



BENEFIT NEWS BRIEFS

IRS Publishes 2016 List of Amendments Required by Qualified Retirement Plans

As reported in *Benefit News Briefs 2016-35*, with the end of the five-year determination letter cycles, the IRS has adopted new procedures for when qualified individually-designed plans (IDPs) must be amended for changes in the law. Most multiemployer qualified retirement plans are IDPs. This includes both multiemployer defined benefit and defined contribution plans. In this news brief we will take a look at IRS *Notice 2016-80* which lists any required amendments needed by IDPs before December 31, 2018.

In short, the Notice states there are NO required qualification-related amendments needed at this time.

However, since it has been a while since we first reported on these new qualified IDP amendment procedures, we will review the basic rules under the new IRS procedures set out in *Revenue Procedure 2016-37*.

Under *Revenue Procedure 2016-37*, the rules for making required amendments for IDPs 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 will be an 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.

In general, a change in qualification requirements will not appear on an RA List until guidance with respect to that change (including, in certain cases, model amendments) has been provided in regulations or in other guidance published in the Internal Revenue Bulletin. However, in the discretion of the Treasury Department and the IRS, a change in qualification requirements may be included on an RA List in other circumstances, such as in cases in which a statutory change is enacted and the Treasury Department and the IRS anticipate that no guidance will be issued.

The Notice explained that the RA List is divided into the following two parts:

- Part A covers changes in qualification requirements that generally would require an amendment to most plans or to most plans of the type affected by the change.
- Part B includes changes in qualification requirements that the Treasury Department and the IRS anticipate will not require amendments in most plans, but might require an amendment because of an unusual plan provision in a particular plan.

If a change affects a particular qualification requirement that most plans incorporate by reference, Part B would include the change because a particular plan might not incorporate the qualification requirement by reference and thus, might contain language inconsistent with the change.

The fact that a change in a qualification requirement is included on the RA List does not mean that a plan must be amended as a result of that change. Each plan sponsor must determine whether a particular change in a qualification requirement requires an amendment to its plan.

* * *

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.