



Pension Analyst

Compliance Bulletin

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IRS modifies remedial amendment cycle rules for governmental plans

In a [special edition of its "Employee Plans News" publication](#), the IRS announced a one-time modification of the staggered remedial amendment cycle process for sponsors of all types (i.e., single-employer, multiemployer, and multiple employer) of individually-designed qualified governmental plans. The remedial amendment cycle rules do not currently apply to 403(b) plans or to section 457(b) plans.

Under the [standard remedial amendment cycle rules](#), sponsors of individually-designed qualified defined benefit and defined contribution governmental plans must file requests for Economic Growth and Tax Relief Reconciliation Act of 2001 (EGTRRA) determination letters during filing Cycle C. The Cycle C submission period opened on February 1, 2008, and will close on January 31, 2009.

In general, a governmental plan that uses a volume submitter plan document remains under the six-year filing cycle that applies to preapproved plans. The deadline for requesting an EGTRRA determination letter for a defined contribution volume submitter plan (if needed) is [April 30, 2010](#). Governmental plans that use prototype plan documents cannot rely on the sponsor's Opinion Letter and must request determination letters under the rules that apply to individually-designed plans.

What is the modification?

Recognizing that special obstacles may prevent the sponsor of a governmental plan from submitting a determination letter application during the standard filing time period, the IRS will now 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.

To take advantage of this special offer, the plan sponsor simply does not file a determination application during Cycle C, 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.

What if the plan sponsor has already filed during Cycle C?

Plan sponsors that submitted their EGTRRA determination letter requests by November 7, 2008, may withdraw those applications and re-file during Cycle E. To withdraw a determination application, the plan sponsor must submit a written withdrawal request to the IRS, postmarked by January 31, 2009. When the request is granted, the IRS will refund the determination letter user fee paid by the plan sponsor.

Are there any drawbacks to filing in Cycle E?

An election to file a determination letter request in EGTRRA Cycle E *does not* permanently change a governmental plan's filing cycle. The plan's next filing period will be the Cycle C period that begins on February 1, 2013, and ends on January 31, 2014. As a result, additional document restatement expenses and IRS filing user fees will occur just three years after the same expenses were incurred for EGTRRA.

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

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than the Cycle C Cumulative List. In addition, the plan sponsor will have to adopt required interim amendments during Cycles C and D.

Are there any benefits to filing in Cycle C?

The IRS would prefer to have as many governmental plans as possible file during EGTRRA Cycle C. To that end, they are offering several incentives to encourage Cycle C filings:

- Governmental plan sponsors that file determination letter requests in EGTRRA Cycle C will go to the front of the IRS Cycle C review line.
- A governmental plan sponsor that files during Cycle C will be eligible for reduced fees or penalties under the Employee Plans Compliance Resolution System (EPCRS) if it files a voluntary compliance application by January 31, 2009. The plan sponsor will have to provide proof of its Cycle C filing when it files its voluntary compliance application, but [the proof will differ](#) based on the timing of the determination and compliance applications.
- A plan sponsor that files both its EGTRRA determination letter request and a Voluntary Correction Program (VCP) application before January 31, 2009, will have its VCP submission moved to the front of the review line.
- If the IRS discovers a document failure in its review of a governmental plan filed during Cycle C, the applicable sanction will be reduced by one-half.

How is Prudential Retirement responding to this special modification?

If Prudential Retirement provides document services for your plan and you have already received your EGTRRA document and filing package but would like to take advantage of the Cycle E filing option, please contact your Prudential representative.

If you have questions about how this modification affects your plan, please contact your Prudential representative for additional information.



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