

# Special Edition – July 2001

## employee plans news

*Protecting Retirement Benefits through Educating Customers*

### **SIMPLIFICATION OF DETERMINATION LETTER PROCEDURES (Announcement 2001-77)**

### **ECONOMIC GROWTH AND TAX RELIEF RECONCILIATION ACT OF 2001 (EGTRRA) PLAN AMENDMENT PROCEDURES (Notice 2001-42)**

Employee Plans is issuing this special edition to alert the pension community of two important releases covering guidance impacting the determination letter program.

On June 28, 2001, the IRS released [Announcement 2001-77](#) and [Notice 2001-42](#). Both documents will be published in the Internal Revenue Bulletin (IRB) on July 23, 2001.

These documents can be found at [www.irs.gov/ep](http://www.irs.gov/ep) under Employee Plans Published Guidance.

Announcement 2001-77 explains how the Service is modifying its procedures and forms to simplify the determination letter process, including allowing adopters of pre-approved plans to obtain reliance without a determination letter.

Notice 2001-42 provides guidance regarding the amendment of qualified plans for the Economic Growth and Tax Relief Reconciliation Act of 2001 (**EGTRRA**).

#### **Highlights of Announcement 2001-77**

- ◆ Allows adopting employers of nonstandardized master and prototype (M&P) plans or certain volume submitter plans to rely on a favorable opinion or advisory letter with respect to most qualification requirements without requesting a determination letter.
- ◆ Allows an employer maintaining a multiple employer plan to rely on a favorable determination letter for the plan with respect to most qualification requirements without submitting a separate Form 5300.
- ◆ Makes the filing of Schedule Q optional. Plan sponsors can elect to have a plan reviewed for compliance with form requirements only, or for form, coverage and nondiscrimination requirements under IRC sections 401(a)(4), 401(a)(26), and 410(b).
- ◆ Provides a list of the revised determination application forms and the effective dates and transition rules for their implementation and use. The Service has posted draft Forms 5300, 5307, 5310, 6406 and Schedule Q to [www.irs.gov/ep](http://www.irs.gov/ep) under Determination Letter Program.
- ◆ Indicates the intention of the Service to make available, during the second half of 2001, a list of M&P plans and volume submitter specimen plans that were submitted to the Service for GUST advisory and opinion letters by December 31, 2000, in compliance with Rev. Proc. 2000-20. The period of extension of the GUST remedial amendment period under Section 19 of Rev. Proc. 2000-20 for M&P and volume submitter plan adopters is 12 months. As noted below, **Notice 2001-42** provides that the 12-month period shall be treated as not ending before December 31, 2002.

- ◆ Allows plan sponsors to request determination letters that take into account the final regulations on cross testing, beginning August 22, 2001.

### **Highlights of Notice 2001-42**

- ◆ Provides that the GUST remedial amendment period for individually designed plans is not being extended. However, a separate and later remedial amendment period is being provided for **EGTRRA**.
- ◆ Treats the GUST remedial amendment period provided to M&P and volume submitter plan adopters under Rev. Proc. 2000-20 section 19 as not expiring earlier than December 31, 2002. This change will simplify the determination of the GUST amendment deadline for these plans and facilitate the timely amendment of the plans for GUST and EGTRRA.
- ◆ Provides guidance regarding "good faith" EGTRRA plan amendments. Before the end of August 2001, the Service will publish sample EGTRRA plan amendments that plan sponsors and sponsors of pre-approved plans can adopt or use in drafting individualized plan amendments. Timely "good faith" EGTRRA amendments will have a remedial amendment period ending no earlier than the end of the 2005 plan year in which any needed retroactive remedial EGTRRA plan amendments may be adopted. Notice 2001-42 *does not extend the GUST remedial amendment period*.
- ◆ Provides that individually designed plans submitted for GUST determination letters may include EGTRRA amendments and that pre-approved plans submitted for GUST determination letters may include EGTRRA amendments in the form of a separate, clearly identified addendum to the plan. However, until further notice, our determination, opinion and advisory letters will not consider the EGTRRA changes.

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