



# Compliance Advisory

July 2010

## IRS extends EGTRRA deadline for plans in certain federally declared disaster areas

On June 21, 2010, the IRS issued [Notice 2010-48](#) to provide relief to sponsors of pre-approved defined contribution plans (i.e., prototype and volume submitter plans) that were affected by recent federally declared disasters and that were required to adopt an EGTRRA plan document by April 30, 2010. This notice extends to July 30, 2010, the deadline for adopting restated defined contribution plan documents and if applicable, for submitting determination letter requests to the IRS.

### Background

In 2008, the IRS established an April 30, 2010, deadline by which adopting employers had to adopt EGTRRA-approved prototype and volume submitter defined contribution plans. In addition, the IRS provided a two-year window for submitting applications for determination letters, which also ended on April 30, 2010.

The Internal Revenue Code provides that the IRS may provide relief from certain deadlines when there has been a federally declared disaster or a terroristic or military action. As a result, the IRS has now provided relief to [affected plans](#) in certain counties in the following eight states that were affected by flooding, severe storms, and tornadoes:

- Alabama;
- Connecticut;
- Massachusetts;
- Mississippi;
- New Jersey;
- Rhode Island;
- Tennessee; and
- West Virginia.

The deadline by which an employer that maintains an [affected plan](#) must adopt an EGTRRA-approved prototype or volume submitter defined contribution plan and submit a determination letter, if applicable, is extended to July 30, 2010.

The [Federally Declared Disaster Area Chart](#) appearing at the end of this publication provides additional information regarding the affected counties in each state and the applicable disaster date.

### Affected plans

A plan is an “affected plan” only if any of the following locations relating to the plan were in the federally declared disaster areas identified in the [Federally Declared Disaster Area Chart](#) at the time of the disaster:

- The principal place of business of the employer that maintains the plan (disregarding the controlled group rules);
- The principal place of business of the employer that employs more than 50% of the active participants covered by the plan (determined by disregarding the controlled group rules);
- The office of the plan or plan administrator;
- The office of the primary recordkeeper serving the plan; or
- The office of any advisor that had been retained by the plan or the employer at the time of the storms or the severe weather that was directly involved with the adoption of the EGTRRA-approved prototype or volume

your Rock for Retirement®



submitter plan or that is directly involved in submitting a determination letter application to the IRS by the due date of April 30, 2010.

For purposes of the last three items, “office” includes only the worksite of those individuals, and the location of any records, necessary to adopt the EGTRRA-approved plan or to submit the plan’s determination letter application to the IRS.

**Determination letter application**

An employer submitting a determination letter application should write “Extension Relief per Notice 2010-48” in the upper margin of the cover letter. This should *not* be written on the determination letter application form.

**Federally Declared Disaster Area Chart**

State	Affected Counties	Applicable Disaster Date
Alabama	DeKalb, Marshall and Walker.	April 2010
Connecticut	Fairfield, Middlesex, New Haven, New London and Windham.	March 2010
Massachusetts	Bristol, Essex, Middlesex, Norfolk, Plymouth, Suffolk and Worcester.	March 2010
Mississippi	Attala, Choctaw, Holmes, Monroe, Oktibbeha, Union, Warren and Yazoo.	April 2010
New Jersey	Atlantic, Bergen, Burlington, Cape May, Cumberland, Essex, Gloucester, Mercer, Middlesex, Monmouth, Morris, Ocean, Passaic, Somerset and Union.	March 2010
Rhode Island	Bristol, Kent, Newport, Providence and Washington.	March 2010
Tennessee	Benton, Cannon, Carroll, Cheatham, Chester, Clay, Crockett, Davidson, Decatur, DeKalb, Dickson, Dyer, Fayette, Gibson, Giles, Hardeman, Hardin, Haywood, Henderson, Hickman, Houston, Humphreys, Jackson, Lauderdale, Lawrence, Lewis, Macon, Madison, Marshall, Maury, McNairy, Montgomery, Obion, Perry, Putnam, Robertson, Rutherford, Shelby, Smith, Stewart, Sumner, Tipton, Trousdale, Wayne, Williamson and Wilson.	April-May 2010
West Virginia	Fayette, Greenbrier, Kanawha, Mercer and Raleigh.	March 2010



**Compliance Advisory by Prudential Retirement**

The Compliance Advisory is published by Prudential Retirement, a Prudential Financial business, to provide clients with information on current developments affecting qualified retirement plans. This publication is distributed with the understanding that Prudential Retirement is not rendering legal advice. Plan sponsors should consult their attorneys about the application of any law to their retirement plans.

Editor: Mitzi Romano (860) 534-2768