



Bi-Monthly Report

May - June 2006

Volume 15 Issue 3

When does my Pension Plan have to be Restated?

Introduction

New laws and regulations that govern qualified pension plans require plan amendments in order for the Plan to remain qualified and in compliance. Periodically the Internal Revenue Service requires that qualified plans be restated to incorporate changes resulting from several law and regulation changes. In addition to restatements, the IRS requires that plan sponsors adopt interim amendments.

Revenue Procedure 2005-66 completely redesigned the timing of restatements, creating a system of cyclical amendment periods. Details of these cycles follow.

Timing of Restatements

The timing of the restatements depends on the classification of the Plan as an individually designed plan, or as a pre-approved plan. Pre-approved plans include prototype and volume submitter plans. Individually designed plans will have to be restated over five-year cycles and pre-approved plans over six-year cycles. Each classification is further separated into categories which determine the timing requirement of the adoption of the restatement. Pension Review Services generally uses pre-approved plans, as do most practitioners in the small plan market.

Individually Designed Plans

An individually designed plan is categorized based on the last digit of the Plan Sponsor's Employer Identification Number (EIN). Five year cycles are established. In other words every fifth year the Plan will have to be restated to keep current with new laws and regulations. The table below defines which plans fall into which cycles and the last day of the first cycle. The next five-year cycle would end five years following the first.

Last digit of EIN	Cycle	Last day of first Amendment Cycle
1 or 6	A	January 31, 2007
2 or 7	B	January 31, 2008
3 or 8	C	January 31, 2009
4 or 9	D	January 31, 2010
5 or 0	E	January 31, 2011

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Pre-Approved Plans

Under the new system, there are two six-year cycles for pre-approved plans - one for defined contribution plans and the second for defined benefit plans. The first cycle for defined contribution plans ends January 31, 2011; for defined benefit plans, January 31, 2013. Plan restatements need to be adopted by these dates. Using a pre-approved plan extends the deadline dates from those of individually designed plans.

Time to Restate

In order to determine when you have to next restate your Plan, you first need to determine if you have an individually designed or a pre-approved plan. Amendments that change the pre-approved language of a Prototype or Volume Submitter plan may result in the IRS reclassifying the plan as an individually designed plan.

However, the IRS has provided a "security blanket" which can be used to restate the plan as a pre-approved plan - Form 8905. Restating the plan as a pre-approved plan will be considerably cheaper, require less frequent restatements than an individually designed plan, and initially provides more time before the restatement needs to be adopted.

Form 8905

Form 8905, Certification of Intent to Adopt a Pre-approved Plan provides that the Plan Sponsor intends to restate and amend its plan by using a pre-approved plan, governed by the six-year cycle for pre-approved plans. The certificate does not obligate the Sponsor to utilize the particular plan document listed on the Form. The Form must be executed prior to the end of the original restatement period, the first of which is January 31, 2007.

What to do

In order to extend the restatement deadlines for our clients to January 31, 2011 for defined contribution plans and January 31, 2013 for defined benefit plans, we will be recommending that all Plan Sponsors sign, date, and keep on file an executed Form 8905. To ensure that all plans are timely amended, we further recommend that all Forms be completed by January 31, 2007. We will be mailing the Form shortly to all our clients.

Pension Review Services
45 Executive Drive Ste 1-GL
Plainview, NY 11803-1708
Phone: (516) 349-5500 Fax: (516) 349-0015
www.pensionreviewservices.com
e-mail: info@pensionreviewservices.com