

Publications

IRS Determination Letters Are Back in Play for Certain Ongoing Plans

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It has been several long years since budget restraints restricted the Internal Revenue Service’s (“IRS”) long standing determination letter program for 401(a)/401(k) qualified plans, which provided a process where plan sponsors could seek a determination from the IRS that the form of their individually designed plan document met the complex provisions of the Internal Revenue Code. Without this program, plan sponsors were left with some difficult decisions regarding how best to ensure that the plan remains tax-qualified, including whether a legal opinion should be sought or whether to consider moving to a pre-approved plan. So we are pleased to report that the IRS has re-opened the program for certain selected plans, providing an invaluable benefit to these plan sponsors who will now be able to obtain a Form 5300 determination letter on an on-going individual designed plan.

Specifically, in response to periodic requests to expand the determination letter program, the IRS has issued welcome guidance in Rev. Proc. 2019-20.1 The guidance reopens the determination letter program for statutory hybrid plans (e.g., cash balance plans) and merged plans, and provides sanction relief from plan document failures identified and corrected as part of those determination letter applications. We briefly review the prior program and summarize the Revenue Procedure in the article linked below.

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