SPECIAL EDITION
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employee plans news

PROTECTING RETIREMENT BENEFITS THROUGH EDUCATING CUSTOMERS

Internal Revenue Service
Tax Exempt and Government Entities Division

A Publication of Employee Plans

It's important to note that designated Roth contributions are allowed in 401(k) and 403(b) plans but they *are not allowed* in SARSEPs or SIMPLE IRA plans.

The Roth Regs Just Keep Coming!

On January 26, the IRS and Treasury issued **proposed regulations** on designated Roth accounts. These proposed regulations are generally effective January 1, 2007 and they provide guidance on the taxation of distributions from designated Roth accounts and other related issues.

A designated Roth account is a separate account under a section 401(k) plan or section 403(b) plan to which designated Roth contributions are made, and for which separate accounting of contributions, gains, and losses is maintained. Designated Roth contributions are permitted under Code section 402A, which was added by EGTRRA. Under section 402A, effective for tax years beginning in 2006, a plan may permit an employee who makes elective contributions under a 401(k) or 403(b) plan to designate some or all of those contributions as designated Roth contributions. Designated Roth contributions are elective contributions that, unlike pre-tax elective contributions, are currently includible in gross income. However, a qualified distribution of designated Roth contributions is excludable from gross income.

Highlights of the proposed regulations include:

- Determination of 5-year Period;
- Taxation of Nonqualified Distributions;
- Rollover of Designated Roth Contributions;
- Determination of 5-Taxable-year Period after a Rollover to a Roth IRA;
- Certain Amounts not Qualified Distributions;
- Distribution of Employer Securities;
- Designated Roth Accounts under Section 403(b) Plans;
- Reporting and Recordkeeping;
- Designated Roth Contributions as Excess Deferrals; and
- Gap Period Income

The comment period for the proposed regulations ends on April 26, 2006.

For additional information on designated Roth accounts, see the **Treasury Press Release**, the **proposed regulations** and the *updated* **Designated Roth Accounts FAQs** featured on the **Retirement Plans Community web page**.

Employee Plans Compliance Unit: Up and Running

The Employee Plans Compliance Unit (EPCU) was recently established to address pension compliance in a whole new way. Through the use of a "soft contact" approach by correspondence, telephone and other media, EPCU will focus on project activity where there are indications of potential non-compliance. EPCU will address compliance issues on more plans with less staffing resources than by performing traditional field examinations. Along with senior employee plans revenue agents, EPCU is also staffed with analysts, and other paraprofessionals. The group has staff members throughout the country, with a significant presence at the Ogden, Utah Campus. This will allow EPCU to address compliance issues consistently and efficiently in the employee plans community nationwide.

To date, EPCU has performed over 800 compliance checks, contacting nearly 700 taxpayers through correspondence, telephone calls, and faxes. EPCU resolved issues without the necessity for a full scope examination of the books and records of the plan. This approach will not replace field audits. However, when simple verification or clarification of issues is needed, they can be accomplished with less burden to the taxpayer, saving time and money for both the taxpayer and the IRS by utilizing compliance checks.

continued on page 2

Employee Plans Compliance Unit...*continued from page 1*

EPCU's "soft contact" approach allows for interaction with more of the employee plans community. The result is a greater impact on pension compliance. EPCU is now involved in several projects including:

- Plans with a funding deficiency;
- Follow-up on voluntary compliance statements;
- Examining Forms 5330 related to prohibited transactions; and
- Returns indicating fraud.

EPCU would like to involve the employee plans community by partnering with actuaries, attorneys, certified public accountants, enrolled agents, and other tax practitioners. We have an e-mail address and we encourage you to send us your suggestions on areas that you feel are potentially non-compliant. Please contact EPCU at **te/ge.epcu@irs.gov**.

Together we can find ways to ensure pension compliance and provide service in an efficient manner that is less burdensome to the taxpayer and focuses our resources on areas where they are needed the most.•

Determination Letter Program Open for Cycle A Individually Designed Plans

The IRS is now accepting applications for determination letters for Cycle A defined benefit and defined contribution individually designed plans. The submission period for Cycle A plans began on February 1, 2006. Applications must be postmarked no later than January 31, 2007 to be timely submitted. These applications will be reviewed taking into account the requirements of EGTRRA as well as other changes in qualification requirements and guidance identified on the Cumulative List in **Notice 2005-101**.

Under these new procedures, sponsors of individually designed plans will submit applications for determination letters once every five years, under a staggered system of 5-year cycles. Not all individually designed plans have the same cycle, so be sure that your plan is submitted within the appropriate cycle (unless you wish to submit an "off-cycle" filing). For example, Cycle B plans should not begin to submit applications until February 1, 2007. See **Chart** to determine your cycle.

While sponsors of Cycle A plans have a year to submit applications, keep in mind that user fees for submitting determination letters will increase on July 1, 2006. Applications postmarked on or after July 1, 2006 will be subject to the new user fee schedule. A summary of the user fee changes with references to official guidance is contained in **New User Fee Schedule for 2006**.

For further information on the program for individually designed plans, including how off-cycle filings affect reliance, see **Rev. Proc. 2005-66** (describing the 5-year staggered system). **Rev. Proc. 2006-6** contains procedures on the determination letter program and the **Determination Letter Resource Guide** (currently being updated) describes application procedures, contains links to forms and provides other helpful information.

Pre-approved plans (master & prototype and volume submitter) have different submission periods and cycles. The IRS began accepting applications from sponsors and practitioners requesting opinion and advisory letters for defined contribution pre-approved plans on February 17, 2005. The deadline to submit timely applications under this initial 6-year cycle was January 31, 2006. The IRS will begin accepting applications for letters for defined benefit pre-approved plans on February 1, 2007.•

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