

Alert

The End of the First Five-Year Determination Letter Cycle Is Approaching for Qualified Retirement Plans

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Every individually-designed qualified retirement plan has a five-year fixed, regular remedial amendment cycle, which begins in different years for different plans, depending on the last digit of the plan sponsor's employer identification number (EIN). Each plan has a corresponding five-year determination letter cycle (A-E). Plan sponsors have to retroactively amend their plans by the end of the five-year cycle to comply with applicable legislative and regulatory changes. A favorable determination letter is valid only until the end of the plan's five-year determination letter cycle. The chart below shows the remedial amendment cycle schedule for single employer individually designed plans. Plan sponsors should take note that the end of the first five year cycle is six months away (i.e., Jan. 31, 2012) for any plan in Cycle A that has a one or a six as the last digit of their EIN.

Single Employer Individually-Designed Plan Cycles

Last Digit of Plan Sponsor's EIN	Plan's Cycle	First Five-Year Remedial Amendment Period or Determination Letter Cycle	Next IRS Filing Period	Second Five-Year Remedial Amendment Period or Determination Letter Cycle
1 or 6	A	Jan. 31, 2007 – Jan. 31, 2012	Feb. 1, 2011 – Jan. 31, 2012	Jan. 31, 2012 – Jan. 31, 2017
2 or 7	B	Jan. 31, 2008 – Jan. 31, 2013	Feb. 1, 2012 – Jan. 31, 2013	Jan. 31, 2013 – Jan. 31, 2018
3 or 8	C	Jan. 31, 2009 – Jan. 31, 2014	Feb. 1, 2013 – Jan. 31, 2014	Jan. 31, 2014 – Jan. 31, 2019
4 or 9	D	Jan. 31, 2010 – Jan. 31, 2015	Feb. 1, 2014 – Jan. 31, 2015	Jan. 31, 2015 – Jan. 31, 2020
5 or 0	E	Jan. 31, 2011 – Jan. 31, 2016	Feb. 1, 2015 – Jan. 31, 2016	Jan. 31, 2016 – Jan. 31, 2021

For multiple employer plans, the plan's five-year remedial amendment cycle is Cycle B. For multi-employer plans, the plan's five-year remedial amendment cycle is Cycle D. Special rules apply to plans maintained by more than one employer and plans maintained by multiple members of a controlled group or affiliated service group.

Master and Prototype Plans and Volume Submitter Plan Cycles

For pre-approved plans such as master and prototype plans and volume submitter plans, there is be a fixed, regular six-year remedial amendment cycle. Defined benefit plans would have a different six-year cycle than defined contribution plans. The same six-year remedial amendment cycle would apply to all defined benefit plans and the same six-year remedial amendment cycle would apply to all defined contribution plans. Pre-approved plan sponsors would only need to apply for new opinion, advisory or determination letters every six years. The chart below shows the proposed remedial amendment cycle schedule for sponsors of M&P plans and volume submitter plans.

	Defined Contribution Plans		Defined Benefit Plans	
	Last Day of EGTRRA remedial amendment period	Next six-year remedial amendment cycle end date	Last Day of EGTRRA remedial amendment period	Next six-year remedial amendment cycle end date
Sponsors	Jan. 31, 2006	Jan. 31, 2012	Jan. 31, 2008	Jan. 31, 2014
Volume submitters	Oct. 31, 2005	Oct. 31, 2011	Oct. 31, 2007	Oct. 31 2013

The IRS publishes a Cumulative List of Changes in Plan Qualification Requirements each fall around mid-November. The annual Cumulative List of Changes in Plan Qualification Requirements identifies changes in the qualification requirements of the Internal Revenue Code as well as items appearing in the Service's published guidance, such as regulations and revenue rulings, that are considered by the Service in its review of plans whose remedial amendment cycle ends on Jan. 31 of the second calendar year following publication of the list. For example, if a plan is using Cycle A so that its remedial amendment cycle ends on Jan. 31, 2012, the plan would be reviewed on the basis of the list that was published at the end of 2010.

CALL TO ACTION:

If you are a sponsor of a qualified plan that falls within Cycle A (EIN ends with a one or a six as the last digit), you should update the plan document using the 2010 Cumulative List and prepare for the upcoming deadline to submit the plan to the IRS during the second submission period. The deadline for Cycle A is Jan. 31, 2012. If you would like assistance, please contact the author of this *Alert* or your attorney at Schulte Roth & Zabel.

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