



**DEFINED CONTRIBUTION PLAN
DOCUMENT EGTRRA RESTATEMENT
PERIOD ENDS!**

**DEFINED BENEFIT PLAN DOCUMENT
EGTRRA RESTATEMENT PERIOD WILL
SOON BEGIN!**

Defined Contribution plans using pre-approved documents should have their EGTRRA restatements completed by now. If they don't, there are probably some penalties and special filings in order. Next up is a comparable EGTRRA restatement requirement for Defined Benefit plans that use pre-approved plan documents. The IRS recently released an Announcement (2010-20) advising the public that they were simultaneously issuing opinion and advisory letters to those companies (including NRS) that sponsor pre-approved Defined Benefit plan documents. The announcement indicated that most of the opinion and advisory letters were issued on March 31, 2010 or "as soon as possible thereafter."

Two Year Window for Defined Benefit Plan Restatements

The IRS Announcement indicated that the IRS would accept individual employer Defined Benefit plans for review and determination beginning May 1, 2010. As had been previously announced, employers using pre-approved plan documents must restate their plans no later than April 30, 2012 or face sanctions. This window is similar to the two year period for restating pre-approved Defined Contribution (profit sharing, money purchase, and 401(k) plans) that just ended April 30, 2010. During this period, every pre-approved plan must be amended to incorporate pre-approved language reflecting recent laws and regulations. In addition, any employer who wants to have the IRS review and specifically approve their particular plan document must submit the plan no later than

April 30, 2012 in order to preserve the right to retroactively amend the plan to cure any IRS discovered defects. IRS approval of a "pre-approved" plan is often obtained when the pre-approved document is modified and the IRS has not approved the modified language in a previous submission.

NRS expects to have Defined Benefit EGTRRA restatements available later this year. The requirement to restate Defined Benefit documents represents a great opportunity to examine the Defined Benefit plan design and make modifications at the same time as the restatement process occurs.

Six Year "Restatement Cycles" for Pre-Approved Plans

Pre-approved plans follow a six year cycle established by the IRS a few years ago. The cycle consists of three two year periods: *draft/submit, review/approve, and adopt*. During the first two years of a cycle, practitioners draft restatement documents for prototype and volume submitter plans that incorporate all of the new law and regulatory changes that have occurred during the past six years and submit them to the IRS for review and approval. During the next two years, the IRS reviews the documents, suggests or requires modifications to the drafts, and eventually simultaneously approves them at the conclusion of the two year period. Once the documents have been pre-approved by the IRS, employers are given a two year period to adopt the documents for their own retirement plans.

Pre-approved Defined Benefit plans follow the same six year cycle of *draft/submit, review/approve, and adopt* as the Defined Contribution plans, except that they run two years behind the Defined Contribution plans. The May 1, 2010 through April 30, 2012 timeframe for



adopting the “EGTRRA restatements” represents the conclusion of the first six year cycle for Defined Benefit plans.

Plans such as cash balance plans, government plans, and other plans that are unable or unwilling to use pre-approved documents operate under a different (Five Year) cycle.

FEE DISCLOSURE REGULATION FOR 401(k) PLANS IMMINENT

After a more than year long delay caused largely by the change in administrations from Bush to Obama, fee disclosure regulations are nearing completion and release. Michael Davis, EBSA deputy assistant secretary, spoke last month at a 401(k) Summit in Orlando and acknowledged that the regulation had been submitted to the Office of Management and Budget on March 3. Once published, the regulation will most assuredly require greater transparency of 401(k) plan fees and will probably require a specific uniform disclosure format so readers can readily compare the plan’s fees versus other industry averages. Because the regulations were published in proposed form back in 2008, the retirement plan industry does not expect many surprises. Probably the most significant item to be contained in the pending regulation is the effective date of implementation for the new rules.

NRS will keep you informed about the new disclosure rules and other topics of interest to retirement plan sponsors and service providers.

As always, NRS is here to help!



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