

Publications

View from Groom: The Shape of Things to Come – New IRS Guidance on Downsized DL Program

ATTORNEYS & PROFESSIONALS

Louis T. Mazawey

lmazawey@groom.com

202-861-6608

J. Rose Zaklad

rzaklad@groom.com

202-861-6626

PUBLISHED

08/17/2016

SERVICES

[Employers & Sponsors](#)

[Retirement Programs](#)

Last summer, the Internal Revenue Service (the “Service” or “IRS”) announced dramatic changes in its longstanding determination letter program for tax-qualified plans (Announcement 2015-19). Effective January 1, 2017, the Service will eliminate the staggered 5-year determination letter remedial amendment cycles for individually designed plans (“IDPs”), and effective July 21, 2015, no longer accepts off-cycle determination letters.

Notice 2016-03 (Jan. 19 IRS Bulletin) announced that expiration dates on determination letters issued before January 4, 2016 are no longer operative — and new letters no longer have them. The Service added that future guidance will clarify the extent to which employers may rely on these “evergreen” letters when the law changes or the plan is amended. Consistent with the Service’s objective to move more employers with individually designed plans to pre-approved plans, Notice 2016-03 also provided a one-year extension — from April 30, 2016 to April 30, 2017 — for an employer not currently on a preapproved defined contribution plan to adopt one (and apply for a determination letter, if permitted). This applies to new and existing defined contribution IDPs.

Revenue Procedure 2016-37 (the “Revenue Procedure”), issued on June 29, solidifies and expands on the changes announced last summer and earlier this year. On a positive note, some of the changes appear to be designed to ease the compliance burden on sponsors of IDPs who have been concerned about the ability to maintain their plans’ tax-qualified status under the new regime. Exactly how much comfort plan sponsors will take in this new guidance, however, remains to be seen.

In the attached article, we describe key changes made by the Revenue Procedure, including changes applicable to all IDPs generally. (IDPs generally include all single employer plans — as well as multiemployer plans and multiple employer plans — that are not pre-approved plans.) Parts III and IV highlight special rules applicable to IDPs maintained by governmental and tax-exempt entities and Part V covers expected changes for preapproved plans.

[View from Groom: The Shape of Things to Come – New IRS Guidance on Downsized DL ProgramDownload](#)