


Remedial Amendments for Defined Contribution and Defined Benefit Plans

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Agenda

- Remedial Amendment Period
- EGTRRA Restatement Process
- Legislative Up-Dates
- Questions



Remedial Amendment Period

Revenue Procedure 2007-44:

- All qualified Defined Contribution Plans – 6 year Cycle
 - Pre-Approved Prototypes & Volume Submitters*
- All qualified Defined Benefit Plan – 6 year Cycle
(pending IRS Review)
- Individual Designed Plans – 5 year staggered periods
 - Cycle C or Cycle D *(see January 15, 2009 Webinar)*

** Must be restated for EGTRRA by April 30, 2010*



EGTRRA Remedial Period – DC Plans

Restatement Resources

- DATAIR Webinars
 - EGTRRA Document Overview – May 20, 2008
 - EGTRRA Prototype Documents – May 22, 2008
 - EGTRRA Vol. Sub Adoption Agreement – August 12, 2008
 - 2007 Interim and Discretionary Amendments, includes the final 415 regs - November 13, 2007 and November 30, 2007
- Release Notes



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EGTRRA Remedial Period – DC Plans

- February 17, 2005 window opened. Sponsors and practitioners file specimen prototype for approval Revenue Procedure 2005-16.
- January 31, 2006 window closed. Anything submitted after “non-timely”. See Revenue Procedure 2007-44.
- March 31, 2008 IRS issues Opinion Letters, Advisory Letters and pre-approved Trusts.
- May 1, 2008 restatement period begins.
- April 30, 2010 restatement period ends.



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EGTRRA Restatement Process

- **EGTRRA – Defined Contribution Plans**
 - *Based on 2004 Cumulative List*
- **2007 Interim Amendment (*Final 415 Regs*)**
 - *Based on the 2006 Cumulative List*
- **PPA Checklist – Not an Amendment**
 - *Use to document operational elections under PPA 2006*



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EGTRRA Restatement... Best Practices

- **Use a Current Effective Date**
 - Avoid creating "Operational Failures"
- **Timely Registration**
 - Serial #'s are date sensitive
 - within 60 days of it's adoption/signing
- **2007 Interim Amendment**
 - Prototype Adopters are not required to sign if they are not making election in Adoption Section



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Reliance or No Reliance

Revenue Procedure 2005-16

- Timely Registration of Plan
- Plan Provisions – w/in Pre-Approved Elections
 - No modification of any terms of the plan
- 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 Restatement Deadlines Failed to restate on time

- EGTRRA DC - April 30, 2010
- GUST - September 30, 2003*
* December 31, 2003 for DATAIR Opinion Letter or Advisory Letter
- Use IRS Corrective Program - VCP Filing provides for Appendix F – 2 filing options



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EGTRRA Restatement Deadlines Terminating Plans

- Restatement is not required.
- Plan must be amended to include all provisions of the law effective on or before date of termination.



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Legislative Updates to the Plan

- Pension Protection Act 2006 –
 - Adopted by end of Plan Year beginning after January 1, 2009
- Heart 2008
 - Adopted by the Provisional Date specified in Act
- Worker, Retiree, Employer Recovery Act 2008
 - Adopted by the Provisional Date specified in Act
 - Example: Temporary Waiver of 2009 RMD - Adopted by end of Plan Year beginning after December 31, 2008



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Legislative Updates to the Plan

- 2008 Cumulative List
- Technical Corrections



EGTRRA DC Remedial Period Ends

- April 30, 2010
 - Last day for restatement and/or
 - Filing for Determination Letter with IRS
- New 6 year RAP for Defined Contribution
 - Mass Submitter - submit new documents to IRS - February 1, 2013 – October 31, 2013



Types of Amendments

- Interim – contain plans qualification provisions from “Cumulative List” designed to update the Base/Specimen Plan, typically based on Technical Corrections or Recent IRS Guidance.
- Discretionary- initiate by the employer or action to take advantage of the “adoption elections within an Interim Amendment.



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Types of Amendments... Due Dates

- Interim - Adopt by last day of the Remedial Amendment Period (RAP) or where adoption elections are discretionary by the on or after Last Day of the Plan Year (LDPY) in which the provisions are effective.
- Discretionary - Adopt by the end of Plan Year in which the provision is effective or implemented.



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DATAIR's Retirement Documents... Things to do List

- Amendment for Temporary Waiver of 2009 RMD
- 2009 PPA/Interim Amendment
- DC/DB Termination Amendment



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EGTRRA Remedial Period - DB Plans

- February 1, 2007 window opened. Sponsors and practitioners file specimen prototype for approval under Revenue Procedure 2005-16.
- January 31, 2008 window closed. Anything submitted after “non-timely”. See Revenue Procedure 2007-44.
- Currently: IRS Reviewing DATAIR DB Documents



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EGTRRA Documents for DB Plans

- 4 Prototype Documents
 - Non-standardized
 - Non-Integrated and Integrated
 - Standardized
 - Non-Integrated and Integrated
- 3 Volume Submitter
 - Adoption Agreement Format
 - Non-integrated and Integrated
 - Individually Designed Plans (IDP) Format



EGTRRA Defined Benefit Plans

- IDP switch to Pre-Approved Format
- Form 8905 – must be executed prior to end of plan's 5 year remedial amendment period



Individually Designed Plans – 5 year Remedial Amendment Period

<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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Resources

- Release Notes
- DATAIR Employee Benefit Systems, Inc.
<http://www.datair.com/>
Subscribe to the DATAIR Discussion Forums 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>



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Questions

