Special Release
Intersector Group Releases
Time-Sensitive Information on
Deductibility of Contributions to DB Plans

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Intersector Group Releases Time-Sensitive Information on Deductibility of Contributions to DB Plans

The Intersector Group is releasing time-sensitive information in advance of the publication of the notes from its April 4 meetings with the Internal Revenue Service (IRS) and the U.S. Department of the Treasury. **The Intersector Group has chosen to release the following information now due to the time-sensitive nature for plan sponsors who are considering making contributions to defined benefit (DB) plans on Sept. 15.** The full minutes of the group's meeting with the IRS and Treasury will be published in the near future.

These meeting notes are not official statements of the Treasury Department or the IRS and have not been reviewed by their representatives who attended the meeting. The notes merely reflect the Intersector Group's understanding of Treasury Department/IRS representatives' remarks at the meeting, and are not to be construed in any way as establishing official positions of the Treasury, the IRS, or any other governmental agency. Moreover, the Treasury Department and the IRS have not in any way approved these notes or reviewed them to determine whether the statements herein are accurate or complete.

Contributions to Defined Benefit Pension Plans

Contribution deductions—the extension of the filing deadline for corporate tax returns (without a corresponding adjustment of the deadline for minimum funding) is creating confusion. What is the IRS position on whether a contribution made after 9/15/18 but by 10/15/18 can be deducted in 2017 (for a calendar plan and tax year)? Where plan and tax years don't align, is there some general position that can be considered acceptable (e.g., if the tax year for which the deduction is being claimed overlaps with the plan year to which the contribution is being attributed, then the contribution can be considered as "on account of" that tax year)?

The IRS / Treasury representatives indicated that based on Rev. Rul. 76-28, which still applies, if the plan and tax year coincide, then a contribution made after the Schedule SB deadline may <u>not</u> be treated as being on account of the preceding tax year despite the one-month extension of the tax filing deadline.

The Intersector Group pointed out that additional clarity is still needed on this issue when plan and tax years do not coincide.

A contribution made after the end of a tax year can be deducted for that tax year if: (a) it is made before the tax return deadline for that tax year (and claimed as a deduction for that tax year); and (b) it is treated by the plan in the same manner as a contribution actually made on the last day of that tax year could be treated. In other words, it is recorded on a Schedule SB on which a contribution actually made on the last day of the tax year could be recorded. Depending on the plan year and tax year, there may be two, one or no Schedule SBs that would allow such a deduction.

[Note: the following examples represent the Intersector group members' interpretation and were not provided by the IRS meeting participants.]

For example, for a calendar year plan where the plan and tax years coincide, a contribution made after September 15, 2018, but on or before October 15, 2018, cannot be deducted for the 2017 tax year. While such a contribution may be made prior to the deadline for filing the 2017 tax return, such a contribution cannot be recorded on the 2017 Schedule SB (the only SB that would apply if the contribution were, in fact, contributed on December 31, 2017). Therefore, the contribution can only be deducted for 2018. If, on the other hand, the plan year in this example runs from February 1 to January 31, then a contribution made by October 15, 2018 can be recorded on the 2017 Schedule SB (the same Schedule SB that a December 31, 2017 contribution could have been recorded on). The contribution can therefore be deducted for 2017 as long as it is, in fact, recorded on the 2017 Schedule SB. If, instead, the plan year in this example runs from May 1 to April 30, a contribution made on December 31, 2017 could be recorded on either the 2016 or 2017 Schedule SB. Again, this would permit deduction for 2017 of a contribution made by October 15, 2018 that is put on the 2016 or 2017 Schedule SB.

The fact that after the Pension Protection Act (PPA), contributions made after the end of the year are not treated by the plan in exactly the same manner as a contribution made on the last day of the plan year, due to post-PPA interest discounting, is not relevant according to IRS. Such a difference may be disregarded in applying Rev. Rul. 76-28.

If you have any questions regarding this ***Academy Alert***, please contact Monica Konaté, pension policy analyst (konate@actuary.org; 202-785-7868).