



BENEFIT NEWS BRIEFS

IRS Releases New Procedures for Remedial Amendments and Determination Letters For Individually Designed Plans

The IRS recently released [Revenue Procedure 2016-37](#) which changes the (1) Determination Letter Program for tax-qualified individually designed plans (IDPs), (2) the requirements for when required plan amendments must be adopted, and (3) when IDPs may request a determination letter. The changes are generally effective January 1, 2017.

Multiemployer retirement plans (DB and DC) are generally IDPs.

A specially prepared copy of Revenue Procedure 2016-37 with a table of contents for ease of navigation is available by "[clicking here](#)."

Background

[Revenue Procedure 2007-44](#) provided a remedial amendment cycle (RAC) system for amended IDPs to request a determination letter generally every five years. Under that system, plans had to adopt interim amendments for items on the [Cumulative List](#) of required plan changes. This system required IDPs to amend their plans on an interim basis by the end of the year in which the amendments became effective. IDPs would then have to make final conforming amendments at the end of their five-year RAC cycle. Multiemployer plans were filed in Cycle D.

[Announcement 2015-19](#) stated that the RAC system would end, and a replacement system for the remedial amendment period would be created. Revenue Procedure 2016-37 ends the old RAC system and replaces it with a new approach to the remedial amendment period.

The New Remedial Amendment Period Under Revenue Procedure 2016-37

Under Revenue Procedure 2016-37, the rules for making required amendments are:

- An IDP's remedial amendment period for **required** amendments will be tied to a **Required Amendment List (RA List)** *unless legislation or other guidance states otherwise.*

- The RA List is the annual list of all the amendments for which an IDP must be amended to retain its qualified plan status.
- IRS will publish the RA List after October 1 of each year.
- Generally, plan sponsors must adopt any item placed on the RA List *by the end of the second calendar year following the year the RA List is published.*

For example, plan amendments for items on the 2016 RA List generally must be adopted by December 31, 2018.
- Interim amendments will no longer be required for IDPs.
- Discretionary amendments will still be required by the end of the plan year in which the plan amendment is operationally put into effect. There are no changes in that rule.
- Revenue Procedure 2016-37 doesn't change a plan's operational compliance standards. Employers need to operate their plans in compliance with any change in qualification requirements from the effective date of the change, regardless of the plan's 401(b) period for adopting amendments.
- To assist employers, IRS intends to *provide an Operational Compliance List annually* to identify changes in qualification requirements that are effective during a calendar year.

We will continue to report on the new IRS aids as they are released.

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