

IRS Suspends IRA Opinion Letter Program (Just Temporarily)

PUBLISHED: March 15, 2022

The IRS recently announced (in [Announcement 2022-6](#)) that effective as of March 14, 2022, and until further notice, the IRS will not accept applications — IRS Forms 5306 and 5306-A — for IRA opinion letters. This includes requests regarding traditional IRAs, Roth IRAs, SIMPLE IRAs, SEP IRAs, and SIMPLE IRA plans. (And any filings made will be returned.)

Not to fret, the IRS explains that this temporary measure is taking place in order to give the IRS time to (1) update the model IRA forms (including Forms 5305, 5305-A, 5305-R, 5305-RA, 5305-RB, 5305-S, 5305-SA, 5304-SIMPLE, 5305-SIMPLE, 5305-SEP, 5305A-SEP), (2) issue updated Listings of Required Modifications (“LRMs”), which is model language used to review prototype IRAs (including IRAs, SEPs, and SIMPLE IRA plans), and (3) update the IRA opinion letter program and issue any other guidance on recent legislative changes (including the SECURE Act).

Importantly, the announcement makes clear that adopters of prototype IRAs, SEPs, and SIMPLE IRA plans may continue to rely on the prior opinion letter, and sponsors of prototype IRAs, SEPs, and SIMPLE IRA plans are permitted to amend their documents to reflect recent legislation without losing reliance on the opinion letter. Moreover, IRA providers may continue to use the existing model forms listed above for existing and new customers.

Coming next is a new Revenue Procedure that will describe procedures for submitting a request for an IRA opinion letter. This pending guidance will include (1) when applications may be submitted under the new procedure, and (2) when revised model IRA forms must be used. So stay tuned!

Therefore, this announcement, although it suspends the ability to get new or updated IRA opinion letters, does provide reliance on the existing pre-SECURE Act documents and opinion letters. Hopefully, this new guidance is issued well before the December 31, 2022 CARES and SECURE Act amendment deadline (or such deadline is extended)!

If you have any questions, please do not hesitate to contact your regular Groom attorney or the authors listed below:

Kimberly Boberg

kboberg@groom.com

(202) 861-2606

Elizabeth Dold

edold@groom.com

(202) 861-5406

David Levine

dlevine@groom.com

(202) 861-5436

David Powell

dpowell@groom.com

(202) 861-6600