 Cumulative List](#).

New Address for Determination Letter Applications

The Instructions for Applications for Determination Letters contain an old post office box number that should no longer be used. Please ensure your applications are mailed to the [correct address](#).

April 30 Deadline for DC Pre-Approved Plans

The IRS wants to remind employers entitled to use the pre-approved six-year cycle of the upcoming April 30, 2010, deadline to:

1. adopt the final approved version of the defined contribution pre-approved plan; and
2. submit applications for determination letters.

Employers entitled to use the six-year remedial amendment cycle in [Revenue Procedure 2007-44](#) must adopt the IRS master and prototype (M&P) or volume submitter (VS) defined contribution plan that has been approved for EGTRRA and other plan qualification requirements on the [2004 Cumulative List](#). The adoption must be completed by April 30, 2010, in order to allow the plan's restatement to be eligible for retroactive correction and reliance. For additional information, see "[Determination Letters Coming Your Way - Announcement 2008-23](#)" in the *EPN Spring 2008*.

Employers who have adopted an M&P or VS defined contribution plan and are required to file a determination letter request for reliance, or otherwise wish to file for one, should do so by April 30, 2010. **Please note the filing deadline is only 3 ½ months away.** For details on determination letter submission procedures, see [Revenue Procedure 2010-6, section 9](#).

Free Phone Forum on Funding-Based Benefit Restrictions - January 26, 2010

Join Carol Zimmerman from IRS Employee Plans, Rulings & Agreements, for a 90-minute presentation on recent guidance relating to funding-based benefit restrictions imposed under Code §436. Plan sponsors of single-employer defined benefit plans and their advisors can learn about the new rules and key changes in the funding regulations for administering these plans.

Visit our [phone forum](#) Web page for details on registration.

DOL Corner

Investment Advice

On November 20, DOL/EBSA published a [notice](#) in the *Federal Register* withdrawing the final rule on the provision of investment advice under ERISA's prohibited transaction provisions.

The notice withdraws the January 21, 2009 final rule that implemented a statutory prohibited transaction exemption under the Pension Protection Act of 2006 (PPA) and provides an additional administrative class exemption. DOL/EBSA decided to withdraw the rule in response to public comments that raised sufficient doubts as to whether the conditions of the final rule and the class exemption associated with the rule could adequately protect the interests of plan participants and beneficiaries. DOL/EBSA recently extended the applicability and effective dates of the final rule until May 17, 2010. That extension expires on January 19, 2010.

DOL/EBSA intends to publish separately a proposed rule that conforms to the PPA statutory exemption relating to investment advice.

Additional Guidance on Schedule C Reporting for 2009 Form 5500

On October 23, DOL/EBSA issued additional guidance to help plan administrators and service providers comply with the expanded requirements for reporting service provider fee and compensation information on the Form 5500, *Annual Returns/Reports of Employee Benefit Plan*. The expanded requirements apply for plan years beginning on or after January 1, 2009.

The new guidance is provided in the form of 25 supplemental [frequently asked questions](#) (FAQs) on the new Schedule C requirements. Some of the issues covered in the new FAQs include reporting of:

- Gifts, entertainment and other non-monetary compensation;
- Compensation to hedge fund investment managers;
- "Look-through" investment funds;
- Mutual fund redemption fees; and
- ERISA fee recapture accounts.

The supplemental FAQs also clarify that the 2009 plan year transition relief for service providers also covers plan administrators and Form 5500 preparers who rely on those service providers for information needed to complete the Schedule C. The details about the transition relief were explained in an [earlier set of FAQs](#) published in July 2008

Getting Ready for the 2009 Form 5500 and Electronic Filing

DOL/EBSA continues to make filers and other plan officials aware of the upcoming changes to the Form 5500 and the filing process beginning with the 2009 plan year filings. Information on the new EFAST2 system has been posted on the [EFAST](#) Web site. The EFAST2 system is now available. Three DOL/EBSA webcasts are also available for viewing. The most recent webcast was held on November 5 and included a discussion of the Schedule C FAQs noted above as well as the 403(b) guidance noted in the [last newsletter](#). Subscribe to [DOL/EBSA's](#) homepage for notification of upcoming webcasts on changes to filing the Form 5500.

Free Compliance Assistance Events

For dates and locations of free compliance assistance events sponsored by EBSA for both retirement and health benefit plans, visit [EBSA's](#) homepage.