

IRS Overhauls Its Determination Letter Program For Individually-Designed Retirement Plans

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The Internal Revenue Service (IRS) recently announced that it will be significantly limiting the employee plan determination letter program for individually-designed qualified retirement plans. Prior to these new changes, sponsors of individually-designed retirement plans could request and obtain determination letters from the IRS, generally based on a staggered five-year remedial amendment cycle. The following changes will be taking place so that the IRS may redirect its limited resources to other areas. First, effective July 21, 2015, the IRS will no longer accept off-cycle determination letter applications except for requests relating to a plan's initial qualification or termination. Second, effective January 1, 2017, the IRS will no longer accept determination letter applications based on the five-year remedial amendment cycles. However, sponsors of Cycle A plans (generally, plan sponsors whose EINs end in the number one or six) may still submit applications during the period beginning February 1, 2016 and ending January 31, 2017. Finally, effective January 1, 2017, sponsors of individually-designed plans will be permitted to submit a determination letter application (a) for a plan's initial plan qualification, (b) for qualification upon plan termination, and (c) in certain other limited circumstances that will be identified in future guidance issued by the IRS. As a result of such changes, the IRS will be extending a retirement plan's remedial amendment period to correct disqualifying plan provisions until a date no earlier than December 31, 2017. It is highly recommended that plan administrators improve or adopt procedures to regularly review their plans to ensure that amendments are adopted in a timely fashion and that required provisions

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are included. Additional guidance is expected from the IRS detailing the impact of these changes on plan administration.