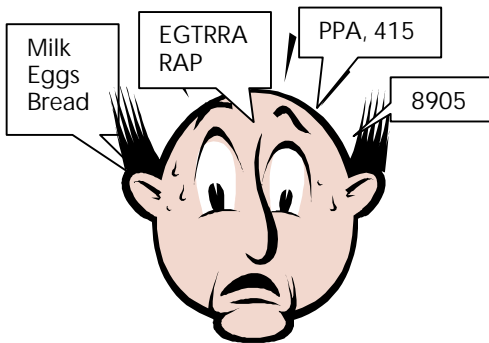


Documents Update

By Carmen Bryant



Is this how you feel? There have been so many updates to retirement plans over the last year. Sometimes it is hard to tell if you are coming or going. DATAIR's document team is working to keep up with all of the changes. I hope this article will answer some of your questions and relieve some of the pension tension you might be feeling.

Remedial Amendment Period for the Economic Growth and Tax Relief Reconciliation Act of 2001 (EGTRRA RAP)

On September 12, 2005, Revenue Procedure 2005-66 was released. This Revenue Procedure outlines the ground rules for how all Individually Designed, Prototype and Volume Submitter plans are to be restated for EGTRRA and future restatements.

The DATAIR News

The DATAIR News is published by:
Jim Buchman, Editor
Laurie Brophy, Production Manager
Contributing Writers:
Aaron Venouziou, President
Carmen Bryant
Delwyn Horton, CFC

The DATAIR News strives to provide our customers with valuable and enjoyable information about DATAIR software, services, and the pension industry. Reader contributions are welcome.

Individually Designed Plans

All Individually Designed plans are restated on a 5-year cycle based on the last digit of the **Employer's Identification Number (EIN)**. You will restate your individually designed plans based on the following schedule.

Five year cycle for Individually Designed Plans

Last digit of Plan Sponsor's TIN	Cycle	EGTRRA RAP ends	Next RAP ends
1 or 6	A	1/31/2007	1/31/2012
2 or 7	B	1/31/2008	1/31/2013
3 or 8	C	1/31/2009	1/31/2014
4 or 9	D	1/31/2010	1/31/2015
5 or 0	E	1/31/2011	1/31/2016

Five year cycle for Specific Types of Individually Designed Plans

Type of Plan	Cycle	EGTRRA RAP ends	Next RAP ends
Multiple ER Plans	B	1/31/2008	1/31/2013
§414(b) Plans	C	1/31/2009	1/31/2014
Multi ER Plans	D	1/31/2010	1/31/2015

How do you know what to include in your restated plan? By December each year, the IRS issues a Cumulative List, outlining what new laws, regulations, and other guidance are to be included in every new, restated and terminating plan. Notice 2007-3 contains the 2006 Cumulative List. If you are restating an Individually Designed Plan and the EIN ends in a 2 or 7 you will use this list to restate your plan. All Cumulative List changes for the EGTRRA restatement must be incorporated into your document (no "snap on" amendment unless it is a terminating plan).

Prototypes and Volume Submitter Plans

DATAIR Employee Benefit Systems is considered a Master and Prototype Sponsor (M&P) of Prototype and Volume Submitter documents. Revenue Procedure 2005-66 requires that we restate every 6-years instead of every 5-years as with Individually Designed plans.

What does this mean to you? If DATAIR is your document sponsor or if you sponsor a DATAIR document, your plans will need restatement approximately every 6 years. We submit our Defined Contribution and Defined Benefit Plans to the IRS for approval (you do not submit your plans individually as you would under the 5-year cycle). Once we receive a favorable opinion or advisory letter the restatement process starts for you and your clients. At this time, we do not know when you will have to restate your plans for EGTRRA. The IRS will announce this compliance date after opinion and advisory letters have been issued to the major document sponsors. We submitted our Defined Contribution Prototype and Volume Submitter documents to the IRS in January 2006 and the IRS has two years to review our plans. The IRS also plans to issue **all** M&P sponsor letters at the same time. We are currently working on our Defined Benefit Prototype and Volume Submitter documents, which we must submit to the IRS by October 31,

(Continued on back page)

(Continued from page 2)
2007.

Form 8905-Certificate of Intent to Adopt

We have all heard the buzz and confusion regarding this one page form, and receive several calls a week. Should you prepare the form for your document clients? Guidance from Revenue Procedure 2005-66, Form 8905 FAQ's, IRS officials and instructions is confusing and sometimes contradictory. What should you do? We suggest that you have the Employer execute the form and thereby remove all doubt. To make this easier the RD/Win system has a multi-plan operation function to batch process the form for all of your clients at one time.

The original intent for the 8905 was to allow a plan to change from a 5-year cycle to a 6-year cycle, (i.e., allow a plan that is now an individually designed to adopt a M&P pre-approved plan when it is time to restate for EGTRRA). For example, you have an Individually Designed New Comparability Plan. DATAIR has a pre-approved EGTRRA document that allows for New Comparability and fits your formula. The Employer will need to execute the Form 8905 by the end of their 5-year cycle stating they will adopt a DATAIR EGTRRA plan.

One of the main causes of confusion is not only from the lack of guidance but also the attempt to reconcile the 8905 to the Certificate of Intent to Adopt used with the GUST restatement. Even though these forms tend to serve the same purpose, they are different in nature. With the GUST Restatement, the form was used based on where you were coming from (the document). Did your prior M&P sponsor timely submit for GUST? If you did not know or you wanted to rely on your new M&P sponsor's submission you had the client execute the Certificate of Intent. Another difference is the TPA sent the forms to the M&P sponsor (DATAIR) to keep unless you were a Word for Word adopter of the M&P sponsors document, now it is the responsibility of the employer to maintain these records.

The 8905 is based on what the plan is doing in the future. Here are some general questions to ask when determining if your plan will need a Form 8905. If you answer "no" to either of these questions you should probably have the client execute the form.

1. Did the Employer's current provider submit a plan document for the EGTRRA restatement?
2. Was the Employer's Plan adopted (not effective) prior to February 16, 2005?

When does the 8905 need to be signed? As I mentioned above the original intent of the 8905 is to change a plan from a 5-year to a 6-year cycle. With that in mind, the 8905 should be signed by the end of the plans 5-year cycle based on the last digit of the EIN. Remember, it does no harm to have an executed Form 8905 for the plan.

Two important provisions relating to Health Savings Account (HSA) and FSAs are effective for cafeteria plans for taxable years beginning after December 31, 2006. This is as a result of the Tax Relief and Health Care Act of 2006. The provisions are summarized below.

- ▶ A zero balance in a health FSA as of the last day of the plan year will not disqualify an employee from HSA participation during the grace period. If a health FSA participant has no remaining balance, he/she can begin participation in the HSA as of the 1st day of the next month. The zero balance is determined on a cash basis (i.e. without taking into account expenses that have been incurred but not yet reimbursed as of year-end).
- ▶ A one-time transfer of un-reimbursed health FSA funds can be made to an HSA. This one-time transfer is also referred to as a qualified HSA distribution. The requirements are: (a) the participant is HSA eligible and has High Deductible Health Plan (HDHP) coverage as of the 1st of the month in which the qualified HSA distribution occurs; (b) the qualified HSA distribution is elected by the participant before the year-end; (c) no reimbursements are made by the health FSA during any applicable grace period; (d) the qualified HSA distribution is made directly to the participant's HSA trustee; (e) the qualified HSA distribution is made before the 15th day of the 3rd month after year-end and (f) the qualified HSA distribution does not exceed the lesser of the health FSA balance on September 21, 2006 or on the date of the distribution (determined on a cash basis); after the qualified HSA distribution, the participant has a zero balance remaining in the health FSA and he/she has no other non-HSA compatible coverage.

Be aware that many other provisions relating to HSAs are also contained under this legislation. See IRS Notice 2007-22 for more information. 