



BENEFIT NEWS BRIEFS

IRS Publishes 2015 Cumulative List

IRS Notice Declares "Expiration Dates" in Determination Letters Inoperative

The IRS has published the [2015 Cumulative List](#) of Changes in Plan Qualification Requirements. Before the demise of the individually designed determination letter program, the annual Cumulative Lists were used to inform such plan sponsors of issues the IRS has specifically identified for review in determining whether a plan filing in a certain Cycle had been properly updated. The annual Cumulative List and [IRS Reference Lists](#) will be valuable tools for plan sponsors to monitor their plan's written compliance with the requirements of the Code.

Previous Cumulative Lists are available at: <https://www.irs.gov/Retirement-Plans/Cumulative-List-of-Changes-in-Retirement-Plan-Qualification-Requirements>.

Only a few of the items on the 2015 Cumulative List are new this year, and not all of the new changes affect multiemployer plans. Most qualified plans have been amended for the majority, if not all, of these items. In particular, the 2015 Cumulative List reflects qualification requirements under laws ranging from the *Pension Protection Act of 2006 (PPA '06)* to the *Surface Transportation and Veterans Health Care Choice Improvement Act of 2015*. The "new" items are listed below and only the optional changes made by the *Multiemployer Pension Reform Act of 2014 (MPRA)* (last two bullet points below) may directly affect multiemployer pension.

All of the items listed as "new" for the 2015 Cumulative List are:

- Notice 2015-28 extends the temporary nondiscrimination relief previously established in Notice 2014-5 for certain "closed" defined benefit pension plans.
- Notice 2015-49 informs taxpayers that the Treasury Department and the IRS intend to propose amendments to the required minimum distribution regulations under Section 401(a)(9) to address the use of lump sum payments to replace annuity payments being paid by a qualified defined benefit pension plan and that these amendments are intended to apply as of July 9, 2015 except with respect to certain accelerations of annuity payments described in the notice.

- Division P of the Consolidated and Further Continuing Appropriations Act, 2015, Section 2 adds Section 411(f) which provides a special rule for determining normal retirement age for certain existing defined benefit plans.
- Section 2007 of the Surface Transportation and Veterans Health Care Choice Improvement Act of 2015 amends Section 420 to extend the provisions relating to transfers through December 31, 2025.
- Section 432(e)(9), as amended by the Multiemployer Pension Reform Act of 2014 (MPRA), contained in Division O of the Consolidated and Further Continuing Appropriations Act, 2015, permits plan sponsors of *multiemployer plans* to suspend benefits if certain conditions are satisfied.
- Temporary regulations provide guidance to enable plan sponsors of *multiemployer plans* to suspend benefits if certain conditions are satisfied (80 Fed. Reg. 35207).

Items from the 2010 Cumulative List have been deleted from the 2015 Cumulative List. The 2015 Cumulative List thus contains the plan qualification requirements in the 2011, 2012, 2013 and 2014 Cumulative Lists, as well as additional 2015 plan qualification requirements. However, if a plan has not been previously reviewed for items on earlier cumulative lists, the items from the earlier cumulative lists must be taken into account. These items can be found in the 2010 Cumulative List, [Notice 2010-90](#).

Individuals responsible for plan document compliance may wish to spend some time reviewing the list for items that may be applicable to their plan.

Expiration Dates On Determination Letters Issued Before January 4, 2016

In light of the discontinuance of the individually designed plan regular determination letter process, questions had arisen concerning the built-in "5-year expiration date" that was a standard part of recent determination letters. In [Notice 2016-03](#), the IRS addressed the "5-year expiration date" for individually designed plan in that regard:

Revenue Procedure 2007-44 will be modified to provide that expiration dates included in determination letters issued prior to January 4, 2016, are no longer operative. Future guidance will clarify the extent to which an employer may rely on a determination letter after a subsequent change in law or plan amendment.

Pursuant to [Notice 2016-06](#), as of January 4, 2016, determination letters issued to individually designed plans will no longer contain an expiration date.

* * *

LEGAL DISCLAIMER: Information contained in this publication is not legal advice, and should not be construed as legal advice. If you need legal advice upon which you can rely, you should seek a legal opinion from your attorney.