

# Q & A from EGTRRA Prototype Documents

## Presented Live May 22, 2008

### Poll Questions and Results:

- 1) Do your plans use Elapsed Time? (multiple answer)
  - a. Yes, for Eligibility and Vesting 4%
  - b. Yes for Eligibility 4%
  - c. Yes, for Vesting 4%
  - d. I only have one or two plans that use Elapsed Time 41%
  - e. No, to much work 6%
  
- 2) Do any of your plans exclude Catch-Up Contributions from the match?
  - a. Yes, all of our plans exclude Catch-up from match 15%
  - b. No exclusion on Catch-up 78%
  - c. No, to difficult to do when is caused by ADP failure 7%
  
- 3) Do any of your plans have ROTH deferrals that are excluded from match?
  - a. Yes, all of our plans exclude ROTH from the match 3%
  - b. Yes, a few exclude ROTH from being matched 9%
  - c. No, all plans will match a ROTH deferral 88%
  
- 4) Will you be using the prototype for Cross Tested plans?
  - a. YES! Finally what my clients need 23%
  - b. Yes, Great feature 32%
  - c. Maybe, will give my clients more options in design 25%
  - d. No, the Volume Submitter works fine 20%
  
- 5) Do you plan on using the Short Form?
  - a. Yes, it's great for my clients 9%
  - b. Yes, I have a few clients this would work for 25%
  - c. No, my clients want all the options they can get 24%
  - d. Don't know still thinking about it 42%

### Effective Date for the Restatement

Q: If the plan amendments are current, can we put 01/01/2008 as the effective date for a calendar year plan.

A: Yes, you will need to make sure that you enter the appropriate dates for provision start dates when prompted in the document.

Q: Is it cleaner to use the 01/01/2002 to make sure you have everything covered with the interim amendments etc?

A: It may be. The adoption date will be the key here. You can not adopt the plan any earlier than May 1, 2008. You will need to make sure that you have all of your documents since the earliest effective date properly signed and dated.

Q: If I use an effective date of 1/1/2002, how do we indicate amended provisions that were later?

A: The EGTRRA restatement would not supersede the amendment. However, this could present an issue since your effective date of the amended provision is after the effective date of the EGTRRA document and would not be update for EGTRRA. Then you would need to do another restatement to bring your amended plan into compliance with EGTRRA. The best course would most likely be to have a current effective date.

Q: Can the effective date be prior to the DS/WIN CD release date?

A: Yes for the Effective Date but no for the Adoption date. The Effective Date may be as early as the first day of the plan year in 2002. The Adoption Date can be no earlier than May 1, 2008.

### **Document Registration**

Q: Will the Volume Submitter have to be registered as well?

Yes, under EGTRRA, both Volume Submitter and Prototypes are subject to the same requirements.

Q: Is there a registration charge?

A: The sponsor reporting is the same cost for both prototype and volume submitters. Additional information is sent at the end of the year for sponsor reporting.

Q: If the plan is amended for a provision or feature, is a new registration number needed?

A: Only if you change EIN, plan number, document type, plan type, or plan sponsor. See the last 3 pages of May 22, 2008 webinar handout.

Q: Will you provide a list of specific changes that will require a document to get a new serial number?

A: Any change to the EIN, plan number, document type, plan type, or plan sponsor. See the last 3 pages of May 22, 2008 webinar handout.

Q: If we register upon preparing the amendment prior to trustee signatures is the registration number automatically entered on the signature page or must we enter it manually?

A: If you register prior to printing, the serial number will print on the signature page.

Q: What happens if I deliver the document to client, they execute it soon, but fail to notify me of that fact until the 60 day period has expired?

A: You need to have an adoption date in order to submit the plan for registration. Failure to register the plan will cause the plan to lose reliance on the opinion letters and will be treated as Individually Designed Plan. You will need to track the status of the plans to ensure the adoption and registration are completed timely.

Q: If the client misses the registration date and they amend and restate their plan with a new effective date is the plan no longer an individually designed plan?

A: It is possible that restating a plan within the EGTRRA restatement plan might meet the qualification of a prototype or volume submitter. However, we can not guide you on if the IRS would approve of a restatement just for reliance on an opinion/advisory letter. You would still have an Individually Designed Plan prior to the new restatement date.

Q: If we create a "new plan" to do an amendment, do we need to re-register?

A: Only if you change EIN, plan number, document type, plan type, or plan sponsor. See the last 3 pages of May 22, 2008 webinar handout. However, you should do a "new amendment" and not new plan for the restatement.

Q: Is adding a "New Plan" the correct way to do a plan amendment?

A: You should just be adding a new amendment as opposed to a new plan. If you create new, you will need to press the register button, but it will retrieve the prior serial number from the original plan.

### **Restatement Process**

Q: Will all the validations necessary be working in the initial version?

A: Yes, the validations are working in the first EGTRRA release. They work the same as in previous releases. Some validations have been enhanced.

Q: Will we still be able to restate using new defaults?

*A: Defaults are still available and best used for new plans in the system. For a restatement, the provisions will be carried forward and you will probably want to just complete the open options.*

**Q:** For questions in the EGTRRA document that have changed from the GUST document, will the GUST election be brought forward to the new checklist item (automatic mapping)?

*A: The provisions in the GUST document will map over. All of the amendments between GUST and the EGTRRA restatement will need to be completed. You will need to complete options such as the deemed compensation. The Validations in the Log File will help expedite the areas that need completion.*

**Q:** We use W-2 wages in 99% of our plans do we have to do anything other than let it map over?

*A: Your compensation selections will map over from GUST. You will still need to complete options regarding the Deemed Section 125 Compensation.*

**Q:** Will special info on the current GUST document for example excluded employees carryover or map to the EGTRRA restatement?

*A: If you are referring to Custom Text, yes, it will.*

**Q:** Safe Harbor provisions, is the document now certain that either you are or are not intended to be safe harbor? No longer says, IF you provide notices, etc. you are safe harbor?

*A: The plan is considered to be a Safe Harbor plan if the language is selected in the plan. The plan must still provide the Notices.*

**Q:** When we restate for EGTRRA, do we also need to prepare the 2007 Interim Amendment?

*A: Yes, the Interim Amendment is after the EGTRRA restatement and will need to be prepared. The PPA checklist should also be kept up to date.*

### **Word for Word (WfW) Adopters**

**Q:** If our company is a Word for Word adopter and we use the registration button, will you still assign serial number we can use for our own purposes?

*A: Yes, the plan will be validated and a serial number produced.*

**Q:** If our company is a Word for Word adopter, do we to assign a serial number if we keep a list?

*A: The adoption agreement requires a serial number of some sort to be entered. Because it's word-for-word, you may use your own serial number or DATAIR's.*

**Q:** If our company is a Word for Word adopter for some of the document types, can we use other document formats if I select DATAIR as the plan sponsor?

*A: Yes. Just remember that you'll need to register those with us, and report them annually as a part of sponsor reporting.*

**Q:** Is it too late to be a Word-for-Word Adopter?

*A: We are waiting on IRS approval to reopen the window for making additional submissions for clients that want to become Word for Word Adopters.*

**Q:** What is the process to register a Volume Submitter Plan with me?

*A: We will have to wait for more information from the IRS. If the IRS opens the application process again, we will provide more information at that time.*

### **Cross-Testing**

**Q:** In the cross testing when you specify groups, can you simply put in "A - each participant is his own classification"?

*A: In most instances, you should choose the Participant Group Allocation Method. This will allow you to enter each participant in his own category. You must keep an annual list.*

Q: Need to know more about this "rate group" restriction. Would like to see an example of plan allocations/testing.

A: *This is more detailed than a quick Q & A. You should look at the details of the 401(a)4 General Test as a starting point.*

Q: What's a rate group? Is this the same as the 401(a)4 test?

A: *Yes, the 401(a)4 rate group is the group that is limited.*

### **Short Form**

Q: Did you say no QDRO payments to an alternate payee while a participant is employed in the Short Form?

A: *We did say this. However, based on response to from you, the clients, we asked the IRS for a change and were granted it. The short form allows payouts while the employee is still employed.*

Q: Most of our plans (if not all) allow payment to alternate payee while the participant is employed for QDROs. Is this a problem if we want to use short form?

A: *No, The short form allows payouts while the employee is still employed.*

Q: Do you restate to long form if you have a QDRO situation in the short form what do you do for those provisions, wait till employee dies or quits?

A: *No, the short form allows payouts while the employee is still employed.*

Q: What are the differences between the Non-Standardize and Standardize Short Forms?

A: *The Non-Standardized format offers a few more selections on provisions such as vesting options, the election to have hardships as well as the cross tested employer allocation method.*

Q: Are there In-Service Distribution in the short form.?

A: *In-Service Distributions are permitted in the short form.*

Q: Is the 3 year cliff vesting available for the match in the short form?

A: *No, the non-standardized offers 2/20 and 100% vesting schedules. The standardized document is 100% vesting.*

Q: Allocations for Match, D.6(c) in the short form has a choice for a percentage and states as determined by the employer. What does that mean if a percentage is entered? What is determined by the employer?

A: *The percentage entered will be of Elective Deferrals that are matched, such as 100% or 50%. As determined by the employer is the discretionary language of the match, where the employer will elect to give the match. The wording on this selection has not changed from the GUST document.*

Q: Is there a separate core document for short form and long form DC plans?

A: *The same Defined Contribution core is used for the prototype short and long forms. It covers all of the prototype defined contribution plans.*

### **Volume Submitter**

Q: If we use the Volume Submitter mainly for cross testing, what would be the advantages of staying with the Volume Submitter document?

A: *The number of classes would be the major advantage to Volume Submitter. There's other flexibility such as the limitation restriction on classes is only on prototypes.*

Q: Can we convert a Volume Submitter document to a prototype long form?

A: *Yes. You will need to make sure that there are no other provisions currently in the plan that are available in the Volume Submitter only.*

Q: Does converting from a Volume Submitter to a prototype require an IRS determination letter?

*A: As long as there are no provisions being removed or cut back, there is no determination letter needed.*

**Q:** Does rule on maximum number of rate groups apply to volume submitter plans to?

*A: No, the cross tested limitation is for prototypes only.*

**Misc**

**Q:** Can we still use "Default" Plans?

*A: Yes, default plans are still available.*

**Q:** What is Deemed Section 125 Compensation

*A: An amount not available to a Participant in cash in lieu of group health coverage because the Participant is unable to certify that he has other health coverage. The amount will be treated as an amount under Code section 125 only if the Employer does not request or collect information regarding the Participant's other health coverage as part of the enrollment process for the health plan.*

**Q:** What are Deemed IRA contributions, and does anyone do them?

*A: An Account established and maintained for a Participant for accounting purposes that meets the applicable requirements for an Individual Retirement Account.*

**Q:** It would it be helpful if the tabs were alpha instead of numeric and corresponded with the section letters to match up (ie 2- Eligibility should be A - Eligibility)?

*A: Unfortunately, we can not do that because of conflicts with the windows menu options. Currently, you can use <Alt>6 to go to Vesting, but if it were F, you'd be pressing Alt<F>, which would bring up the file menu.*