AMERICAN RETIREMENT ASSOCIATION
Working for America's Retirement
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October 1, 2015

Internal Revenue Service
Attn: CC:PA:LPD:PR (Announcement 2015-19)
Room 5203
P.O. Box 7604
Ben Franklin Station
Washington, D.C. 20044

RE: Comments on IRS Announcement 2015-19

The American Retirement Association ("ARA") is submitting this letter in response to Internal Revenue Service ("IRS") Announcement 2015-19 in which the IRS requested comments regarding changes to the Employee Plans Determination Letter Program. ARA thanks the IRS for the opportunity to provide input on this matter.

ARA is a national organization of more than 20,000 members who provide consulting and administrative services to American workers, savers and sponsors of retirement plans and IRAs. ARA members are a diverse group of retirement plan professionals of all disciplines including financial advisers, consultants, administrators, actuaries, accountants, and attorneys. The ARA is the coordinating entity for its four underlying affiliate organizations, the American Society of Pension Professionals and Actuaries ("ASPPA"), the National Association of Plan Advisors ("NAPA"), the National Tax-deferred Savings Association ("NTSA") and the ASPPA College of Pension Actuaries ("ACOPA"). ARA members are diverse but united in a common dedication to America's private retirement system.

Summary

IRS Announcement 2015-19 sets forth significant changes to the Employee Plans Determination Letter ("DL") program. Effective January 1, 2017, individually designed plans may generally be submitted for DLs only on initial plan qualification and upon plan termination. In addition, effective July 21, 2015, no off-cycle submissions are permitted. ARA understands the resource concerns faced by the IRS and has been actively involved with the IRS in discussions to improve both the DL program and the pre-approved plan program. Our comments below are made with the expectation the IRS will continue to work with the practitioner community to improve both of these programs.

IRS Announcement 2015-19 makes revisions to the DL program only for individually designed plans. ARA encourages the IRS to retain all other aspects of the DL program, including the ability of non-identical adopters of pre-approved plans to request DLs (*i.e.*, using IRS Form 5300 or Form 5307, as applicable[1]). This comment letter primarily focuses on the changes made to the DL program for individually designed plans, although we have included several recommendations on improving the pre-approved plan

[1] Modifications to a volume submitter that do not require extensive review may be submitted using IRS Form 5307. Modifications to an M&P plan require submission using Form 5300 but ARA's comments include a recommendation that this rule be changed to be similar to the rule applicable to volume submitter plans.

program. ARA will also submit a separate comment letter regarding enhancements to the pre-approved plan programs (for both qualified plans and 403(b) plans).

This letter first addresses the questions posed by the IRS. The answers to many of these questions are inherently tied to other issues under consideration by the IRS. We have provided recommendations on those additional items and would be pleased to expand on them when the Service is prepared to address these ancillary issues.

Discussion

A. Questions Posed by the IRS

1. What changes should be made to the remedial amendment period that would otherwise apply to individually designed plans under §401(b)?

    a. *Extension of RAP to 2 years after it begins.*
    Plan sponsors of individually designed plans will be entitled only to the general remedial amendment period set forth in the IRC §401 and supporting regulations.[2] The elimination of the 5-year remedial amendment period is a significant reduction in the time for correction of disqualifying plan defects. ARA recommends that the general remedial amendment period be extended to two years from the date the remedial amendment period begins.[3] An extension to two years is consistent with the self-correction period for significant errors set forth in the Employee Plans Compliance Resolution System ("EPCRS").[4] This extension would be limited to correcting plan document errors that could otherwise be corrected during the general remedial amendment period (*e.g.*, it would not be an exception to IRC §411(d)(6)). The IRS could provide this extension by updating EPCRS, thereby avoiding the need to go through a lengthy regulatory process.

    b. *Exceptions to "no DL after initial adoption" rule, and clarification of meaning of reliance if a plan is amended.*
    Practitioners are justifiably concerned about the inability to obtain a DL after initial plan qualification (other than on plan termination). The IRS can alleviate some of these concerns by providing exceptions to this general rule. Identifying these exceptions is beyond the scope of this comment letter, but we have identified several examples in the latter part of this comment letter. Moreover, ARA recommends the IRS provide guidance confirming that a plan sponsor may continue to rely upon a favorable DL except to the extent of any plan amendment, other than adoption of an IRS model amendment or an amendment that is substantially similar to an IRS model amendment. This will provide some comfort and protection that, upon an IRS examination or later DL filing (such as on plan termination), a

[2] 26 CFR 1.401(b)-1
[3] 26 CFR 1.401(b)-1(b) sets forth the rule on when the remedial amendment period begins, which is generally upon the effective date of a change in the law or upon the effective date of a new plan or an amendment.
[4] Revenue Procedure 2013-12, 2013-04 I.R.B. 313, modified by Revenue Procedure 2015-27, 2015-16 I.R.B. 914, and Revenue Procedure 2015-28, 2015-16 I.R.B. 920

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plan sponsor will not be subject to adverse consequences for plan provisions that were not modified after the issuance of the initial DL.

c. *"Expiration Date" no longer applicable.*
ARA also recommends that the IRS provide guidance that eliminates the applicability of the expiration date that DLs currently contain. It is not practical for the IRS to reissue existing DLs, so formal guidance eliminating the DL expiration date would be the most efficient way to address this concern. We would expect future DLs (*i.e.*, those issued after the date of the Announcement) to no longer include a specific expiration date.

d. Possible third party certification program.
One of the options considered by the IRS as part of the previous White Papers was replacing the DL program with a Third-Party Certification System.[5] ARA supports such a program and realizes this would be a longer-term project. We are willing to work with the IRS in developing such a program.

2. What additional considerations should be taken into account in connection with the current interim amendment requirement?

a. *Challenges of drafting compliant interim amendments.*
The issues associated with interim amendments have centered on two general areas: (1) the timing of when interim amendments must be adopted; and (2) what provisions are considered to be a disqualifying defect and, as a result, require an interim amendment. It is the second area that is significantly impacted by the changes to the DL program. Our recommendations, however, generally have application to individually designed plans as well as pre-approved plans.

The 5-year remedial amendment period cycles protected plan sponsors regarding interim amendments in two ways. First, only a "good faith" amendment was required to be adopted. Second, a plan sponsor was protected if, in good faith, it determined that no interim amendment was required. The change to the DL program presumably eliminates both of these protections. The inability to obtain a DL after initial plan qualification means that individually designed plan sponsors will need to determine if an amendment is needed and if so, draft the amendment so that it absolutely meets the qualification requirements.[6] This is particularly problematic because practitioners and the IRS often have differing views on which changes in the law require an amendment. Furthermore, assuming an amendment is required, the views become even more divergent in regard to wording that must be used for the amendment. Without a model amendment, plan sponsors and practitioners must draft language that will meet an unknown IRS standard. For example, compare the model

[5] See IRS Announcement 2003-32 and the second white paper entitled *The Future of the Employee Plans Determination Letter Program: Evaluation of Public Comments and Additional Explanation of Staggered Remedial Amendment Period Option*

[6] For this reason, the term "interim" amendment is a misnomer with respect to individually designed plans. The IRS might want to refer to these as nondiscretionary amendments. We have generally continued to use the term interim amendment in this comment letter to avoid confusion.

amendment for IRC §414(u)[7] to the sample plan amendment for IRC §436[8]; one amendment incorporates the Code by reference and the other is considerably more expansive. Whether incorporation by reference will be permitted is only one "decision point" that a drafter must consider when updating a plan. Another example is that it is often not clear whether the IRS considers a given issue to be one of design or testing, which would not necessarily require a plan amendment, and one where the plan language must reflect the actual design or testing option that is being used.

While the Cumulative List of Changes may give a drafter some appreciation of the elements that must be in a qualified plan, this medium includes only provisions that the IRS is prepared to review as part of a DL request. It provides no sample language, nor does it clarify the areas of concern noted above. More specificity is needed to identify whether an amendment is required and what it should provide. Because the IRS will be enforcing the rules on a plan audit or on plan termination, it is critical that the private sector understand what standard it will be held to.

ARA recommends: The IRS should publish a list of provisions that require an interim amendment with sufficient detail to determine which plans may be impacted by such changes, as well as guidance on the content of a required amendment.

b. *Changes in IRS interpretation of existing law.*

ARA is also concerned that changes in IRS interpretations of existing law might either subject a plan to disqualification or require the adoption of an interim amendment. For example, the IRS has recently required pre-approved defined contribution plans to include language prohibiting the use of forfeitures to reduce ADP test safe harbor contributions[9], which is inconsistent with its position for the prior documents (EGTRRA).[10] Many sponsors of individually designed plans have favorable DLs on plans that include provisions that allow forfeitures to be used for this purpose. Does the IRS action with respect to pre-approved plans mean that individually designed plans are required to adopt an interim amendment? If so, when did this issue create a disqualifying defect in the plan? What is the remedial amendment period in relation to this? There has been no change in the formal guidance on this issue that would alert practitioners of when the change in the IRS position occurred, or that would toll a remedial amendment period.

When there is a change in an IRS interpretation of the law that is not documented through a Notice, Revenue Ruling, or other formal guidance, it is not clear what action, if any, plan sponsors are required to take. Presumably, they would have continued reliance on their

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[7] Rev. Proc. 96-49, 1996-2 C.B. 369

[8] IRS Notice 2011-96

[9] ARA strongly believes this position is incorrect and not supported by the clear wording of the Internal Revenue Code. See ARA Comment letters dated July 8, 2013 (available at http://www.asppa.org/Portals/2/PDFs/ASPPA%20-%20Forfeitures%20Used%20as%20Safe%20Harbor%20Contributions%20-%20final7%208%2013.pdf) and May 8, 2012 (available at http://www.asppa.org/LinkClick.aspx?fileticket=LF6uRsNiWEU%3d&portalid=2).

[10] Other examples include the IRS requiring pre-approved plans to address DOL Field Assistance Bulletin 2008-01 (regarding the duty to collect delinquent contributions) and the IRS prohibiting pre-approved plans from including a definition of normal retirement age, solely for nondiscrimination testing, that is the Social Security Retirement Age.

favorable DL, as there has been no change in the law. Nevertheless, it may be years or even decades before a plan is terminated and eligible to be submitted for a DL. Furthermore, what if the plan is audited by the IRS in the interim?

ARA is concerned that, over time, the history of these changes in interpretation or policy will be lost and the IRS will penalize plan sponsors for not updating their plans in accordance with an internal, informal change in position. It is imperative that, when these changes occur, the IRS provide specific and public guidance to alert plan sponsors and practitioners that such changes require an interim amendment (and specify the date by which such amendment must be adopted).

ARA recommends: Changes in IRS interpretation of existing laws need to be publicly announced and treated as a change of law, thereby putting practitioners on notice that a conforming amendment may be required by a specified date.

c. *The need for more model amendments or sample language.*
The need for IRS model amendments or sample language is more acute in light of the elimination of the remedial amendment period cycles for individually designed plans. As stated above, interim amendments must now presumably contain no disqualifying defects and there is no ability to obtain IRS review of such amendments.

ARA recommends: The IRS should issue at least sample language – if not model amendments - whenever an interim amendment is required. In addition, to ensure that sample language or a model amendment is flexible enough for the marketplace, ARA recommends that the IRS solicit input from the practitioners prior to issuing any sample language or model amendments and, equally as important, permit a plan sponsor to have reliance on any amendment or language that is substantially similar to the IRS model amendment or sample language.

d. *Increased use of incorporation by reference.*
ARA also requests that, when determining whether an interim amendment is needed, when drafting sample language and model amendments, and when issuing guidance on other possible changes to the written plan document requirement (such as permitting more provisions to be incorporated by reference), the IRS consider an approach that requires only that plan documents reflect the statute rather than any interpretive guidance, except where such guidance requires a plan sponsor to make an election. Interpretive guidance (regulatory or otherwise) merely interprets the law but does not change the law. The IRS has taken an expansive view of provisions that must be included in a plan and, in many cases, this is helpful to plan sponsors and providers. The inability to obtain DLs after initial qualification, however, means practitioners engender more risk should they try to draft provisions that go beyond the bare minimum required to satisfy the IRS qualification requirements. The IRS may want to revisit items raised in the first White Paper (published in August 2001) regarding the use of plan operating manuals and other tools to assist plan sponsors.

An additional benefit of limiting required plan language to statutory provisions is reducing the time needed for the IRS to thoroughly review plans (*e.g.*, it avoids the need of the plan drafter to rewrite plan provisions if regulations can simply be incorporated by reference) and it avoids the probability of requiring multiple interim amendments for a single statutory change in the law. Under current rules, an interim amendment might be required for a legislative change and then a subsequent interim amendment or amendments might be needed for interpretative guidance.[11]

e. *Clarification of ongoing document requirements.*
Where Congress has given the Treasury the authority to promulgate rules, such rules or regulations consistently should address plan document requirements, both in regard to the extent to which plan documents must incorporate such guidance and also as to the timing of amendments (the timing should be based on the date of publication). For example, the IRC §415 regulations[12] set forth plan document requirements and include default provisions that apply if a plan is silent as to available plan sponsor elections. This type of approach is beneficial to both the IRS and practitioners in that it permits many plans to simply incorporate the regulations by reference. If a more detailed explanation of the rules is needed by the plan sponsor, then it could be handled outside of the plan, thereby not affecting the plan document or its qualification.

f. *Timing of interim amendments.*
IRS rules regarding the timing of when an interim amendment must be adopted have been particularly confusing to practitioners. In addition, practitioners often promptly draft individualized amendments and then as the deadline approaches, the IRS releases a model amendment. Because of the reliance feature often accorded a model amendment, the individualized amendment is often discarded (or superseded by the model) and the net result is incredible waste of time and effort.

ARA recommends: The IRS should publicly announce as soon as practical when it is developing a model amendment or sample language for use by plan sponsors. The IRS could then work with practitioners in establishing a deadline that is based upon the date of the issuance of the model amendment. ARA recommends that such period be at least twelve months after the guidance is released and preferably end on a uniform date, such as the last day of a plan year. This will provide a uniform adoption deadline and avoid the confusion that results as general remedial amendment period deadlines may overlap.[13]

3. What guidance should be issued to assist plan sponsors that wish to convert an individually designed plan into a pre-approved plan?

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[11] For example, HEART Act provisions may have been included with a plan's Pension Protection Act of 2006 provisions but modified again due to subsequent IRS guidance. Likewise with respect to IRC §436 provisions.
[12] Treas. Reg. §1.415(a)-1(d).
[13] For example, the IRS model amendment for IRC §436 was issued close to the general deadline. Many plan practitioners had developed, and adopted their own interim amendments, not being aware that the IRS was working on the issuance of a model amendment (and an extension). This resulted in the adoption of multiple amendments for the same provision in the law.

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The IRS has provided helpful information, through the use of newsletters and other informal communications, about the ability of individually designed plan sponsors to switch to pre-approved plans (*i.e.*, through the use of IRS Form 8905).

There are two primary reasons why sponsors do not use pre-approved plans. First, the plan may contain a provision that is impermissible in pre-approved plans. Second, the plan may contain too many unique provisions to fit within a pre-approved plan (*e.g.*, the plan may contain numerous benefit structures due to acquisitions). Due to the importance of this issue, ARA will submit a separate comment letter with recommendations on how to expand and improve the pre-approved plan programs for qualified plans and 403(b) plans.

In addition, ARA encourages the IRS to clarify, and possibly expand, situations in which a pre-approved plan may be modified without affecting reliance on its opinion or advisory letter for qualification.

For example, many practitioners object to using pre-approved plans because the plan provisions do not accommodate provisions designed to protect the plan fiduciaries. While current rules allow modifications of pre-approved plans to address changes in ERISA,[14] they do not allow broader changes, such as adding a statute of limitations on claims. Plan sponsors and practitioners may be more amendable to the use of preapproved plans if they know certain plan modifications may be added without affecting a plan sponsor's reliance on an opinion or advisory letter.

ARA believes the IRS can assist plan sponsors and practitioners by providing guidance regarding the scope of reliance and providing details on when provisions may be modified without affecting reliance. Such questions include the following:

a. If a plan sponsor amends the plan (either a preapproved plan or language that has been approved in an earlier DL), does this mean that the opinion, advisory, or favorable DL (collectively referred to below as "Approval Letter") does not apply to the changed language (but continues to apply to the balance of the plan), or may the IRS consider other parts of the document open to renewed review and disapproval?
b. If a plan sponsor amends the plan to modify something that relates to ERISA, but not to the Code, does that modification affect reliance on the Approval Letter?

   ARA recommends: If a previously approved plan provision is modified, the plan sponsor should have continued reliance on the provisions that are not affected by the modification.

   ARA further recommends: In order to make pre-approved plans more attractive to plan sponsors and practitioners, the IRS should expand the ability of M&P plan adopters, as well as all non-identical adopters of pre-approved 403(b) plans, to be able to submit individual plans to the IRS for DLs (using IRS Form 5307 where such changes do not require extensive review). While we appreciate the IRS resource concerns, the expansion of these programs will make the use of pre-approved plans more attractive to plan sponsors and practitioners.

[14] See Rev. Proc. 2015-36 §21.02.

4. What changes should be made to other IRS programs to facilitate the changes described in this announcement, including revisions to the Employee Plans Compliance Resolution System ("EPCRS")?

   ARA recommends the following regarding EPCRS:

   a. The IRS should eliminate the requirement that a plan be subject to a favorable DL to be eligible to self-correct significant operational failures within the time specified in Section 9.02 of Rev. Proc. 2013-12. This will ensure there is consistency among the requirements for all plans. In addition, it will help avoid the confusion that arises as to the eligibility of a plan for self-correction when a modification to a plan destroys reliance on an Approval Letter. ARA therefore recommends that this requirement be eliminated for all plans, not just individually designed plans.

   b. EPCRS should be modified to permit at any time, including when a plan is under examination, the self-correction by amendment of plan document errors that are insignificant. An insignificant error would be a plan document error that does not affect the operation of a plan. We understand the reluctance of the IRS to permit self-correction of plan document errors. We believe our recommendation is reasonable in light of the changes to the DL program. Self-correction would be permitted only if there was no effect on the operation of the plan (*e.g.*, the amendment has no actual impact on plan participants). This would include, for example, innocuous typos or defective IRC §401(a)(9) provisions where no participants or beneficiaries in the plan have been subject to required minimum distributions. The plan sponsor would make the decision as to whether an error is insignificant. Although the IRS would have control over whether an error is insignificant, it will be critical to assure plan sponsors are not trapped where there are reasonable differences of opinion.

      If a plan sponsor is not comfortable with self-correction, then VCP could be utilized to resolve the problem. We recommend, however, (particularly if the IRS will not approve the use of self-correction for these types of errors) that the IRS consider both a streamlined VCP to address the correction of plan document errors where the error does not affect the operation of the plan, as well as applying the currently reduced sanctions for errors found on DL requests to situations where a plan document error (whether discovered by the plan sponsor or on audit) has no effect on the operation of the plan.[15]

      ARA further recommends that the appropriate EP Examination Guidelines be reviewed and updated as needed to reflect the elimination of the 5-year DL cycle. Similarly, the Internal Revenue Manual (IRM), at section 4.71.1, contains references to DLs that should be reviewed and updated to ensure they are consistent with the revised DL program.

[15] See Section 14.04 of Rev. Proc. 2013-12.

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B. Comments on other IRS considerations

1. Existing Use of Form 5300

ARA expects the IRS will continue to accept Form 5300 submissions (even if off-cycle) where Form 5300 is required for reasons other than a plan being an individually designed plan.[16] In addition, we expect that Form 5300 submissions will continue to be accepted for a non-identical adopter of a pre-approved plan that requires a more extensive review. Continuing to accept these submissions will encourage the use of pre-approved plans and the IRS would retain the discretion to reject a Form 5307 submission in a manner similar to Rev. Proc. 2007-44 §19.04.[17]

2. Other situations in which a DL can be requested

The IRS stated it will consider exceptions to the rule that a DL may only be obtained on plan inception and plan termination. While suggestions for such exceptions are beyond the scope of the issues on which the IRS has solicited input at this time, there are several situations that warrant inclusion in this letter.

ARA, however, first requests the IRS to provide clarification on what "initial qualification" means for purposes of the changes to the DL program. Announcement 2015-19 provides:

> …"initial qualification (that is, a plan for which a Form 5300, *Application for Determination for Employee Benefit Plan*, has not been filed or for which a Form 5300 has been filed but a determination letter was not issued with respect to the plan, regardless of when the plan was adopted)…"

It is not clear if this will be literally applied. For example, a plan sponsor may currently maintain a traditional pre-approved defined benefit plan. No DL has been issued on the plan because the plan sponsor had reliance on the pre-approved plan. If the plan sponsor amends the plan to a cash balance plan with a market rate for interest credits (which is impermissible in a pre-approved plan), would this plan be eligible for a DL submission as an initial qualification?

ARA recommends**:** "Initial qualification" for DL eligibility should include the first instance in which a plan document is drafted using an individually designed document, even if that is a restatement from a previous preapproved plan.

[16] Form 5300 must be used for a determination on the following: multiple employer plans; affiliated service group status; leased employee status; partial termination; 415 or 416 coordinating language; and using a normal retirement age earlier than 62.

[17] §19.04 provides: Notwithstanding the above, if an employer amends an approved M&P plan including its adoption agreement or an approved VS plan to such an extent that the Service determines in its discretion that the plan falls under section 24.03 of Rev. Proc. 2005-16, then the plan will be considered individually designed for purposes of this revenue procedure (that is, the employer will be subject to the applicable five-year remedial amendment cycle based on the last digit of their EIN). The same rule applies if the employer adopts an amendment described under section 19.03(3) and (4) above within one year of adopting either the M&P plan or the VS plan.

ARA also requests that the IRS permit DL submissions for certain cash balance plans that were in Cycles C and D and where the plan sponsor signed IRS Form 8905 to fall with in the 6-year cycle for pre-approved plans. In Rev. Proc. 2015-36, the IRS included certain impermissible cash balance provisions for pre-approved plans (*e.g.*, an interest credit based on actual rate of return). Sponsors of plans containing these provisions did not file DL applications because they expected, in good faith, to restate their plans using a pre-approved plan. These plan sponsors are now precluded from obtaining a favorable DL.

ARA recommends: The IRS should permit sponsors of these plans to be able to submit the plans for a DL letter by January 31, 2017. One of the requirements for such submission would be inclusion of the timely executed Form 8905.

ARA further recommends: The IRS should permit a mid-life cycle DL submission when there are plan mergers and when there have been modifications to a plan that changes the plan to a different type of plan. For example, amending a plan from a traditional defined benefit plan to a hybrid plan should be a situation in which a DL may be requested. Likewise, amending a profit sharing plan to add 401(k) features or ESOP provisions would be another situation that would warrant an exception to the rule that a plan can only be submitted for initial qualification.

ARA looks forward to working with the IRS to develop further guidance regarding exceptions to the general prohibition.[18]

3. Facilitation of compliance with written plan document requirement

The IRS stated that it is considering ways to facilitate compliance with the written plan document requirement.

Having a complete listing of the requirements for provisions required in a qualified plan at any given time, as well as any specific prohibitions (such as the use of forfeitures for safe harbor contributions) would ensure that plan sponsors and practitioners know what the IRS requires as a minimum for plan qualification. These listings should be more than references to applicable law; rather they should contain sample language that can serve as a guide to the specificity needed in plan documents to satisfy the qualification requirements. While the IRS Listing of Required Modifications (LRMs) are helpful as a starting point, the LRMs are designed for M&P plans and are, therefore, not appropriate as the standard for all plans. Similarly, the Cumulative List of Changes provides a listing of new things that the IRS reviews in DL submissions, but does not provide a comprehensive list of the documentation requirements for a qualified plan. Nevertheless, the IRS might consider providing guidance stating that drafters of individually designed plans may rely on language that is the same as, or is substantially similar to language contained in the LRMs. In addition, expanding available sample language would also be helpful.

[18] Another area of concern is with plans subject to an independent audit under ERISA. The Department of Labor has increased its focus on the audits (e.g., see Assessing the Quality of Employee Plan Audits (http://www.dol.gov/ebsa/pdf/2014AuditReport.pdf). The lack of a current DL may be problematic for auditors and thus plan sponsors.

ARA recommends: In addition to our above suggestions, the IRS should provide detailed checklists on plan provisions the IRS requires to be in plan documents, as well as sample language, when possible.

Conclusion

ARA looks forward to working with the IRS in refining and improving the DL program and the pre-approved plan programs. In the past ARA has submitted numerous comment letters to the IRS regarding many of the issues that will be considered by the IRS (such as permitted incorporation by reference).[19] We welcome the opportunity to revive and update these prior comment letters when the IRS is prepared to address these issues.

* * * *

These comments were prepared by ARA's Government Affairs Committee and primarily drafted by Robert M. Richter, J.D., LL.M., APM. Please contact Craig P. Hoffman, Esq., APM, General Counsel and Directory of Regulatory Affairs, at (703) 516-9300 if you have any comments or questions on the matters discussed above. Thank you for your time and consideration.

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[19] See ASPPA comment letter dated December 11, 2003:
http://www.asppa.org/Portals/2/PDFs/Comment%20Letters/Incorporation%20by%20Reference.pdf

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