March 3, 2015

Mr. Rob Choi
Director, Employee Plans
Internal Revenue Service
999 North Capitol Street, NE
Washington, DC 20002

Re: Pre-Approved Defined Benefit Plans

Dear Mr. Choi,

The American Society of Pension Professionals and Actuaries ("ASPPA") is requesting that the Internal Revenue Service ("IRS") extend the submission deadline for pre-approved defined benefit plans and to consider various other changes to the defined benefit pre-approved plan program. The issues raised in this letter, and their resolution, are time critical and we thank you in advance for your immediate attention.

ASPPA is a national organization of retirement plan professionals who provide consulting and administrative services for qualified retirement plans covering millions of American workers. ASPPA members are retirement professionals of all disciplines including consultants, administrators, actuaries, accountants, and attorneys. ASPPA is particularly focused on the issues faced by small- to medium-sized employers. ASPPA is now part of the American Retirement Association whose total membership of more than 17,000 retirement plan professionals is diverse but united by a common dedication to the employer-based retirement plan system.

Summary

The following is a summary of ASPPA's recommendations, which are described in greater detail in the **Discussion** section which follows.

I. ***ASPPA recommends*** that the IRS extend the submission deadline for pre-approved defined benefit plans to a date that is at least 5 months after the issuance of the Listing of Required Modifications (LRMs) or other IRS guidance regarding the parameters for pre-approved cash balance plans;

II. ***ASPPA recommends*** that the IRS permit integrated and non-integrated Master and Prototype (M&P) plans to be combined into one adoption agreement; and

III. ***ASPPA recommends*** that the IRS expand the volume submitter program by permitting minor modifier submissions of mass submitter plans in a manner consistent with what is permitted for M&P plans and for volume submitter 403(b) plans.

Discussion

ASPPA thanks the IRS for expanding the pre-approved defined benefit program to include certain cash balance features. As indicated in previous ASPPA letters and in discussions with IRS officials, this modification to the program is a welcome change for plan sponsors and their providers. The result of this change will be a dramatic reduction in the number of cash balance plans that are submitted to the IRS for individual determination letters.

I. Extension of the Submission Deadline for Pre-Approved Defined Benefit Plans

The expansion of the pre-approved plan program to include certain cash balance plan provisions has understandably caused delays in the implementation of the upcoming submission cycle. The IRS recently announced an extension of the pre-approved defined benefit plan submission deadline to June 30, 2015 (IRS Announcement 2014-41). While we thank the IRS for this extension, we believe a further extension would now be appropriate and in the best interests of the IRS, practitioners and plan sponsors.

The LRMs (or other IRS guidance) regarding pre-approved cash balance plans will play an important role in the drafting of the plans. At the present time, we have not received any guidance beyond the basic statement that "certain" types of cash balance plan features will be permitted in pre-approved plans. Guidance from the Service will be necessary to define the parameters of what will actually be permissible.

In the absence of an extension, plans that are submitted by the current June 30, 2015, deadline will need to be revised, after submission, to accommodate the necessary guidance. It is important to point out that to meet the June 30th deadline, master plan language must be drafted by mass submitters, distributed to the sponsoring organizations (such as insurance companies, banks, brokerage houses, etc.), and, as part of that process, be adjusted to fit within the parameters of the pre-approved plan program. Obviously, the June 30, 2015, is now less than four months away. As a result, there will be insufficient time to accommodate this process (and include language that comports with the LRMs). In addition, as explained in item III below, sponsoring organizations will need time to review plans of mass submitters to determine whether they will be word-for-adopters. If the June 30th deadline is maintained, submissions will need to be substantially revised after submission resulting in an inefficient process at best. It will entail additional filings and the payment, or refund, of IRS user fees. This extra work can be mitigated by providing an extension of the deadline that provides a reasonable opportunity to adjust to the IRS guidance.

A prudent approach would be to base the submission deadline on when the underlying guidance is actually issued. This would ensure that the deadline is adjusted to provide sufficient time to address the guidance once it is issued. A deadline determined in this way will allow for updated plan language to be drafted and circulated among the sponsoring organizations for review. This will ensure that pre-approved cash balance plans will actually be used in the marketplace and result in the decrease in individual plan submissions. A deadline that is the last day of the calendar month that is at least 5 months after the release of the LRMs (or other guidance) would be sufficient to meet these needs.

ASPPA recommends that the IRS extend the submission deadline for pre-approved defined benefit plans to a date that is at least 5 months after the issuance of the LRMs or other guidance which defines the parameters of pre-approved cash balance plans

II. Expansion of the M&P Program to Permit Consolidated Integrated and Nonintegrated AAs

Currently Revenue Procedure 2011-49 requires M&P plans to have separate Adoption Agreements (AAs) for integrated and nonintegrated (i.e., permitted disparity) plan features (Section 7.04 of Rev. Proc. 2011-49). This same prohibition does not exist for volume submitter plans. The restriction on M&P plans is no longer warranted as it only increases the number of documents to be submitted and reviewed by IRS personnel. Sponsoring organizations should be permitted to create separate adoption agreements for integrated and nonintegrated features if that is a business practice they want to continue but it should no longer be mandatory. Permitting the combination of the two types of formulas into one AA should not present any extra work for IRS reviewers since it is currently being done with respect to volume submitter plans. Likewise, this change should not present any compliance concerns because defined benefit plans require the use of actuaries to help properly prepare the plan. Therefore, the benefit of permitting a single AA to accommodate both types of features seems to outweigh any detriments.

ASPPA recommends that the IRS permit integrated and non-integrated M&P plans to be combined into one adoption agreement.

III. Expansion of the Minor Modifier Program to Include Mass Submitter Volume Submitter Plans

Rev. Proc. 2011-49 includes a mass submitter minor modifier program for M&P plans but not for volume submitter plans. The IRS had a similar restriction on pre-approved 403(b) plans, but subsequently revised the program to permit minor modifier volume submitter plans (Rev. Proc. 2014-28). We encourage the IRS to make a similar to change to the pre-approved defined benefit program.

The reasons for the modification to the pre-approved 403(b) program are equally applicable to the pre-approved defined benefit program (as well as defined contribution plans). There is no policy reason for continuing this limitation, particularly where the limitation may result in additional plans being submitted to the IRS. Some mass submitters will submit M&P plans solely to utilize the minor modifier program while using the volume submitter program for all other plans. Alternatively, some volume submitter practitioners are willing to pay the high user fee in order to make modifications to a mass submitter volume submitter plan. Once that high user fee is paid, there is no reason for the practitioner to limit its modifications to those that are just "minor" since the user fee was paid for a full review of the plan (i.e., as though it were not based on a mass submitter plan).

Expanding the minor modifier program to volume submitter plans will not require a restructuring of the Revenue Procedure, and it may reduce the number of M&P plans submitted for review and/or reduce the scope of review that is required to approve volume submitter plans. In either case, expanding the program will free up additional IRS resources.

ASPPA recommends that the IRS expand the volume submitter program by permitting minor modifier submissions of mass submitter plans in a manner consistent with what is allowed for M&P plans and for volume submitter 403(b) plans.

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These comments are submitted on behalf of ASPPA's Plan Document Subcommittee, Lanning Hauchauser, J.D., APM, Chair, and were primarily drafted by Robert M. Richter, J.D., LL.M, APM. We welcome the opportunity to discuss these issues. If you have any questions regarding the matters discussed herein, please contact Craig Hoffman, General Counsel and Director of Regulatory Affairs at (703) 516-9300.

Thank you for your time and consideration.

Sincerely,

/s/
Brian H. Graff, Esq., APM
Executive Director/CEO
American Retirement Assoc.

/s/
Judy A. Miller, MSPA
Executive Director, ACOPA

/s/
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cc:

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