

Pension Plan Fix-It Handbook

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Get Ready for April's Deadline For Pre-approved DC Plan Adoption

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An April 2016 deadline looms for defined contribution retirement plan sponsors and administrators, one that's not related to taxes. But there could be tax consequences if you miss it!

Plan sponsors with a pre-approved defined contribution plan (master or prototype, volume submitter) have either received or are about to receive a packet of information from their third-party administrator with instructions to review and adopt the latest version of the plan document included.

Retirement plans must be updated to reflect legislative changes. Failure to do so could result in disqualification and unfavorable tax consequences for both a plan sponsor and participant.

The restatement and adoption process is a great opportunity for plan sponsors and service providers to review and make changes to their plan design.

For Pre-approved Defined Benefit Plans

Note: Providers of pre-approved defined benefit plans had until Oct. 30, 2015, to submit plans updated for the 2012 Cumulative List. The IRS will take up to two years to review these documents and then announce a restatement period (generally two years) for employers to adopt the restated plan.

The IRS Cumulative List, generally issued annually in January, identifies changes in the qualification requirements as a result of legislation, regulations or other published guidance that are required in a written retirement plan document. Defined contribution plan documents restated for the 2010 IRS Cumulative List must be adopted by April 30, 2016.

This restatement, from 2010, includes changes enacted by the Pension Protection Act of 2006 as well as the Worker, Retiree, and Employer Recovery Act of 2008 and the Higher Education Relief Opportunities for Students Act of 2003, or HEROES Act. You can find a complete list of changes to be on the lookout for as you review your restated plan document in the [2010 Cumulative List](#).

Why Not the 2014 Cumulative List?

You may be wondering why you are adopting a plan that only includes changes on the 2010 IRS Cumulative list and not the 2014 Cumulative List. This is because the process takes time and the IRS reviews documents in batches. The entire review process for pre-approved plans takes six years and is referred to as a "cycle."

Plans are submitted for review by the service provider that drafts them during the first two years of the six-year cycle. The IRS reviews the plans during the next two years of the cycle and begins to issue opinion/advisory letters next. The organization that provides the pre-approved plan then has two years to contact all plan sponsors using its pre-approved plan format to get the plan document adopted.

Plan sponsors adopting master/prototype plans are not able to apply for an individual determination letter from the IRS, but can rely on the advisory/approval letter provided to the organization drafting the plan document. Those adopting a volume submitter plan may apply for their own determination letter using Form 5307. Individually designed plans apply for their own determination letter, but the IRS program is ending in January 2017. (See July story.)

The alternative to a pre-approved plan is an individually designed plan, which is used mainly by larger employers. Pre-approved plans provide less flexibility than an individually designed plan but are used by many

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TPAs and the majority of plan sponsors. Pre-approved plans give plan sponsors a level of comfort that the “form” of the plan document — that is, its language — has been approved by the IRS.

Dec. 31 — Required Minimum Distributions

Required minimum distributions present another deadline to keep in mind.

Generally, RMDs must begin no later than the April 1 following the calendar year in which a participant attains age 70½, or retires. However, RMDs must begin for 5-percent owners no later than the April 1 due date. After the initial RMD is made, the next one is due by Dec. 31 and each successive Dec. 31. As a result, participants will receive two distributions in the year following their year of attaining age 70½, unless the participant is still working or is a 5-percent owner.

Plan service providers often monitor those participants who either will attain or have reached age 70½. Plan service providers may send RMD notices directly to participants, thereby removing plan sponsors from the RMD administration process. However, if the RMD deadline is missed, there is a penalty equal to 50 percent of the amount withdrawn. The participant is responsible for paying this penalty, and likely will go directly to the plan sponsor and ask why it wasn't monitoring what the service provider was doing. In addition, failure to distribute RMDs is a qualification issue that can be corrected under IRS's Employee Plans Compliance Resolution System.

Although plan sponsors can outsource administrative functions, they still have the fiduciary responsibility to monitor service providers.

Just a reminder — RMDs must be calculated for each qualified plan and the RMD taken from each plan. Because your participants may ask — RMDs must be calculated for each individual retirement account separately, but can be taken from one IRA. As always, do not provide tax advice, refer participants to their tax adviser.

Any Missing or Lost Participants?

The year's end is often an opportunity to do some housekeeping. You may have thought about lost participants as you were recently filing your 2014 Form 5500. The U.S. Pension Benefit Guaranty Corp. noted that more than 38,000 individuals haven't claimed a pension, and the unclaimed pensions amount to more than \$200 million. The PBGC has an interactive tool, called “[Find an Unclaimed Pension](#).”

Not only is this helpful to individuals, it could prove useful to employers responding to former employees' inquiries. As the Baby Boomers retire and apply for Social Security benefits, the Social Security Administration probably will send a letter reminding these individuals that they might have a pension benefit payable from a former employer. Despite plan sponsors' best record-keeping efforts, files get misplaced. The PBGC search tool could help plan sponsors that can't find former participants' records, either the actual file or previously filed Form 5500 attachments. The PBGC tool permits search by name, company or state. ❖

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