

2017 Required Amendments List for Individually Designed Plans

With its 2017 Required Amendments list, the IRS reminds plan sponsors to monitor operational compliance for changes required to be made this year and to identify any corresponding plan amendment that may be needed before 2020 to memorialize those changes. Discretionary changes implemented in 2017 remain subject to the requirement to adopt plan amendments by the end of the plan year.

Background

The IRS publishes an annual Required Amendments (RA) List of amendments needed to maintain an individually designed plan's qualified status now that it has eliminated the staggered five-year remedial amendment cycle for submitting plans for determination letters. In general, plan sponsors must adopt any item on the RA List by the end of the second calendar year following the year the RA List is published. In addition to identifying required amendments on the RA List, IRS issues an Operational Compliance (OC) List to help plan sponsors maintain operational compliance with mandatory and discretionary (optional) changes that become effective during the year. See our [July 8, 2016](#) *For Your Information* for a more complete description of IRS' announcement of the program changes in Rev. Proc. 2016-37. Our [March 15, 2017](#) *For Your Information* reported on the first OC and RA Lists.

Plan changes that are discretionary – even if inspired by regulatory changes or other agency guidance – do not get this additional time for plan amendments. Such changes must be memorialized by the end of the plan year they are actually put into operation.

2017 Required Amendments List

IRS [Notice 2017-72](#) announces the list of potential required amendments for 2017. If any of these changes are required for a plan, operational compliance is needed for 2017 and the formal amendment to bring the plan document into compliance must be adopted by December 31, 2019.



The IRS identifies three changes in qualification requirements that may require plan amendments if current documents are in conflict with those requirements:

Final regulations for cash balance/hybrid plans. Cash balance/hybrid plans must be amended to comply with the market rate of return and other aspects of the final regulations that first become applicable for the plan year beginning in 2017. See our [October 2, 2014](#) and [November 16, 2015](#) *For Your Information* articles for information on the regulations and options for transitioning interest crediting rates. Our [November 9, 2016](#) *For Your Information* reports on IRS guidance for interest crediting rules specifically for Pension Equity Plans.

Remedial Amendment Periods

Different remedial amendment periods apply to new plans and governmental plans. Additionally, plan termination ends the plan's remedial amendment period and any retroactive or other required amendments must be adopted in connection with the plan termination, even if they are not included on the RA List.

Benefit restrictions for eligible cooperative or eligible charity defined benefit plans under Section 104 of PPA. An eligible cooperative plan or eligible charity plan that was not subject to the IRC Section 436 benefit restrictions for the 2016 plan year ordinarily becomes subject to those restrictions for plan years beginning on or after January 1, 2017. However, a CSEC plan continues not to be subject to those rules unless the plan sponsor has made an election to not treat the plan as a CSEC plan. See our [April 9, 2014](#) *For Your Information*.

Final regulations on partial annuity distribution options for defined benefit plans. Defined benefit plans that allow benefits to be paid partly in the form of an annuity and partly as a single sum (or other accelerated form) must do so in a manner that complies with the IRC Section 417 regulations. IRS regulations finalized in 2016 explain how to apply the 417 minimum present value rules just to the portion of the benefit paid as a nondecreasing annuity while allowing plan factors to be applied to the annuity portion of the benefit. Our [September 14, 2016](#) *For Your Information* describes what is required.

In Closing

The RA List does not tell us anything we did not already know, but it does serve as a reminder of the operational changes that should already be in place for 2017 and to put a note on calendars to prepare and execute plan amendments in 2018 or 2019 as needed. If timely operational changes or amendments are not made, correction using the IRS EPCRS program is an option to consider.

Authors

Marjorie Martin, FSPA, EA, MAAA

Joanne Jacobson, JD, LLM

Produced by the Knowledge Resource Center of Conduent Human Resource Services

The Knowledge Resource Center is responsible for national multi-practice compliance consulting, analysis and publications, government relations, research, surveys, training, and knowledge management. For more information, please contact your account executive or email fyi@conduent.com.

You are welcome to distribute *FYI*® publications in their entirety. To manage your subscriptions, or to sign up to receive our mailings, visit our [Subscription Center](#).

This publication is for information only and does not constitute legal advice; consult with legal, tax and other advisors before applying this information to your specific situation.