Pension ANALYST
COMPLIANCE BULLETIN

January 1998*

Recent Qualified Plan Guidance from Washington

Additional Testing Guidance for Tax-Exempt Organizations

Qualified plans sponsored by tax-exempt organizations have a delayed deadline for making amendments to conform to the changes made by the Tax Reform Act of 1986 (TRA-86). For most of these plans, this amendment deadline is the last day of the first plan year beginning on or after October 1, 1997. Church plans do not have to be amended to reflect TRA-86 rules until the end of the 1999 plan year.

In the meantime, plan sponsors must operate these plans in accordance with a reasonable, good faith interpretation of the TRA-86 rules, including the nondiscrimination and minimum coverage rules.

However, effective for plan years beginning after December 31, 1996, the Small Business Job Protection Act of 1996 (SBJPA) lets tax-exempt entities sponsor new 401(k) plans. As a result, the TRA-86 minimum coverage rules' special exception for business groups that include both taxable entities and tax-exempt entities has been extended only through the end of the 1997 plan year. For 1998 and future plan years, employees of tax exempt organizations cannot be excluded in performing minimum coverage tests for 401(k) and 401(m) plans.

IRS Extends APRSC Self-Correction Period

In January 1997, the IRS introduced the Administrative Policy Regarding Self-Correction (APRSC) program. APRSC is a self-correction program that lets employers monitor their plans and correct operational defects. Under this program, an employer does not need to contact the IRS to report a problem or get approval of its corrections. In addition, the employer does not pay compliance fees or penalties with respect to the error. Employers may correct "insignificant" defects at any time. However, "significant" defects must be corrected within a relatively short time following the year the problem occurred.

Recently, the IRS has announced that it has extended the "significant" violation self-correction period from one to two years following the year in which the defect occurs. This extension is the result of IRS experience with the program.

The IRS expects to issue further guidance on the APRSC program in early 1998. In addition, the IRS plans to publish a complete guide to all of its compliance programs.

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

Prudential Financial

Calculating Minimum Payment Amounts When a Trust is the Beneficiary

On December 30, 1997, the IRS proposed new rules for calculating minimum required distribution (MRD) amounts when a participant names a trust as his beneficiary.

Under existing rules, the beneficiaries of a participant's trust may be treated as beneficiaries for determining MRD amounts only if the trust is irrevocable. The new rules allow plans to treat the beneficiaries of a revocable trust as the designated beneficiary for determining minimum required payments provided the trust becomes irrevocable upon the death of the employee.

To treat the beneficiaries of a revocable trust as the beneficiary for determining MRD amounts, the participant must give a copy of the trust document to the plan administrator. The employee must also agree to provide the plan administrator with a copy of any amendment to the trust.

Alternatively, the employee may provide the plan administrator with a list of all the trust beneficiaries, including a description of the portion to which each is entitled and any conditions on their entitlement. The employee must also certify that to the best of his knowledge the list is complete and correct. The employee must agree to provide a corrected certification if an amendment to the trust changes any prior certification. Finally, the employee must agree to provide a copy of the trust document to the plan administrator on demand.

If the terms of the actual trust document are inconsistent with the information provided in a certification or an earlier trust document given to the plan administrator, the plan will not be in violation of the minimum payment rules if the plan administrator reasonably relied on the information provided. However, MRDs that are paid after the year in which the discrepancy is discovered must be based on the actual trust document and beneficiaries will be treated as having been changed in the year the discrepancy was found.

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