

The IRS Determination Letter Program

Changes for Individually Designed Plans

On July 21, 2015, the IRS announced revisions to the determination letter program for individually designed, qualified retirement plans. This program allows plan sponsors to request a determination letter from the IRS stating that the form of their plan meets the Internal Revenue Code requirements for favorable tax treatment. Most of the changes found in [Announcement 2015-19](#) are effective January 1, 2017.¹

Changes Ahead

- The staggered 5-year determination letter remedial amendment cycles for individually designed plans will now be eliminated. Sponsors of individually designed plans will be permitted to submit a determination letter application only upon initial plan qualification and for qualification at plan termination. Additional circumstances will be determined by the Treasury and the IRS at a later time with consideration of public comments.
- Effective immediately, the IRS is no longer accepting off-cycle determination letter applications.

The current remedial amendment cycle, Cycle E, ending January 31, 2016 and the following cycle, Cycle A, running February 1, 2016 to January 31, 2017 will remain unchanged. Cycle A will be the last remedial amendment cycle for individually designed plans.

Implications

With the elimination of the IRS determination letter program, plan sponsors of individually designed plans will face increased compliance risk. Plan sponsors may seek expert guidance to ensure their plan fully complies with the Internal Revenue Code which could be an added expense for the plan. Alternatively, plan sponsors may consider switching to a pre-approved plan format to lower the risk of having a non-compliant plan document.²

Without the IRS determination letter program, plan sponsors will need to find a way to manage the additional risk and ensure compliance for their plan. This should involve a periodic review of plan documents to verify that all necessary changes listed in the [IRS Cumulative List of Changes in Retirement Plan Qualification Requirements](#) have been made. Any errors discovered should be submitted through the Employee Plans

¹ Internal Revenue Service. Revisions to the Employee Plans Determination Letter Program. Announcement 2015-19. 21 July 2015. <http://www.irs.gov/pub/irs-drop/a-15-19.pdf>

² IRS Announces Major Changes to Its Determination Letter Program for Individually Designed Retirement Plans. McDermott Will & Emery. 4 August 2015. <http://www.mwe.com/IRS-Announces-Major-Changes-to-its-Determination-Letter-Program-for-Individually-Designed-Retirement-Plans-08-04-2015/>

Compliance Resolution System, EPCRS, and corrected using the Voluntary Correction Program, VCP.³

Future guidance from the IRS should assist plan sponsors in dealing with this transition and ensuring their plan document is in compliance with the Internal Revenue Code.

Comment Period

In addition to the revisions listed in Announcement 2015-19, the IRS is requesting public comments on the following issues:

- Necessary changes to the remedial amendment period
- Rules relating to interim amendments
- Guidance for plan sponsors wishing to convert an individually designed plan to a preapproved plan
- Necessary changes to other IRS programs

The full text of the request for public comments, as well as information regarding submission, can be found in the Announcement. Comments may be submitted in writing or electronically by October 1, 2015.

³ Hall, R., Kalten, B., Ronald, D. IRS Determination Letter Program to Be Curtailed. Towers Watson. 23 June 2015. <http://www.towerswatson.com/en-US/Insights/Newsletters/Americas/insider/2015/06/irs-determination-letter-program-to-be-curtailed>