



Governmental Plans Tax Update

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Determination Letter Update

- Cycle C versus Cycle E
 - Cycle C ended February 2, 2009
 - Cycle E started February 1, 2010 and ends January 31, 2011
- Status of Cycle C Filings
 - 1,700 Cycle C Filings (governmental plans)
- Related Correction Filings
 - Of the 1,700 filings approximately 200 included VCPs

Determination Letter Update *(cont'd)*

- VCPs have moved quickly
 - The streamlined procedures have proved very helpful.
 - There were some initial questions about the procedures for adoptions of amendments.
 - Some early compliance statements were processed with the normal deadline for corrections – 150 days.
 - More recently the deadline for plan amendments under the VCPs has been coordinated with the deadline for amendments for the determination letter.
 - Occasional Delays for Complex Structures

Determination Letter Update *(cont'd)*

- Common Legal Issues Raised
 - “GUST” and “EGTRRA” Compliance (timeliness)
 - Maximum Benefit Rules (415)
 - Required Minimum Distributions (401(a)(9))
 - Benefits for same-gender spouses and domestic partners (401(a)(9), 415)
 - Actuarial factors defined in the plan (401(a)(25))

Determination Letter Update *(cont'd)*

- Exclusive Benefit and Reversions –
Language (401(a)(2))
 - Internal Revenue Code Requirement
 - Post-ERISA Anti-Cutback Rule
- Excess Benefit Plans
 - Within a Tax-Qualified Plan Review

Determination Letter Update *(cont'd)*

- Pick-Up Issues
 - Code Section 414(h)
 - Prior PLRs
 - Changing Tiers
 - Need for Flexibility
 - How much choice is too much choice?

Determination Letter Update *(cont'd)*

- Deferred Retirement Option Plans
 - Type of DROPs
 - Reconciliation With Code Section 415 Limits
- 401(h) Health Accounts
 - Legal Requirements
 - IRS Concerns Beyond Checksheets
- Normal Retirement Age
 - Pre-ERISA Rule – normal retirement age, service based retirement (Rev. Rul. 66-11)
 - Post-ERISA Favorable Determination Letters
 - Current 2013 Extended Deadline

Remedial Amendments

- Note: Modification in Remedial Amendment Deadlines
 - Remedial amendments can be made 91 days after the close of the first legislative session that begins more than 120 days after a determination letter issued.

Recent Guidance

- Leave Conversion Guidance
 - 2009 Guidance -- See Rev. Rul. 2009-30 and Rev. Rul. 2009-31 for helpful guidance to distinguish employer contribution from elective deferral
 - Final Pay Plans -- Very strong concern about “stand-alone” or termination leave only plans
- Truncated Social Security Numbers –IRS Notice 2009-93
- CCA 200935026 -- IRS cannot reach by levy proceeds from a defined benefit plan in which a deceased taxpayer was a participant to collect what the taxpayer could have, but did not, elect to receive while living.

Recent Guidance *(cont'd)*

- CCA 201022015 -- Differentiates between levies against income and levies against lump sum.
- IRS Final Regulations on Reasonable Good Faith Interpretation of Required Minimum Distribution Rules by Governmental Plans
 - Effective prospectively and retrospectively
 - Very helpful in operational compliance
 - Helpful in Cycle C

457(b) Designated Roth Accounts

- Small Business Jobs Act of 2010
 - Governmental 457(b) plans may be amended to add designated Roth accounts – effective in 2011
 - 457(b) plans may also provide for “in-plan” rollovers to the designated Roth account – effective in 2011
 - Taxable event
- Note: 401(k) and 403(b) plans may have in-plan rollovers to Roth accounts in 2010
- No IRS guidance yet

Other IRS Projects

- Partial Rollovers and Allocation of Basis
 - Eligible Rollover Distribution Notice (Notice 2009-68)
- Determination Letter Report Update
 - ACT Report

Other IRS Projects *(cont'd)*

- Future Guidance
 - Governmental Plan Definition
 - Special Pay Plans/Leave Conversion
 - 403(b) Prototype Plan Program
 - International Tax Issues
 - Benefit Tier Changes