



Pension Analyst

Compliance Bulletin

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IRS provides guidance and special options for EGTRRA determination letter Cycle D plans

Each year, the IRS publishes a “Cumulative List of Changes in Plan Qualification Requirements” that must be reflected in the individually-designed plan documents submitted for determination letters in the filing cycle beginning on the next February 1. The [2008 Cumulative List](#) applies to plans submitted in Filing Cycle D. Single employer plans sponsored by employers with employer identification numbers (EINs) ending in 4 or 9 and multiemployer plans must file requests for Economic Growth and Tax Relief Reconciliation Act of 2001 (EGTRRA) determination letters in [Cycle D](#). The Cycle D submission period opens on February 1, 2009, and will close on January 31, 2010.

In addition to listing the provisions that must be reflected in Cycle D plan documents, the 2008 Cumulative List provides some special options for Cycle D plans.

Pension Protection Act of 2006 (PPA) provisions

In general, plan sponsors must amend their plans to reflect PPA requirements by the last day of the first plan year beginning on or after January 1, 2009. As a result, a plan with a calendar plan year must be amended to reflect applicable PPA provisions by December 31, 2009. The PPA amendment deadline for a plan with a 12-month plan year beginning on July 1, 2009 is June 30, 2010.

The 2008 Cumulative List requires all plans submitted in Cycle D to reflect all applicable PPA provisions, regardless of the plan’s actual PPA amendment deadline. As a result, plans with plan years ending after January 31, 2010 would have to adopt these provisions earlier than required by PPA.

Filing relief for certain Cycle D plans

To provide relief to sponsors of Cycle D plans with 2009 plan years ending after January 31, 2010, the IRS will allow these plans to file their EGTRRA determination letter requests during Cycle E. The Cycle E filing period begins on February 1, 2010, and ends on January 31, 2011. However, plan sponsors must still adopt appropriate interim and discretionary PPA amendments by the PPA amendment deadline.

To take advantage of this filing relief, the plan sponsor simply does not file a determination application during Cycle D, but files one during Cycle E. The plan sponsor does not need to complete any type of election form or notify the IRS of its intent to file during Cycle E.

An election to file a determination letter request in EGTRRA Cycle E *does not* permanently change a plan’s filing cycle. The plan’s next filing period will be the Cycle D period that begins on February 1, 2014, and ends on January 31, 2015. A plan that files in EGTRRA Cycle E must meet all the requirements for a plan that normally files in Cycle E. This includes the requirement for the plan to reflect all applicable items on the Cycle E Cumulative List, which will be more extensive than the 2008 Cumulative List.

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HEART Act provisions

In general, plan sponsors must amend their plans to reflect Heroes Earnings Assistance and Relief Tax Act of 2008 (HEART Act) requirements by the last day of the first plan year beginning on or after January 1, 2010.

Plan sponsors *may* incorporate the appropriate [HEART Act provisions](#) in their Cycle D documents. However, the IRS generally will *not* review these provisions and the resulting determination letters will not cover these provisions. The one exception to this rule is the reflection of the HEART Act's extension of qualified reservist distributions to individuals ordered or called to duty after December 31, 2007. The IRS will treat this provision as a PPA provision.

Plan sponsors that do not include the HEART Act provisions in their EGTRRA plan restatements will have to separately adopt the appropriate interim and discretionary amendments by the last day of the first plan year beginning on or after January 1, 2010.

Plan sponsor action

Sponsors of Cycle D plans should review the special options provided by the IRS for their EGTRRA restatements and determination applications. If you wish to take advantage of any of these provisions, you should be sure to communicate your intentions to your document provider.



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