



Leslie Thomson

Of Counsel
406.896.4638
Billings
lkthomson@hollandhart.com

So Long, Farewell: The Demise of the Determination Letter Program

Insight — July 23, 2015

Effective January 1, 2017, the staggered 5-year determination letter remedial amendment cycles for **individually designed plans** will end. This means that plan sponsors will no longer be able to request a determination regarding the qualified status of its individually designed plan every five years. Instead, individually designed plans will be able to receive a determination letter only on initial plan qualification and for qualification upon termination. We are currently filing determination letter applications for plans that fall in Cycle E (EIN ends in 5 or 0). Cycle A (EIN ends in 1 or 6), beginning February 1, 2016, will therefore be the final cycle under the current structure.

In addition, effective July 15, 2015, the IRS will no longer accept off cycle determination letter applications *unless* the request pertains to a new or terminating plan.

Many questions remain unanswered at this time. Should plan sponsors consider abandoning their individually designed plan? This may not be a viable solution for complex retirement plans. How does this affect the interim amendment rules? How will this affect the IRS's voluntary correction program? Will IRS audits now include a comprehensive review of plan provisions for qualification requirements? How will this change affect the due diligence process in a merger & acquisition situation?

What we do know is that the IRS is considering ways to make it easier for plan sponsors to comply with the qualified plan document requirements and is requesting comments on certain issues relating to this announcement. We will continue to monitor this development and keep you posted on future guidance.

If you have questions on this or any other employee benefit matters, please contact any member of the Benefits Law Group.

Subscribe to get our Insights delivered to your inbox.

This publication is designed to provide general information on pertinent legal topics. The statements made are provided for educational purposes only. They do not constitute legal or financial advice nor do they necessarily reflect the views of Holland & Hart LLP or any of its attorneys other than the author(s). This publication is not intended to create an attorney-client relationship between you and Holland & Hart LLP.

Substantive changes in the law subsequent to the date of this publication might affect the analysis or commentary. Similarly, the analysis may differ depending on the jurisdiction or circumstances. If you have specific questions as to the application of the law to your activities, you should seek the advice of your legal counsel.