

BENEFIT NEWS BRIEFS

Update on IRS' Employee Plans Compliance Unit Multiemployer Plans Projects

A recent IRS newsletter reported on the IRS' Employee Plans Compliance Unit (EPCU) activities. The EPCU develops compliance projects and performs data analysis to focus on areas of potential non-compliance. Taxpayers are contacted by correspondence, telephone and/or other media (*not e-mail*) and most issues are resolved without an on-site examination of the plan's records. To date, the EPCU has conducted over 16,000 compliance checks.

The EPCU home page contains links to FAQs, form letters, correspondence and archived reports, among other information and is located at: <http://www.irs.gov/retirement/article/0,,id=171015,00.html>. The EPCU has 16 current compliance projects open. Two of these specifically concern multiemployer pension plans.

These two projects are:

- Multiemployer Actuarial Certification/WRERA Elections Compliance Project (<http://www.irs.gov/retirement/article/0,,id=205671,00.html>)
- Multiemployer Defined Benefit Plan Certification Compliance Project (<http://www.irs.gov/retirement/article/0,,id=231828,00.html>)

Multiemployer Actuarial Certification/WRERA Elections

The Multiemployer Actuarial Certification/WRERA Elections Compliance Project is concerned with verification that all multiemployer plans have filed a *PPA* funding certification that is complete and timely. The EPCU is reviewing the *PPA* certifications to ensure all information required under Code Section 432 is contained in the certification. In subsequent years, any plans that fall into the status of Endangered, Seriously Endangered, or Critical will be reviewed for follow-up action.

As you recall, the *Pension Protection Act of 2006 (PPA)* imposed additional funding rules for multiemployer plans. Section 432(b)(3) of the Code requires an Annual Actuarial Certification be made by the plan actuary which must be completed no later than 90 days after the end of the plan year. The plan actuary must certify:

- Whether the plan is in Endangered status for such plan year,
- Whether the plan is or will be in Critical status for such plan year, and
- In the case of a plan which is in a funding improvement or rehabilitation period, whether the plan is making the scheduled progress in meeting the requirements of its funding improvement or rehabilitation plan.

The Multiemployer Actuarial Certification/WRERA Elections Compliance Project homepage is at: <http://www.irs.gov/retirement/article/0,,id=205671,00.html> and contains links to IRS and DOL webpages with relevant guidance and articles.

Multiemployer Defined Benefit Plan Certification Compliance Project

This was a more targeted compliance project. Compliance contact letters were sent to approximately 150 plan sponsors that appeared had not submitted required certification to the IRS. The majority of the responses fell into one of the following categories:

1. The plan was actually a single employer plan rather than a multiemployer plan and had checked the wrong box on the Form 5500.
2. The plan filed the certification however there was a mismatched EIN or plan number.
3. The plan had merged with another plan and the certification was correctly and timely filed by the other entity.
4. The plan had terminated and/or had a mass withdrawal and verified that the plan had been taken over by the PBGC.
5. The plan had failed to provide a copy of the certification to the IRS (in some cases believing that a "Green zone" plan was not required to file a certification).
6. Incomplete, incorrect or clerical error (typo, transposition, missing EIN/plan number).

According to the IRS, the majority of plan sponsors who were contacted have responded and the inquiries regarding their plans have been resolved and a closing letter has been issued. The IRS will send a follow-up letter to the non-responders. A sample contact letter is available by "[clicking here](#)" or from the IRS website at: http://www.irs.gov/pub/irs-tege/epcu_letter1562m.pdf. It was not clear whether the project would be continued with additional follow-ups over time.

The EPCU webpage also contains a set of seven *Frequently Asked Questions (FAQs)* on the general EPCU compliance process which are available at <http://www.irs.gov/retirement/article/0,,id=171163,00.html> or by "[clicking here](#)."

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