
Notice of Proposed Rulemaking Remedial Amendment Period

REG-106043-97

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking by cross-reference to temporary regulations.

SUMMARY: T.D. 8727, 1997-34 I.R.B. 5, the IRS is issuing temporary regulations relating to the remedial amendment period during which a sponsor of a qualified retirement plan or an employer that maintains a qualified retirement plan can make retroactive amendments to the plan to eliminate certain qualification defects for the entire period. The text of those temporary regulations also serves as the text of these proposed regulations. These proposed regulations will affect sponsors of qualified retirement plans, and employers that maintain qualified retirement plans.

DATES: Written comments and requests for a public hearing must be received by

October 30, 1997.

ADDRESSES: Send submissions to: CC:DOM:CORP:R (REG-106043-97), room 5226, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be between the hours of 8 a.m. and 5 p.m. to: CC:DOM:CORP:R (REG-106043-97), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC. Alternatively, taxpayers may submit comments electronically via the internet by selecting the "Tax Regs" option on the IRS Home Page, or by submitting comments directly to the IRS internet site at http://www.irs.ustreas.gov/prod/tax_regs/comments.html.

FOR FURTHER INFORMATION CONTACT: Concerning the proposed regulations, Linda S. F. Marshall, (202) 622-6030; concerning submissions, Evangelista Lee, (202) 622-7190 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background

Final and temporary regulations in T.D. 8727 amend the Income Tax Regulations (26 CFR part 1) relating to section 401(b). The regulations provide guidance to clarify the scope of the Commissioner's authority to provide relief from plan disqualification under section 401(b) and the regulations.

The text of T.D. 8727 the temporary regulations also serves as the text of these proposed regulations. The preamble to the final and temporary regulations explains the temporary regulations.

Special Analyses

It has been determined that this notice of proposed rulemaking is not a significant regulatory action as defined in EO 12866. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations and, because the regulation does not impose a collection of information on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Pursuant to section 7805(f) of the Internal Revenue Code, this notice of proposed rulemaking will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its

impact on small business.

Comments and Requests for a Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any written comments (a signed original and eight (8) copies) that are submitted timely to the IRS. All comments will be available for public inspection and copying. A public hearing may be scheduled if requested in writing by any person that timely submits written comments. If a public hearing is scheduled, notice of the date, time, and place for the hearing will be published in the Federal Register.

Drafting Information

The principal author of these regulations is Linda S. F. Marshall, Office of the Associate Chief Counsel (Employee Benefits and Exempt Organizations). However, other personnel from the IRS and Treasury Department participated in their development.

Proposed Amendments to the Regulations

Accordingly, 26 CFR part 1 is proposed to be amended as follows:

PART 1—INCOME TAXES

Paragraph 1. The authority citation for part 1 continues to read in part as follows:
Authority: 26 U.S.C. 7805 * * *

Par. 2. Section 1.401(b)-1 is amended by:

1. Revising paragraphs (b)(3), (c) and (d)(1)(iv).
2. Adding paragraph (d)(1)(v).

The addition and revisions read as follows:

§1.401(b)-1 Certain retroactive changes in plan.

[The text of proposed paragraphs (b)(3), (c), (d)(1)(iv) and (v) is the same as the text of §1.401(b)-1T(b)(3), (c), (d)(1)(iv) and (v) published in T.D. 8727.]

Michael P. Dolan,
*Acting Commissioner of
Internal Revenue.*

(Filed by the Office of the Federal Register on July 31, 1997, 8:45 a.m., and published in the issue of the Federal Register for August 1, 1997, 62 F.R. 41322)