

employee plans news

PROTECTING RETIREMENT BENEFITS THROUGH EDUCATING CUSTOMERS

Internal Revenue Service
Tax Exempt and Government
Entities Division

A Publication of Employee Plans

Governmental Plans Roundtable Discussion

On April 22, 2008, the IRS hosted a governmental plans roundtable as part of an initiative to better serve the governmental plan sector of the EP customer base by raising awareness of the need to comply with tax qualification requirements.

Steven Miller, Commissioner, Tax Exempt and Government Entities indicated that governmental plans have not received the same attention that other plans have received by the IRS and that the IRS has not had a “meaningful presence” in the governmental plan area. Miller pointed out that one out of five employees in the United States is a government employee and that governmental plans hold \$3.5 trillion in funded pension plan assets. He also noted that recent reports have focused on the economic stresses facing governmental entities. He stated that IRS wants to create a climate for success by helping these plans to satisfy the necessary requirements through education, compliance, and enforcement.

The roundtable was the first step in establishing a dialogue between the IRS and the governmental plans community in an effort to ensure that governmental entities understand the tax qualification requirements applicable to their plans and are aware of the tools and resources available to assist them in ensuring ongoing compliance. IRS representatives acknowledged that there is very little history examining governmental plans. They want to better understand the issues and barriers these plans face in attempting to satisfy tax qualification requirements. Andrew Zuckerman, Director, EP Rulings and Agreements, explained that failure to satisfy these requirements could result in plan disqualification and adverse tax consequences for plan participants.

The governmental plans community was represented by interested parties (including compliance officers) from various state retirement systems, representative associations and governmental plans consultants, including counsel, actuaries, and administrators.

IRS sessions covered a variety of topics, including:

- The benefits to governmental plans of applying for a determination letter. Under the staggered determination letter process, governmental plans may come in during Cycle C, which opened February 1, 2008, and remains open until January 31, 2009. Although plans are not required to apply for a determination letter, IRS speakers explained that receiving a letter assures the plan sponsor that the form of the plan satisfies the tax qualification requirements, and that if the plan operates in accordance with the terms of the plan as approved, it may rely on the determination letter. Additionally, if the IRS requests amendments as part of the review of the determination letter application, the plan sponsor has an extended period of time in which to make such amendments. Also, receipt of a determination letter may be required to use portions of the IRS voluntary compliance program.

- An overview of the IRS voluntary correction program, in which a plan sponsor who discovers errors can either self-correct them (in certain circumstances) without involving the IRS, or if that is not available, may voluntarily come to the IRS, pay a limited fee, correct the error and retain the plan's qualified status.
- The Office of Chief Counsel reviewed some of the technical requirements that are applicable to governmental plans.

Representatives from EP Examinations included Monika Templeman, Director, EP Examinations, and the EP Compliance Unit (EPCU), who explained that EPCU intends to send a survey questionnaire to a small sample of governmental plans in an initial effort to obtain information about the current status of governmental plans. She assured the audience that responding to the survey would not result in an examination, but if issues were identified, the taxpayer would be directed to an IRS web site with information needed to achieve compliance. If the survey questionnaire is not returned, EP Examinations will conduct compliance activity, which could eventually result in an examination of the taxpayer.

Throughout the day, members of the governmental plans community actively participated in the discussion raising concerns, asking questions, and offering suggestions.

The day's last session was a panel of representatives from the governmental plans community. A number of concerns were raised including the following:

- A plan may not have filed for a determination letter in a very long time, maybe as long as 40 to 50 years, and the plan is concerned about the consequences if the IRS finds a problem with the plan.
- Uncertainty as to what documentation a plan sponsor should submit to the IRS when requesting a determination letter where the plan document may be made up of a number of statutory provisions, ordinances, etc.
- During the determination letter process, IRS may require amendments to the plan. The state or local legislative body that adopts the amendments may only meet a limited number of times during a year (or may not even meet on an annual basis). The time to adopt the IRS required amendments may not be sufficient for governmental plans.
- States are subject to Freedom of Information Act laws, which may force the government entity to disclose information submitted to the IRS that could be misrepresented or misunderstood by plan participants or the public.
- Potential conflicts between state constitutional protections for certain public sector retirement benefits and federal tax law may arise.

IRS officials encouraged the governmental plans community to continue to raise these issues and indicated that they would be willing to work with them in achieving and maintaining compliance with tax qualification requirements.

This is just the beginning; IRS invites members of the governmental plans community to join in the conversation. We will continue the dialogue in a number of ways. For example, on the new Governmental Plans web page, members of the governmental plans community can submit questions, comments, and suggestions to the IRS and the most frequently asked questions (FAQs) will be posted. We will also be considering other venues to reach the governmental plans community and invite them to become part of the solution.

Check out the roundtable presentations at [Governmental Plans web page](#). Employee Plans is committed to continuing the dialogue with the governmental plan community. Give us your questions, comments and suggestions at governmentalplansdialogue@irs.gov.

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