

Don't Drop the Ball on Your Determination Letter Applications

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If you sponsor a qualified retirement plan and your EIN ends in either a 3 or 8, you should review your plan with your advisors as soon as possible to determine if you need to submit a determination letter application to the IRS—which would be due by **January 31, 2014**.

Individually designed retirement plans should be submitted to the IRS every five years to ensure their continued qualified status. Generally, if a plan is operated in accordance with its terms and has received a favorable determination letter, the plan sponsor will be able to rely on plan's favorable determination letter until its expiration date. This reliance is conditioned on the timely adoption of amendments that reflect new legal requirements.

As readers know, a failure to maintain the qualified status of your plan can be costly. You may need to submit a corrective application, be subjected to additional fees and penalties, and you may even be required to take retroactive corrective actions that can be time consuming and expensive. Worst of all, you could lose the benefits of your plan's tax qualified status, which could result in the loss of:

- employer deductions for contributions made to a plan; and
- employee tax deferrals for contributions made to the plan; and
- tax-deferrals on any earnings resulting from employer and employee contributions.

Determination letter applications are not difficult, but they are time-consuming. Therefore, it is important for you to review your plans as soon as possible to determine if you need to begin preparing an application. One important thing to note is that the IRS will no longer accept a working copy of a plan document in an application. Therefore, as part of your application you will need to prepare a plan restatement. This presents a great opportunity to carefully go through your plan and clean up any problem areas. However, you should be cognizant that, depending on how your plan administration is structured, you may need to obtain final approval of the restated plan document from your compensation or executive committees.

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