

IRS Extends GUST Amendment Deadline for Prototype and Volume Submitter Plans

On November 19, 2002, the IRS released Revenue Procedure 2002-73 which extends the deadline for updating prototype and volume submitter plans to include provisions required by “GUST.” “GUST” refers to the Uruguay Round Agreements Act (GATT); Uniformed Services Employment and Reemployment Rights Act (USERRA); Small Business Job Protection Act (SBJPA); Taxpayer Relief Act of 1997 (TRA’97); IRS Restructuring and Reform Act of 1998 (IRRA); and Community Renewal Tax Relief Act of 2000 (CRA).

Revenue Procedure 2002-73 also extends the timeframe for adopting the following plan amendments:

- Amendments to defined benefit plans to reflect [revised mortality tables](#).
- Amendments to both defined benefit and defined contribution plans to properly recognize “[deemed section 125 compensation](#)” resulting from certain types of health care coverage in plan definitions of “compensation.”
- Amendments to both defined benefit and defined contribution plans to properly reflect qualified transportation fringe benefits in plan definitions of “compensation.”

GUST Amendment Deadline for Pre-Approved Plans

The GUST amendment deadline for prototype and volume submitter plans is generally extended to September 30, 2003, under certain conditions. Previously, the IRS provided an extension of the general GUST amendment deadline for plan sponsors that adopted or certified their intent to adopt a prototype or volume submitter plan. This deadline was the later of (1) December 31, 2002, or (2) the end of the 12th month following the date the IRS issued an Opinion or Advisory Letter for the underlying base plan document. Now, the December 31, 2002 deadline noted above is changed to September 30, 2003.

This extension also applies to the Tax Reform Act of 1986 amendment deadline for governmental and nonexempt church plans if those plans are eligible for the extended GUST amendment deadline.

It is important to note that the extension under Revenue Procedure 2002-73 does not affect the GUST amendment deadline for individually designed plans. The amendment deadline for these plans remains the later of (1) February 28, 2002, or (2) the last day of the 2001 plan year, with a special extension for plans directly affected by the September 11, 2001 terrorists attacks.

*Republished December 2004 to reflect Prudential Financial's acquisition of CIGNA's retirement business.

See the November 2001, Compliance Bulletin, "[IRS Extends GUST Amendment Deadline](#)," for more information. For the majority of individually designed plans, the GUST amendment deadline has already expired. However, individually designed plans may benefit under the extension for amending plans to comply with the Community Renewal Tax Relief Act of 2000, as discussed below.

Deadlines for Other Required Plan Amendments

As discussed in our August 2002, *Pension Analyst* titled "[IRS Updates Rules for Defined Benefit Plans](#)," sponsors of defined benefit plans were originally required to adopt new mortality tables by the last day of the plan year that included the effective date of the 1994 GAR mortality table for the plan. Generally, this date was the last day of the 2002 plan year. In addition, some plan sponsors (both defined benefit and defined contribution) had to amend their plan definition of "compensation" to properly recognize "deemed section 125 compensation" resulting from certain types of health care coverage by the last day of the 2002 plan year.

The IRS is now extending both of these amendment adoption deadlines as well, to the later of (1) the applicable original deadline or (2) the extended GUST amendment deadline. For prototype and volume submitter plans, these amendment deadlines are now September 30, 2003.

As discussed in our February 2001, *Pension Analyst* titled "[Year-End Developments Affect Qualified Plans](#)," many plan definitions of "compensation" had to be amended to treat salary reductions for qualified transportation fringe benefits (employer-provided transit passes, vanpooling, and qualified parking) just like section 125 cafeteria plan salary reductions. The deadline for making these amendments is now extended to the latest of (1) the last day of the 2002 plan year, (2) the plan's GUST amendment deadline, or (3) June 30, 2003.

This extension applies to adopters of individually-designed plans, as well as prototype and volume submitter plans. Sponsors of individually designed plans that filed for determination letters after their GUST amendment deadline but before September 3, 2002, as discussed in our September 2002, Compliance Bulletin titled "[Procedure for Late GUST Amenders to Avoid Disqualification](#)" and paid the special compliance fee may receive reimbursements of that fee. The IRS will make the reimbursement if the plan was timely amended for GUST, except for this amendment to the "compensation" definition. Affected plan sponsors do not need to request a reimbursement from the IRS. The IRS will initiate the refund.

Next Steps

Employers that are adopting a Prudential defined contribution prototype plan or Prudential's defined benefit or defined contribution volume submitter plan now have until September 30, 2003, to adopt their restated plans. If you have questions about how the extension of the GUST amendment deadline affects your plan, please contact your Prudential Retirement representative.

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