


## Cycle C for Cash Balance Plans

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## Cycle C for Cash Balance Plans

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- Limited Scope. This Webinar deals specifically with the Cycle C cash balance plan requirements and is not intended as a general discussion of cash balance plan issues.
- Cycle C Deadline for filing February 2, 2009.
- Adopt by January 31, 2009



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## Cycle C for Cash Balance Plans

- The Cycle C document is based on The 2007 cumulative list of changes published by the Internal Revenue Service in Notice 2007-94. It is similar to the Cycle B document except for the changes noted in this webinar.
- Based on a review of Notice 2007-94 it has been determined that an interim amendment for 2008 is not required. We have made a number of discretionary changes to the plan marked Cycle C.



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## Cycle C for Cash Balance Plans

- Added three interest rate options to Interest Crediting provision:
  1. the rate on long-term investment grade corporate bonds (as described in section 412(b)(5)(B)(ii)(II) of the Code prior to amendment by PPA '06 for Plan Years beginning prior to January 1, 2008, and the third segment rate described in section 430(h)(2)(C)(iii) of the Code for subsequent Plan Years)
  2. the third segment rate described in section 430(h)(2)(C)(iii) of the Code
  3. the rate of interest on 30-year Treasury securities (as described in section 417(e)(3) of the Code prior to amendment by PPA '06)



## Cycle C for Cash Balance Plans

- Applicable Interest Rate and Applicable Mortality usefulness in cash balance plan?
  - No minimum lump sum calculation 417(e).
  - Normal Form of Benefit is the actuarial equivalent of the Accumulation Account using the plan's actuarial equivalence factors not 417(e) factors.



## Cycle C for Cash Balance Plans

- Removed reference to Applicable Interest Rate in distribution section §2.5.4
- Added to §3.11.3 language to make it clear that rollover amounts must be segregated and accounted for separately. This permits in-service distributions while a participant is employed.
- Limitation Year language: removed language requiring all plans maintained by the Employer use the same limitation year.
- Pay Credit minimum allocation: Minimum allocation was removed from hardcoded section and made an alternative in the checklist. [See item D2(g)]

**Minimum Pay Credit**

- g. Provide minimum Pay Credit of ½ of 1% of Compensation per Year of Service



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## Cycle C for Cash Balance Plans

- Interest Credits: Language regarding prorate allocation of interest credit in year of termination was removed as hardcoded text. Alternatives added to checklist: [See item D5g]

### **Commencement of Benefits**

- g. No interest credit for period in which termination occurs of period is greater than one month
  - box unchecked: the Plan Administrator shall credit that Participant's Accumulation Account with a final pro-rated Interest Credit determined as of the last day of the month ending before the month in which the payment commenced.
  - box checked: no Interest Credit shall be made for the period.



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## Retirement Benefit Interest Rate (D6)

### Interest Crediting Rates:

#### Market Rate of return requirement

- D6a single, fixed rate of interest equal to \_\_\_\_%  
[must be a standard rate (currently between 7.5% and 8.5%) to meet safe harbor req. of T.R. § 1.401(a)(4)-8(c)(3)(iv)(B)]
- D6b a variable rate of interest equal to (choose b1-b16)



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## Retirement Benefit Interest Rate (D6)

### Alternatives (D6 b1-b16)

- ❑ b1 the interest rate used for Code section 417(e) GATT Factors
- ❑ b2 discount rate on 3-month Treasury Bills \*\*
- ❑ b3 discount rate on 6-month Treasury Bills
- ❑ b4 discount rate on 12-month Treasury Bills
- ❑ b5 yield on 1-year Treasury Constant Maturities
- ❑ b6 yield on 2-year Treasury Constant Maturities
- ❑ b7 yield on 3-year Treasury Constant Maturities [included in Notice 96-8, but not T.R. § 1.401(a)(4)-8(c)(3)(iv)(C)(2)]
- ❑ b8 yield on 5-year Treasury Constant Maturities



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## Retirement Benefit Interest Rate (D6)

- ❑ b9 yield on 7-year Treasury Constant Maturities [included in Notice 96-8, but not T.R. § 1.401(a)(4)-8(c)(3)(iv)(C)(2)]
- ❑ b10 yield on 10-year Treasury Constant Maturities
- ❑ b11 the annual rate of change of the Consumer Price Index [included in Notice 96-8, but not T.R. § 1.401(a)(4)-8(c)(3)(iv)(C)(2)]
- ❑ b12 interest rate specified in Section 3.1.2(d)(1) of the Plan
- ❑ b13 the rate on long-term investment grade corporate bonds (as described in section 412(b)(5)(B)(ii)(II) of the Code prior to amendment by PPA '06 for Plan Years beginning prior to January 1, 2008, and the third segment rate described in section 430(h)(2)(C)(iii) of the Code for subsequent Plan Years) [PPA 06]



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## Retirement Benefit Interest Rate (D6)

- b14 third segment rate described in section 430(h)(2)(C)(iii) of the Code [PPA 06]
- b15 rate of interest on 30-year Treasury securities (as described in section 417(e)(3) of the Code prior to amendment by PPA '06) [PPA 06]
- b16 Other

\*\* Do not use b2 currently, use b14 to use get the third segment rate

- 
- D6c adds basis points to certain rates and is optional along with D6a or D6b



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## Required Changes

- Must provide for 100% vesting after 3 years of service.
- Reasonable Retirement Age provisions were included in the 2007 Interim Amendment and Cycle B plan. (62 or greater is safe harbor)
- Final 415 Regulations language was included in 2007 Interim Amendment and Cycle B plan.



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## Required Changes


- Pension Protection Act of 2006 (PPA) and Heroes, Earnings Assistance and Relief Tax Act of 2008 (HEART Act) provisions will not be reviewed by the Internal Revenue Service in Cycle C submissions.



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## Filing Requirements


- Cycle C Deadline for filing February 2, 2009.
- Adopt by January 31, 2009
- Cash Balance plans. The EGTRRA remedial amendment period is extended as provided in the following chart. The chart also provides the end dates of the first five-year remedial amendment cycle after EGTRRA.



## Filing Requirements

<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



## Filing Requirements

- For Cycle C only, the filing date has been extended to February 2, 2009. This was announced by the IRS in the Winter edition of their “Employee Plan News” published December 18, 2008.
- Cash Balance plans are individually designed plans and require the use of Form 5300 when requesting a determination letter. The documents provided in the DATAIR Document System **have not** been preapproved by the Internal Revenue Service.



## Filing Requirements

- Form 5300
- 5300 checklist
- 5300 Q13: Coverage 410(b) and 401(a)(26)
- Schedule Q
  - Demo 5 if Average Benefits Test
  - Demo 6 if General Test
  - Demo 8 Floor Offset
  - Demo 9 Nondiscriminatory Compensation

Form 5300 (Rev. 9-2001)

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### Procedural Requirements Checklist

\*\*\*\*\*Form 5300\*\*\*\*\*

Use this list to ensure that your submitted package is complete. Failure to supply the appropriate information may result in a delay in the processing of the application.

- 1 Is **Form 8717**, User Fee for Employee Plan Determination Letter Request, attached to your submission?
- 2 Is the appropriate user fee for your submission attached to Form 8717?
- 3 If appropriate, is **Form 2848**, Power of Attorney and Declaration of Representative, or a privately designated authorization attached? (For more information, see the **Disclosure Request by Taxpayer** in the instructions.)
- 4 Is a copy of your plan's latest determination letter, if any, attached?
- 5 Is the Employer Identification Number (EIN) of the **plan sponsor/employer** (NOT the trust's EIN) entered on line 1b?
- 6 Does line 4d list the plan's original effective date?
- 7 Is the application signed and dated?
- 8 Have interested parties been given the required notification of this application? (See the instructions for line 3c.)
- 9 If you are requesting a determination as an **Affiliated Service Group**, have you included the information requested in the instructions?  
**NOTE:** You can request a ruling from the IRS as to whether or not you are an **Affiliated Service Group** by listing your request on line 3 of Form 5300.

10 If you answered "Yes" to line(s) 6a and/or line 6b, have you included the information requested in the instructions?

11 **For Multiple Employer Plans:** Have you included the required information as specified in the instructions under **Specific Plans--Additional Requirements**?

12 **For Partial Termination Requests:** If requesting a determination for the plan and one or more employers maintaining the plan, have you included the required information as specified in the instructions under **Types of Determination Letters, Partial Termination**?

13 If you answered "Yes" to line 8a, have you included the requested information?

14 If you are requesting additional determinations, is page 4 completed and/or Schedule Q attached?

15 If filing a Schedule Q, are all appropriate demonstrations attached?  
(See Instructions for Schedule Q)

Demo 1       Demo 5       Demo 8       Demo 11  
 Demo 3       Demo 6       Demo 9  
 Demo 4       Demo 7       Demo 10

16 Have you included a copy of the plan, trust, and all amendments since your last determination letter?

17 **For Employee Stock Ownership Plans (ESOP):** Have you attached **Form 5309**, Application for Determination of Employee Stock Ownership Plan, to your submission?

18 **For PBGC Terminations:** Have you included the required information as specified in the instructions under **Types of Determination Letters**?

Form **5300** (Rev. 9-2001)

SCHEDULE Q (Form 5300) <small>(Rev. August 2001) Department of the Treasury Internal Revenue Service</small>		Elective Determination Requests		OMB No. 1545-0197	
File as an attachment to Form 5300, 5307, or 5310 to request specific determinations. See the instructions before completing this schedule.					
Name of plan sponsor (employer, if single-employer plan) as shown on Form 5300, 5307, or 5310				Employer identification number	
A. Dean Cromartie, M.D.				57 8602647	
Name of plan					
A. Dean Cromartie, M.D. Defined Benefit Plan					
1 Is this a request for a determination on whether a plan that uses the qualified separate lines of business rules of section 414(i) satisfies the gateway test of section 410(b)(5)(B) or satisfies the special requirements for employer-wide plans? If "Yes," see instructions and attach <b>Demo 1</b> .				Yes	No
2 Sections 401(a)(5) and 410(b). See instructions.					
3 Is this a request for a determination that specified benefits, rights, or features meet the nondiscriminatory current availability requirement? If "Yes," see instructions and attach <b>Demo 3</b> .					
4 Is this a request for a determination regarding the plan being restructured, mandatorily disaggregated, or permissively aggregated? (See instructions.) If "Yes," see instructions and attach <b>Demo 4</b> .					
5 If Form 5300 line 13 or Form 5307 line 11 is answered "No," is this a request for a determination regarding Regulations section 1.410(b)-2(b)(5) average benefit test? If "Yes," see instructions and attach <b>Demo 5</b> .					
6 If Form 5300 line 14 or Form 5307 line 12 is answered "No," is this a request for a determination regarding a nondesignated-based safe harbor or a general test under 401(a)(4)? If "Yes," see instructions and attach <b>Demo 6</b> . Also, enter the letter (A, B, or C) corresponding to the type of determination requested.					
<b>Type</b> A=General test involving "safety valve" rule in Regulations section 1.401(a)(4)-3(c)(3) (defined benefit plans only) B=General test, not involving "safety valve" rule C=Non-designated-based safe harbor					
7 (i) Is this a request for a determination regarding a plan provision that provides for pre-participation or imputed service? (ii) Is this a request for a determination regarding a plan amendment (or, for an initial determination, a plan provision) providing a period of past service in excess of the safe harbor?					
8 Is this a request for a determination regarding a floor offset arrangement intended to satisfy the safe harbor in Regulations section 1.401(a)(4)-8(d)? If "Yes," see instructions and attach <b>Demo 8</b> .					
9 Is this a request for a determination that a definition of compensation is nondiscriminatory? (See instructions.) If "Yes," see instructions and attach <b>Demo 9</b> .					
10 Is this a request for a determination for a defined benefit plan with employee contributions not allocated to separate accounts? If "Yes," complete lines 11 and 12.					
11 Enter the letter (A, B, C, D, or E) corresponding to the method used to determine the employer-provided benefit. <b>Method</b> A=Composition-of-workforce method B=Minimum benefit method (also enter the plan factor, if applicable (4 or 6)) C=Grandfather rule D=Government plan method E=Cessation of employee contributions method If "A," see instructions and attach <b>Demo 10</b> . If applicable, list the plan provisions and indicate the plan factor here.					
12 Enter the letter (A, B, or C) corresponding to the method used to show that the employer-provided benefit is nondiscriminatory in amount. <b>Method</b> A=Same rate of contributions B=Total benefits method C=Grandfather rule If "C," see instructions and attach <b>Demo 11</b> .					
For Paperwork Reduction Act Notice, see the Instructions for Form 5300. Cat. No. 21811R Schedule Q (Form 5300) (Rev. 9-2001)					



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## Filing Requirements

- Form 2848 or 8821
  - Which to use?



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## Form 8821

### **Purpose of Form**

- Form 8821 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 you list on Form 8821. You may file your own tax information authorization without using Form 8821, but it must include all the information that is requested on Form 8821.
- Form 8821 does not authorize your 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. If you want to authorize an individual to represent you, use Form 2848, Power of Attorney and Declaration of Representative.

### **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 2848

### Purpose of Form

- Use Form 2848 to authorize an individual to represent you before retain the document. the IRS. The individual you authorize must be a person eligible to practice before the IRS. The eligible individuals are listed in Part II, Declaration of Representative, items a-r. You may authorize a student who works in a qualified Low Income Taxpayer Clinic (LITC) or Student Tax Clinic Program (STCP) to represent you under a special order issued by the Office of Professional Responsibility. See page 4. Your authorization of a qualifying representative will also allow that individual to receive and inspect your confidential tax information. See the instructions for line 7 on page 4.

### When To File

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



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## Filing Requirements

- Form 8717
  - With Demo 5 or 6 \$1,800
  - Without Demos \$1,000



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## Filing Requirements

Organize your Form 5300 application in the following order:

1. Cover letter identifying the below listed items and any information relevant to the plan being submitted (i.e., the application is being filed on- or off-cycle; the plan was involved in a merger; it was submitted to the IRS Voluntary Compliance function; the plan is currently under audit; or that it is being submitted with a related plan, etc.)
2. Form 8717 (with user fee check, if applicable)
3. Authorization to represent the employer (Form 2848 and/or Form 8821)
4. Form 8905, if applicable
5. Application Form
6. Attachments relating to application questions (i.e., controlled group statement)
7. Schedule Q
8. Demonstrations



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## Filing Requirements

9. Notice to Interested Parties
10. Meeting minutes, resolutions or other formal actions approving amendments, restatements, or actions involving the plan such as merger or termination
11. Restated plan
12. EGTRRA good faith amendments
13. All executed interim and discretionary amendments in chronological order with the latest on top
14. Current trust agreement
15. Verification of prior law, such as a prior determination letter or adoption agreement/plan document and all amendments not covered by a prior letter
16. All other pertinent documents, such as merger agreements or compliance statements



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## Filing Requirements


- Revenue Procedure 2009-6 has revised 2008-6.
- Change in filing requirements affect administrators with 30 or more plans being submitted. The Revenue Procedure no longer requires pre-notification of the filings.
- Plans being submitted do not need to be redlined to identify changes in the document.
- If a separate trust agreement is used it must be filed to demonstrate that the trustee executed the document.



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## Guidance Citations

- 2006 Cumulative List of Changes, Notice 2007-3
- Employee Plans News, Winter 2008
- Revenue Procedure 2005-16
- Revenue Procedure 2007-44, 2007-49
- Revenue Ruling 2008-7
- Proposed Regulations relating to section 411(a)(13) and 411(b)(5) of the Code



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- Questions?