


EGTRRA Determination Letter Process


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AGENDA

- Remedial Amendment Period
- Determination Letter Application & Process
- Required Forms
- Questions




Remedial Amendment Period

Revenue Procedure 2007-44:

- Defined Contribution Plans – 6 year cycle
 - Pre-Approved Prototypes
 - Volume Submitters
 - Ends April 30, 2010

- Defined Benefit Pre-Approved Prototype and Volume Submitter Plans are still under review by the IRS



Remedial Amendment Period Individually Designed Plans

<u>TIN End</u>	<u>Cycle</u>	<u>EGTRRA RAP</u>	<u>Next RAP</u>
1 or 6	A	Jan 31, 2007	Jan 31, 2012
2 or 7	B	Jan 31, 2008	Jan 31, 2013
3 or 8	C	Jan 31, 2009*	Jan 31, 2014
4 or 9	D	Jan 31, 2010	Jan 31, 2015
5 or 0	E	Jan 31, 2011	Jan 31, 2016

*IRS has stated the actual date due to the weekend is February 2, 2009



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EGTRRA Restatement Plan

- EGTRRA – Defined Contribution Plans
- 2007 Interim Amendment (Final 415 Regs)
- PPA Checklist
- Trust - 7 Pre-Approved Trusts are available



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EGTRRA Opinion/Advisory Letter Reliance

Revenue Procedure 2005-16 *(See Section 19)*

- Timely Registration
- Plan Provisions – w/in Pre-Approved Elections
 - modification within parameter allowed
- Plan Provisions outside Pre-Approved Elections
 - Amendments (see Section 5.02 of Rev. Proc. 2005-16)
- Discontinued Participation under Pre-Approved Sponsor

*Reliance is Equivalent to Favorable Determination Letter for EPCRS -
Corrective Programs*



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EGTRRA Documents Restated ...now what?

- Plan Reliance on Advisory/Opinion Letters
- Plan Files for Determination Letter



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Determination Letter Program

Revenue Procedure 2009-6

- Prototypes & Volume Submitters
- Individually Designed
- Multiple Employer
- Plan Termination
- Discontinuance of Contributions
- Merger & Acquisition
- Expanding the Scope of a Prior FDL



Determination Letter Program

Revenue Procedure 2009-6 has revised 2008-6:

- Submitting 30 or more individually designed plans - no longer requires pre-notification of the filings.
- Changes from Prior or Modification to Specimen Plan - not required to redline or highlight changes in the document.
- Separate trust agreement - must be filed to demonstrate that the trustee executed the document.
- Two Year Restatement Window for DC Plans – officially announced as May 1, 2008 thru April 30, 2010



Determination Letter

- Initial Qualification
- Amendment
- Restatement (*i.e. EGTRRA*)
- Ruling on Plan Termination (*partial or complete*)
- Change in Scope
 - must have a Favorable Determination Letter



Determination Letter Application

- Filing Application – Form 5307 or 5300
- Plan/Adoption Agreement/Checklist
- Form 2848 or Form 8821
- Copy of Prior Determination Letter *(if applicable)*
- Copy of the Advisory/Opinion Letter
- Form 8717 - User Fees
- Copy of any Separate Trust
- Form 8905 *(if applicable)*



Filing on Form 5307

- DATAIR as Plan Sponsor
 - All Prototypes
 - Volume Submitter with Written Representation
- Timely Registration
- Pre-Approved Trust



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Filing on Form 5307

Prototype

- Adoption Agreement
- Form 2848 – Power of Attorney
- Opinion Letter
- User Fees – Form 8717
- Pre-Approved Trust
- Form 8905 *(if applicable)*

Volume Submitter

- Checklist & Plan
- Written Representation
- Form 2848 – Power of Attorney
- Advisory Letter
- User Fees – Form 8717
- Pre-Approved Trust
- Form 8905 *(if applicable)*
- Prior Determination Letter *(if applicable)*



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Filing on Form 5307 Word for Word Sponsors

- Prototypes
- Volume Submitters with Written Representation *
 - modification to specimen
 - identical to specimen
- EGTRRA “Good Faith” Amendments
- “Interim” Amendments
- Copy of the Plan and Trust
- Copy of latest Determination Letter

**explain differences, location, affect on plan. Redlining optional*



Filing on Form 5300

- Individually Designed Plans
 - Cash Balance *(see DATAIR's January 15, 2009 Webinar)*
 - Others
- Request to Determine Status
 - Affiliated Service Group
- Multiple Employer Plans



Filing on 5300

- Certain Prototype or Volume Submitter
 - With substantial modification from Specimen
 - Non-approved Trust
 - Untimely Registration – No Reliance
 - Amending Plan Type *(i.e. ESOP are not allowed)*



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Schedule Q *(optional)*

- Other “Elective” Determinations - Demos
 - Average Benefit Percentage Test
 - General Test
 - Affiliated Service Group Status
 - Leased Employee Status
 - Minimum Funding Waiver
 - Employer-Employee Status



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Form 2848 – Power of Attorney

Purpose of Form

- authorize an individual to represent you before the IRS.
- Person must be eligible to practice before the IRS and qualified to sign on behalf of employer.
- allow that individual to receive and inspect your confidential tax information.

When To File

- Form 2848 does not have a deadline and will be valid until revoked.



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Form 8821

Purpose of Form

- authorizes any individual, corporation, firm, organization, or partnership you designate to inspect and/or receive your confidential information in any office of the IRS for the type of tax and the years or periods listed on Form 8821.
- does not authorize the appointee to advocate your position with respect to the federal tax laws; to execute waivers, consents, or closing agreements; or to otherwise represent you before the IRS.

When To File

- Form 8821 must be received by the IRS within 60 days of the date it was signed and dated by the taxpayer.



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Form 8717

Revenue Procedure 2009-08

- Fee Schedule at Section 6.05
- Form 5307 ---- \$ 300*
- Form 5300 ---- \$1,000**
- Multiple Employer Plans***
 - 2 to 10 Form 5300---- \$1,500

*with Average Benefit or General Test ----\$1,000

**with Average Benefit or General Test ----\$1,800

***with Average Benefit or General Test ----\$2,300



IRS Submission Package


- Cover Letter use IRS Transmittal Letter
- Filing Form with Schedule Q *(if applicable)*
- Adoption Agreement/Checklist/Plan
 - Word for Word Representation *(if applicable)*
- Trust
- Prior Determination Letter *(if applicable)*



IRS Submission Package

Retain Copies for Your Files – including

- “Good Faith” EGTRRA Amendment
- Interim Amendments
- All Plan Documents and Amendments




Notice to Interested Parties

Before Mailing

- Post Notice to Interested Parties
- Allow time for comments
 - minimum 10 days
 - maximum 24 days






Document Support

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Resources

- Release Notes
- DATAIR Employee Benefit Systems, Inc.
 - <http://www.datair.com/>
Be sure to visit the DATAIR Discussion Forum to receive email notification of all releases.
- Internal Revenue Service (IRS)
 - Retirement Plans Community: <http://www.irs.gov/retirement/index.html>
- Department of Labor (DOL)
 - Retirement Plans, Benefits and Savings: <http://www.dol.gov/dol/topic/retirement/index.htm>



Please join us for the next Webinar...

**Thursday, February 5, 2009
2 pm CST**

ADP Test – Does your plan pass?
This webinar will cover the mechanics of the ADP test including catch-up contributions before and after a failed test. The actual calculations of the tests will not be addressed.

**Prior webinars can be accessed at
www.datair.com/training.htm**

