



IRS Extends Submission Deadline for Pre-Approved PPA Defined Benefit Plans Cycle C Cash Balance Plans May Complete Form 8905

By John P. Griffin, J.D., LL.M and Charles D. Lockwood, J.D., LL.M

The IRS has announced an extension, to February 2, 2015, of the deadline for the submission of applications for pre-approved PPA defined benefit plans. (See IRS Announcement 2014-4). This extension is intended to allow pre-approved defined benefit plans to include cash balance provisions for the first time. Employers with individually designed cash balance plans that are on Cycle C may now complete Form 8905 to declare their intent to restate onto a pre-approved document and do not need to file for a determination letter by January 31, 2014.

Although the original deadline for filing applications for pre-approved PPA defined benefit plans was just a few days away (January 31, 2014), the IRS decided at the last minute to delay submissions so that mass submitters (like ASCi) and other document providers can submit defined benefit plans with cash balance provisions under the pre-approved PPA defined benefit plan program.

Major Expansion of Pre-Approved Defined Benefit Program

IRS Announcement 2014-4 reflects a major expansion of the pre-approved defined benefit plan program. Prior to the Announcement, the IRS prohibited pre-approved defined benefit plans from including cash balance provisions. Employers could only adopt a cash balance plan using the individually designed plan format.

ASci Insight: ASCi and other document providers worked hard behind the scenes with the IRS for the expansion of the pre-approved plan program to allow cash balance plan provisions. In fact, ASCi lobbied for this expansion before the pre-approved EGTRRA defined benefit plans were submitted in 2008. Fortunately, the IRS finally was convinced that such an expansion benefits employers, practitioners and the IRS. Unfortunately, the announcement of the extension did not happen until the last minute. Because of the January 31, 2014 deadline, ASCi and our clients had already completed significant amounts of paperwork in anticipation of filing.

The new filing deadline, February 2, 2015, will allow document providers to re-draft their pre-approved PPA defined benefit plans to include cash balance provisions. At this time, the IRS will not yet accept pre-approved plans with cash balance features. The IRS intends to work with document drafters, including ASCi, in developing the parameters of the expanded program.

User fees related to the submission and adoption of pre-approved plans are scheduled to increase January 31, 2014. In Announcement 2014-4, the IRS indicated that, despite the extended deadline, the IRS will apply the increased user fees for the submission and adoption of pre-approved PPA defined benefit plans. For example, the user fee for word-for-word adopters of a mass submitter's pre-approved plans (both defined benefit and defined contribution plans) will increase from \$300 to \$400 per adoption agreement.

ASci Insight: ASCi intends to re-draft its volume submitter defined benefit plan to include cash balance features. However, at this time, we are still working with the IRS on permissible provisions. Hopefully, we will be able to incorporate all or most of the flexibility provided in our current individually designed cash balance plan.

Completion of Form 8905 for Cycle C Individually Designed Cash Balance Plans

Until Announcement 2014-4, employers with Cycle C cash balance plans had to adopt restated plans and submit for a determination letter on Form 5300 by January 31, 2014. With the expansion of the pre-approved defined benefit plan program to include cash balance provisions, the IRS is allowing these employers to avoid adopting and filing for determination letters by completing Form 8905, Certification of Intent to Adopt a Pre-Approved Plan. Cycle C filers have until March 31, 2014 to complete Form 8905.

ASCI Insight: Although we do not know the precise parameters of the expanded pre-approved defined benefit plan program, we expect that many employers with cash balance plans will be able to utilize the pre-approved plan format. Even if employers are unsure whether their cash balance plans will “fit” the yet-to-be-announced parameters for the pre-approved defined benefit plan program, we generally recommend that Cycle C filers complete the Form 8905. Potentially, this could save the adopting employer significant user fees. (The current user fee for submission of a Form 5300 for an individually designed plan is \$2,500, while the user fee for adoption of a word-for-word pre-approved defined benefit plan with cash balance features will be \$400.) If the expanded pre-approved defined benefit plan program does not accommodate an employer’s particular cash balance plan design, such employer may still adopt an individually designed plan even though it completed a Form 8905. The IRS will not consider the employer to have missed its PPA remedial amendment period.

Since the IRS issued Announcement 2014-4 so near to the Cycle C filing deadline and many employers with Cycle C cash balance plans had already submitted their Form 5300 applications, ASCi has asked the IRS about the ability of these submitters to withdraw their applications and have their user fees returned. As of the date of publication of this ASCi Alert we have not received an answer.

ASCI will keep you informed of new developments in this area. If you have suggestions on cash balance features you would like in the ASCi volume submitter defined benefit plan, please contact Charles Lockwood at clockwood@asc-net.com.

ASCI Alerts are published as an information service for ASC and ASCi Clients. Articles are general in nature and are not a substitute for professional advice or opinion in a particular case.

To access ASCi Alerts go to www.asc-net.com

ASC and ASCi provide software and web applications for retirement plan professionals including: DC/DB Software, Plan Documents, EFAST2 5500 System and ERISA consulting. To contact ASCi or ASC email: info@asc-net.com