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PENSION ANALYST COMPLIANCE BULLETIN



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IRS announces changes to determination letter program

On December 19, 2014, the IRS issued [Announcement 2015-01](#), which describes changes to the processing of determination letters that will take effect in 2015. The IRS has adopted these changes to promote case processing efficiency.

Background

The IRS Issues a favorable determination letter in response to a request by a plan sponsor regarding the qualified status of its retirement plan under Internal Revenue Code 401(a). A determination letter expresses the IRS's opinion regarding the form of the plan and is issued based on the applicable [Cumulative List](#) at the time the application is received and applies only to the employer and the plan participants on whose behalf the determination letter was issued.

Employers who sponsor retirement plans are generally not required to apply for a determination letter from the IRS. However, having a favorable determination letter provides the employer with reliance that the:

- Plan is qualified under IRC Section 401(a); and
- Plan's trust is exempt under IRC Section 501(a).

Announcement 2015-01

In an effort to streamline the determination letter program, the IRS issued Announcement 2015-01. These streamlined procedures are discussed below.

Procedural requirements

Upon receipt of an application for a determination letter, the IRS will review the application to determine if it is complete. The IRS considers an application to be complete if it includes all of the information and documents required by Revenue Procedure 2015-6, including a copy of the Procedural Requirements Checklist set forth in Forms 5300, 5307, 5310 and 5316. The purpose of the Procedural Requirements Checklist is to assist applicants in the filing of a complete application.

If an application is incomplete, the IRS will contact the applicant in writing to request the missing information. An applicant must respond to the IRS within 30 days from the date of the letter. If an applicant does not respond within this timeframe, the IRS will:

- Close the case;
- Retain the incomplete application; and
- Retain the user fee submitted with the application.

An applicant may submit a new on-cycle application, with a new user fee, by the end of the plan's remedial amendment cycle, unless the IRS indicates a later date in the letter informing the applicant that the case has been closed.

However, if both the response deadline and the postmark date of any response to the letter identifying the missing information occur after the end of the plan's remedial amendment cycle, the IRS will not extend the remedial amendment cycle and will send the applicant a final disposition letter.

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Reference list

The IRS intends to develop a Reference List that applicants may use to indicate the specific provisions in the plan document that reflect the items in the [Cycle E Cumulative List](#). A template of the Reference List will be available at <http://www.irs.gov/Retirement-Plans/Reference-Lists-of-Changes-in-Qualification-Requirements-for-Retirement-Plans>. Applicants are encouraged to include a completed Reference List with their application to facilitate review of the application. Submission of a Reference List is not mandatory in Cycle E. However, the IRS is considering making the inclusion of the Reference List mandatory beginning the following year, in Cycle A.

Technical review

The IRS will not conduct a technical review of an application until it satisfies the [procedural requirements](#) described above. While conducting a technical review, the IRS may request in writing additional information from the applicant. If the applicant does not respond to the IRS request within the specified timeframe, the IRS will contact the applicant again in writing to provide the requested information.

If the applicant does not respond to the second request, the IRS will:

- Close the case;
- Retain the documents; and
- Retain the user fee.

The applicant may submit a new on-cycle application with a new user fee by the end of the plan's remedial amendment cycle, unless the IRS specified a later date in its letter indicating that the case has been closed. If both the deadline and the postmark date of any response to the second request occur after the plan's remedial amendment cycle, the IRS will not extend the remedial amendment cycle and will send a final disposition letter.

Effective date

The changes to the determination letter procedures are effective February 1, 2015. Plan sponsors should become familiar with the new IRS determination letter program in preparing determination letter applications to the IRS.

Compliance Bulletin by Prudential Retirement

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