

employee plans news

PROTECTING RETIREMENT BENEFITS THROUGH EDUCATING CUSTOMERS

Revised Forms Now Available

Form 4461-A

A "new" version of the [Form 4461-A](#), *Application for Approval of Master or Prototype or Volume Submitter Defined Benefit Plan* (revised December 2007), has been released and is now available online. The form, used when submitting an application for either a specimen defined benefit master or prototype (M&P) or volume submitter (VS) plan, can be used for the January 31, 2008 deadline (not to be extended), as described in Rev. Proc. 2007-44. Although the revised version of the form is preferred, the IRS will continue to accept the prior version (rev. November 2003) for an EGTRRA (and other qualification/guidance changes reflected in the 2006 Cumulative List of [Notice 2007-3](#)) opinion or advisory letter. Similarly, the IRS will continue to accept VS defined benefit plan submissions on a cover letter, as described in Rev. Proc. 2005-16, sections 17 and/or 18.

Form 5329

The recently-released 2007 [Form 5329](#), *Additional Taxes on Qualified Plans (Including IRAs) and Other Tax-Favored Accounts*, reflects a change in IRS policy for taxpayers who miss taking their required minimum distribution from an IRA because of a reasonable error. Taxpayers who feel they meet the reasonable cause criteria set out in IRC §4974(d) are now allowed to not pay the 50% excise tax when they file their Form 1040. The [Instructions for Form 5329](#), under *Waiver of Tax* on page six, instruct taxpayers to attach a statement of explanation, complete Part VIII of the form, make the appropriate "RC" annotation, and enter the amount they want waived on line 52.

Form 5558

The updated [Form 5558](#), *Application for Extension of Time To File Certain Employee Plan Returns* (revised January 2008), is now available online. Due to the fact that notices regarding the approval/denial of extension requests for Form 5330 filers will be automatic beginning in January 2008, all sections below the signature and date lines have been eliminated.

Form 5330

[Form 5330](#), *Return of Excise Taxes Related to Employee Benefit Plans*, is being revised. The redesigned form, grouping the various excise taxes by due date, will streamline processing and add excise taxes brought about by the Pension Protection Act. The changes are discussed in the [Instructions for Form 5330](#) on page one under *What's New*. The revised version (January 2008) will be available online on or about January 18, 2008.

These forms and their instructions are available (or in the case of the Form 5330, available soon) on the [Retirement Plans Community web page](#) by clicking on "EP Forms/Pubs/Products" in the left pane. Paper copies can be ordered by calling (800) TAX-FORM (829-3676).•

Cycle B Ends January 31, 2008 - Cycle C Begins February 1, 2008

The end of the Cycle B submission period is rapidly approaching. The IRS will accept applications for determination letters for Cycle B individually designed defined benefit and defined contribution plans postmarked no later than January 31, 2008. Cycle B submitters are those plans sponsored by an employer with an EIN ending in "2" and "7" as well as multiple employer plans. These applications will be reviewed taking into account the requirements of EGTRRA and other changes in qualification requirements and guidance identified in the 2006 Cumulative List published in Notice 2007-3. Cycle B submissions will be required to follow the procedures in [Revenue Procedure 2007-6](#), which does not require submission of a redlined plan document.

As of February 1, 2008, the IRS will begin accepting determination letter applications for individually designed defined benefit and defined contribution plans for Cycle C; those plans sponsored by an employer with an EIN ending in "3" and "8" and governmental plans, including governmental multiemployer and multiple employer plans. These applications will be reviewed taking into account the requirements of EGTRRA as well as other changes in qualification requirements and guidance identified in the 2007 Cumulative List published in [Notice 2007-94](#). Cycle C submissions will be required to follow the procedures in [Revenue Procedure 2008-6](#).

Under the staggered procedures, sponsors of individually designed plans submit applications for determination letters once every five years, in [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 C plans should not begin to submit applications until February 1, 2008 and no later than January 31, 2009.

For further information on the [staggered remedial amendment period](#) for individually designed plans, including how off-cycle filings affect reliance, see [Revenue Procedure 2007-44](#). •

Proposed Cash Balance Regulations

The IRS and the Treasury Department issued [cash balance proposed regulations](#) (also for other hybrid pension plans) on December 28, 2007. The proposed rules, effective for plan years beginning on or after January 1, 2009, (but may be relied upon sooner), interpret Pension Protection Act law and include a safe harbor for hybrid plans, conversion protection for employees, and a 3-year minimum vesting requirement. •

Section 430 Regulations Issued

The IRS and Treasury Department have issued [proposed regulations](#), Measurement of Assets and Liabilities for Pension Funding Purposes, providing guidance under §§430(d), 430(g), 430(h)(2), and 430(i), for employers sponsoring single employer defined benefit plans for the new funding rules in the Pension Protection Act of 2006 (PPA).

Highlights of the proposed regulations are:

- Rules for determining a plan's target normal cost and funding target under §§430(b) and 430(d) (for a plan that is not in at-risk status), including guidance relating to the application of actuarial assumptions and the plan's funding method.
- Rules relating to plan valuation date and the valuation of a plan assets. Under the proposed regulations, except in the case of a small plan (100 or fewer participants), a plan's valuation date is the first day of the plan year. Also, plan assets must be valued on the valuation date either at their fair market value or at the "average" value of assets.
- Rules relating to the interest rates to be used to determine the present value and to make other calculations (including calculations involving shortfall and waiver amortization bases) under §430. The proposed regulations reflect the special interest rate for determining a plan's funding target in the case of airlines that make the 10-year amortization election described in §402(a)(2) of PPA.
- Special rules related to determining the funding target and making other computations for certain defined benefit plans that are in at-risk status for the plan year. In particular, the proposed regulations provide guidance regarding the additional assumptions that apply when calculating the funding target and target normal cost for plans in at-risk status.

The new funding rules are generally effective for plan years beginning on or after January 1, 2008; however, these proposed regulations are effective for plan years beginning on or after January 1, 2009. Plan sponsors can rely on these proposed regulations for purposes of satisfying the requirements of section 430 for plan years beginning in 2008. •

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