

MEMO# 30964

December 6, 2017

IRS Publishes 2017 Required Amendments List for Qualified Retirement Plans

[30964]

December 6, 2017 TO: ICI Members
Pension Committee

Pension Operations Advisory Committee SUBJECTS: Pension RE: IRS Publishes 2017
Required Amendments List for Qualified Retirement Plans

Notice 2017-72^[1] contains the 2017 Required Amendments (RA) List for Qualified Retirement Plans, which is the second of such annual RA lists for individually-designed plans, as announced earlier in Revenue Procedure 2016-37.^[2] Reflecting the changes to the determination letter program and amendment rules for individually-designed plans (including elimination of the staggered five-year remedial amendment cycle), the RA list basically replaces the annual Cumulative List of Changes in Plan Qualification Requirements for individually-designed plans, last published in 2015.^[3] The new RA list includes only those items for which an amendment must be adopted by the end of the second calendar year following the year in which the RA list is published—in this case, December 31, 2019.^[4]

The Notice further explains that the RA list for a given year will include statutory and administrative changes in qualification requirements that are first effective during the plan year in which the list is published, but will not include guidance issued or legislative changes enacted after the list is prepared. It also will not include legislative changes for which Treasury and/or IRS expect to issue future guidance (to be included on a future year RA list), changes in qualification requirements that permit (but do not require) new optional plan provisions, or changes in tax laws that do not affect the qualification rules under Code section 401(a) (such as changes to the tax treatment of plan distributions or changes to funding requirements).

The RA list is divided into two parts: Part A covers qualification changes that generally would require an amendment to most plans or to most plans of the type affected by the change, and Part B covers qualification changes that would not require an amendment to most plans unless the plan has an unusual provision (such as a plan that does not incorporate by reference a particular qualification requirement that is typically incorporated by reference).

The 2017 RA list includes two items in Part A: (1) final regulations regarding cash balance/hybrid plans and (2) benefit restrictions for certain defined benefit plans that are eligible cooperative plans or eligible charity plans described in the Pension Protection Act of 2006, section 104; and only one item in Part B: final regulations regarding partial annuity distribution options for defined benefit pension plans.

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endnotes

[1] Notice 2017-72 is available at <https://www.irs.gov/pub/irs-drop/n-17-72.pdf>.

[2] Revenue Procedure 2016-37 modifies the determination letter program and amendment requirements for individually designed plans. See ICI Memorandum No. 30015, dated July 6, 2016. Available at https://www.ici.org/my_ici/memorandum/memo30015.

[3] See ICI Memorandum No. 29591, dated December 23, 2015. Available at https://www.ici.org/my_ici/memorandum/memo29591.

[4] As provided in Revenue Procedure 2016-37, the existing rule for discretionary amendments remains in place (*i.e.*, discretionary amendments must be adopted by the end of the plan year in which the plan amendment is operationally put into effect).