

Publications

Relief from the One Bad Apple Rule Is Coming (But Not Without a Price)

ATTORNEYS & PROFESSIONALS

Elizabeth Thomas Dold

edold@groom.com

202-861-5406

David Levine

dlevine@groom.com

202-861-5436

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Multiple employer plans (“MEPs”) have long struggled with the historic rule that provides that if a single plan sponsor in a MEP fails the plan qualification rules under the Internal Revenue Code (“Code”), then the entire plan for all the plan sponsors would be disqualified. This is called the “unified plan” rule, or, more commonly called, the “one bad apple” rule. Although providers of MEPs had lived with this rule for a very long time without incidents, when the SECURE Act created the popular “Pooled Employer Plan” (“PEP”), the statute expressly provided for relief from this rule. As a result of the legislative change, the Internal Revenue Service (“IRS”) withdrew proposed regulations that were issued in 2019 that were designed to provide relief from the rule for MEPs, and issued new proposed regulations.

The rather complex (and onerous) process of obtaining relief from the “one bad apple” rule in the revised proposed regulations is set forth below, which picks up the numerous notice requirements that were in the initial proposed regulations and adds more complications with a participant election and required plan amendments.

In this *TAXES – The Tax Magazine* article, Groom’s [Elizabeth Dold](#) and [David Levine](#) take a look at the complex and lengthy process involved in obtaining relief from the “one bad apple” rule in the IRS’s revised proposed regulations, including the numerous notice requirements that were in the initial proposed regulations, and the additional complications regarding participant election and required plan amendments.

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