Agenda

- Prop. Regs. on Multiple Employer plans
- EPCRS and DL Revenue Procedures
- Closed DB plans
- Guidance plan review
- Missing participants relief
- Joint Board update
- Hardship distributions (dc plans only)
- Questions

IRS Proposed Regs—Multiple Employer Plans

- 84 FR 31777, published 7/3/19
- Comments due 10/1/19
- No reliance on proposed regs
- Driven by 8/31/18 E.O. to focus on “one bad apple” rule
- Applies to DC plans only
Background -- MEP’s

• IRS regs: one employer in a MEP can cause qualification failure for whole plan ("one bad apple")
• DOL AO’s: employers in a MEP must have “commonality” or employment-based common nexus
• 8/31/19 EO directs agencies to look at both rules (DOL issues proposed regs on 10/23/18, superseding AO’s)

Prop. Regs create exception

• DC MEP can do spinoff/termination of unresponsive/unwilling employer’s plan, to save overall plan qualification
• Unresponsive employer or plan administrator can initiate spinoff
• 3 notices to employer and employees required
• Plan document language is needed
• Cannot do if plan is “under examination” by IRS

Other items

• IRS plans to issue model language
• Spinoff/termination must preserve survivor annuity protections, no loss of accrued benefits, and 402(f) notices to participants
Comments requested

• Should this be available to db plans?
• Are there additional requirements or mechanisms that should be put in place?
• Should there be additional guidance on spinoff/terminations?
• What steps should DOL take?

Rev. Proc. 2017-56

• Updated and replaced Rev. Proc. 2000-40
• Automatic changes in asset valuation method
• Automatic changes in funding methods
• Common issues
  – M&A
  – Takeover situations
  – 3% corridor
  – User fee amount

Rev. Proc. 2017-57

• Request for change in funding method
• Definition of method/change in method
• Common issues

• Effective April 19, 2019
• Increases number of actions that can be self-corrected
• Certain operational failures and document failures may not be self-corrected
• Several new loan issues may now be self-corrected


• Limited expansion, determination letter program
• Accepting applications for certain individually-designed plans
  – Hybrid plans, 12-month period beginning 9/1/19
  – Merged plans - ongoing

Closed DB plans

• Prop. Regs. 81 FR 4976, 1/29/2016
• ARA submitted comments 4/28/2016
• Still on Guidance Plan
• Extensions provided (Notice 2018-69 is latest extension; see Not. 2014-5)
Closed DB plans

• Relief under section 401(a)(26)?
• Using ACP to meet gateway req’ts
  – Lesser of 3% or average of employer matching contributions (ACP) can be applied to minimum gateway allocation
  – No reference to current or prior year ACP—must ACP be determined for current year?
  – Disregard disproportionate matching contributions?

Guidance Plan review

• 401(a)(9) RMD rules
• Guidance updating regs for service credit and vesting under section 411
• Finalization of 10/9/2008 proposed regs under section 411(a)(11)
• Guidance on treatment of future interest credits and annuity conversions under hybrid plans

Guidance Plan review

• Final Regs under section 417(e); proposed regs published 11/25/2016
• Additional guidance relating to lifetime income from retirement plans and IRA’s
• Will IRS issue regs under 404(o)?
Missing participants relief

- Notice 2018-90, released 11/20/2018
- Extends Rev. Rul. 2018-17 transition relief, for reporting and withholding purposes to payments of individual’s IRA interest to State unclaimed property fund
- Extension is for payments made before earlier of 1/1/20 or “date it becomes reasonably practicable” for person to comply

Joint Board Update

- Advisory committee and Exam committees
- Last year of 3 year CE cycle
- Board will post notice on its website when re-enrollment is open

Hardship distribution and loans

- Hurricanes and wildfires--Announcements 2017-11, 2017-13, 2017-17
- Prop. Regs 83 FR 56763, 11/14/18
- Adds 7th safe harbor category of deemed immediate and heavy financial need for FEMA events
- 401(k)’s only; does not apply to DB plans
Hardships--Tax Cuts and Jobs Act of 2017

• 2016 disaster relief for hardship distributions for Louisiana floods (section 11028)
  – IRC 72(t) relief
  – $100,000 loan limit

Hardships--Bipartisan Budget Act of 2018

• California wildfire relief for hardship distributions and loans (sec. 20102)
• Hardship distributions generally: deleted 6 month hold out rule (sec. 41113, effective PYBA 12/31/18)
• Hardship withdrawals expansion from 401(k)'s: QNEC's, QMAC's, and earnings can be withdrawn, not just elective deferrals and earnings (sec. 41114, effective PYBA 12/31/18; no loan required)

Questions

ANY QUESTIONS?

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