

**Q & A from DATAIR Documents Interim and
Discretionary Amendment Webinar Presented Live
November 30, 2007**

Amendment and Timing

Q: Can I change something in the Adoption Section of the Interim amendment for all my clients and sign it myself on behalf of all my clients? Or, will each client have to sign individually?

A: No, if there is selection other than the defaults (you make a check in a box), then each client will need to sign the amendment.

Q: For prototypes, if the employer makes no changes to 2007 interim amendment, is DATAIR mailing copies of the interim amendment to employers, or should the TPA send it out to each employer?

A: The TPA needs to send out a copy to each sponsor.

Q: I sponsor a regional prototype and will not make any selections on the Adoption Section of the Interim Amendment. Will the client need to sign the Amendment?

A: No, DATAIR will adopt the default selections on behalf of the clients.

Q: Since the 2007 interim amendment language will not be contained in the EGTRRA restatement, do we re-adopt the 2007 interim amendment after EGTRRA restatement in 2008?

A: Yes. Any required amendment adopted after the Final 401(k) Regulations in 2006 will need to be readopted when the plan is restated for EGTRRA.

Q: Does the DATAIR interim amendment include prototypes where our company is the sponsor under DATAIR?

A: Yes. Version 1.17 will print the Word for Word Adopters name as adopting the plan. This can be found in Section 1.1 of the Interim Amendments.

Q: As a sponsor under DATAIR, will we get our IRS letter the same time that DATAIR does?

A: All letters will be mailed to DATAIR. You can expect to receive a copy of your letter about 1 month from the date we receive the letters in our office.

Q: When I restate for EGTRRA, will this replace these interim amendments and require new interim amendments?

A: Yes. Any required amendment adopted after the Final 401(k) Regulations in 2006 will need to be readopted when the plan is restated for EGTRRA.

Q: What prior years compensation needs to be grandfathered at this point?

A: None. The Final 415 Regulations apply to Limitation Years beginning on or after July 1, 2007. If you want to apply the rules earlier you will indicate this on the amendment.

Q: If a prototype has been amended to adopt a class allocation formula, will that plan be considered to have adopted these interim amendments or does the plan sponsor have to individually adopt them?

A: The Plan would be considered to have adopted the amendment.

Q: Are we being accelerated on this because of the incorrect 415 regs amendment that was attached to the 401(k) and (m) regs (and was based on proposed 415 regs)? If so we are being penalized, in effect, for early adoption of an amendment. Perhaps amendments based upon proposed regs are unwise?

A: Part 1- No, the proposed regulations were not "incorrect" they were proposed. The IRS allowed employers to adopt the proposed regulations until the final regulations were published. Remember the proposed regulations apply for 2006 and 2007. The Final 415 regulations will not apply until Limitation Years beginning on or after July 1, 2008.

Since they do not apply until next year for calendar year plans you can amend the 415 section of the amendment by the end of your 2008 plan year to comply with the Final 415 regulations. You will need to redo the 2007 Interim Discretionary amendment and adopt the 415 provisions you would like to utilize for your plan.

Part 2- No, we had several requests from clients to use the proposed regulations. Your plans would have to be amended regardless if you had adopted the proposed regulations or not.

Q: Are you saying that if I processed a rollover for a non spousal beneficiary during 2007 I must amend the plan by the end of the plan year?

A: No. All PPA changes are to be amended the earlier of the plan termination or the first plan year beginning on or after January 1, 2008. For 2007 and 2008 you will operationally comply with PPA provisions.

Q: When will the Cycle B document be available?

A: We are currently working on the document and anticipate it to be released in our next release after Version 1.17 CD release.

Take over plans

Q: On a takeover of a Tiered allocation 401k plan on a Corbel document what should be done re a Form 8905 for DATAIR, there is a Corbel 8905 signed.

A: The one signed by Corbel will be sufficient. Since the plan is currently on a pre-approved plan the 6 year remedial amendment period carries over to the DATAIR document.

Q: What if my clients have a different vendor's VS document and they will have DATAIR EGTRRA restatements? I have to do the interim amendment for all of them by 12/31, right?

A: Part 1- Without reviewing the plan we cannot make the determination that our amendment is sufficient to amend the plan for the 2007 Interim changes.

Part 2- Yes, all plans will need to have the amendment completed. Since you are not using a DATAIR document we cannot determine if the deadline is 12/31/2007 or later.

Q: Takeover Volume Submitter plan, not yet restated to DATAIR: Can we use Datair's interim amendment now, and then restate to Datair's EGTRRA document later?

A: No, without reviewing the plan we cannot make the determination that our amendment is sufficient to amend the plan for the 2007 Interim changes.

Q: Is the final Roth amendment a discretionary amendment that needs to be signed by 12/31/07 for a calendar-year plan?

A: Yes.

Terminated Plans

Q: Just so I am totally clear, if I have a DB on a standardized prototype that has a plan termination date of 5/31/07, assets distributed in August. Need to get this special amendment done AND signed now?

A: Yes. The Employer will need to adopt the DB Termination amendment Part 1 and Part 2. You may have adopted Part 1 at the time of the plan termination. The IRS is has been lenient on the issue of adopting the terminating amendments after the plan termination, as long as the plan is in compliance.

Q: If a DC plan already has a determination letter to terminate the plan, do these amendments need to be adopted? What if they did not have a determination letter?

A: If the plan terminated in 2007- yes, the plan should adopt the amendment.

Q: On a safe harbor 401(k) plan terminating in 2007, would the PPA checklist be helpful or would the interim amendment and terminating amendment be all that is needed in terms of updates if DATAIR has always been used?

A: If a plan is terminating in 2007 you only need to adopt the termination amendment. The termination amendment includes the 2007 interim changes as well as PPA optional provisions.

Q: What are the procedures for terminating a safe harbor 401(k) plan in 2008? This particular plan has a calendar year plan year.

A: At this time, you will first make sure the 2007 interim amendment is adopted. In 2008 you can use the DC Termination amendment currently in the system. Keep in mind there may be additional requirements for plans terminating in 2008. The IRS will issue another Interim and Discretionary amendment sometime in 2008 to address this issue.

PPA Checklist

Q: When does DATAIR anticipate making the PPA checklist interactive so they can be marked on the screen instead of heard copy?

A: Yes, in our next release after Version 1.17 CD release.

Q: When will the DB PPA checklist become available?

A: In our next release after Version 1.17 CD release.

Q: Is the PPA checklist available on the document system?

A: Yes. Currently the checklist can be found by going to Batch Print\Ancillary Documents\Pension Protection Act 2006 Checklist.