



SPECIAL BULLETIN

IRS Updates Determination Letter Procedures Eliminates Requirement For Redline Of Changes

The Internal Revenue Service (IRS) issued the annual update to its general procedures for employee plan determination letter requests and other procedural matters in Internal Revenue Bulletin (IRB) 2009-1, available at <http://www.irs.gov/pub/irs-irbs/irb09-01.pdf> or by "[clicking here.](#)" Of particular interest in IRB 2009-1 is Revenue Procedure 2009-6, which updates the procedures for determination letter submissions. Revenue Procedure 2009-6 is available online at http://www.irs.gov/irb/2009-01_IRB/ar11.html or by "[clicking here.](#)"

As noted in prior Research Department publications, multiemployer plans are to be submitted for their determination letters in the current determination letter cycle, which runs from February 1, 2009 to January 31, 2010. See [Client Bulletin 2005-39](#).

One item of welcome news is the elimination of the requirement of Revenue Procedure 2008-6 that a plan submitted for a determination letter be submitted in a redline or highlighted format showing all changes to the plan document made since the plan's last determination letter. Section 6.05 of Revenue Procedure 2009-6 states, in part:

"All changes made to the most recently approved version of the plan may be, but are not required to be, redlined or highlighted."

Revenue Procedure 2009-6 supersedes Revenue Procedure 2008-6. In addition to minor revisions, such as updating references, the following changes have been made:

- Section 2.03 is revised to reference the 2008 Cumulative List, Notice 2008-108, 2008-50 I.R.B. 1275; Announcement 2008-23, 2008-14 I.R.B. 731; and Revenue Procedure 2008-56, 2008-40 I.R.B. 826.
- Section 3.03 is revised to reference the first submission period for Cycle D individually designed plans and § 414(f) multiemployer plans.

- **Section 6.05 is revised to eliminate the requirement that all changes made to the prior plan document be identified.**
- Section 6 is revised to eliminate the pre-notification requirement when submitting 30 or more on-cycle individually designed plans at one time.
- Section 7.02 is revised to reference the first submission period for Cycle D individually designed plans and § 414(f) multiemployer plans; and to include Form 8905, *Certification of Intent To Adopt a Pre-approved Plan*, as an item to be submitted with a determination letter application.
- Section 7.04 is revised to clarify that a working copy of a plan is not a document that is intended to be adopted.
- Section 9.02 is revised to include the applicable provisions of Announcement 2008-23.
- Section 9.02(2) is revised to include Form 8905, *Certification of Intent To Adopt a Pre-approved Plan*, as an item to be submitted with a determination letter application.
- Section 9.03 is revised to include the applicable provisions of Announcement 2008-23.
- Section 9.04(3) is clarified with respect to the necessity of the trust or custodial agreement in order to verify that the trustee executed the document.
- Section 9.05 is revised to include the applicable provisions of Announcement 2008-23.
- Section 9.07 is revised to include the dates of the two-year window (May 1, 2008 through April 30, 2010).
- Section 10.02 is revised to include the applicable provisions of Announcement 2008-23.
- Section 14.02(3) is revised to explain that an employer subject to § 414(m) or § 414(n) must submit a restated plan that reflects the Cumulative List in effect when the application is filed, unless the plan is a pre-approved plan.
- Section 14.08 is revised to provide that when an employer, that has adopted a pre-approved plan, is requesting a determination regarding affiliated service group status or leased employees, the plan will be reviewed on the basis of the Cumulative List that was used to review the underlying pre-approved plan.
- The effective date in Section 23 is revised to coincide with the beginning of Cycle D (February 1, 2009).

Plan professionals responsible for the drafting and/or review of the determination letter submission will want to review Revenue Procedure 2009-6 in its entirety. The above list of changes from Revenue Procedure 2008-6 is intended to compliment such review.

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