



Please contact any of the attorneys in our [Employee Benefits & Executive Compensation](#) group if you have any questions regarding this alert.

Harry Atlas
hiatlas@Venable.com
410.528.2848

Jennifer Berman
jsberman@Venable.com
410.244.7756

Brad Cohen
bcohen@Venable.com
310.229.9942

Robin Gilden
rcgilden@Venable.com
310.229.9967

Kenneth Hoffman
krhoffman@Venable.com
202.344.4810

Meredith Horton
mphorton@Venable.com
202.344.8290

Thora Johnson
tajohnson@Venable.com
410.244.7747

Jessica Kuester
jekuester@Venable.com
202.344.4516

Andrea O'Brien
aobrien@Venable.com
301.217.5655

Barbara Schlaff
beschlaff@Venable.com
410.244.7494

Lisa Tavares
latavares@Venable.com
202.344.4075

Martha Jo Wagner
mjwagner@Venable.com
202.344.4002

John Wilhelm
jawilhelm@Venable.com
703.760.1917

Important April 30, 2010 Deadline for Employers Who Have Adopted Pre-Approved Retirement Plans

An important **April 30, 2010** IRS deadline is fast-approaching for employers who have adopted pre-approved master and prototype or volume submitter defined contribution retirement plans ("pre-approved plans"). April 30th is the deadline for two key action steps:

- **First**, by April 30th, employers adopting pre-approved defined contribution plans must adopt their provider's pre-approved EGTRRA plan restatement. Employers who have not received an EGTRRA restatement from their prototype or volume submitter plan sponsor should contact their provider immediately. It is important to make sure that these plan documents are timely executed.
- **Second**, April 30th is also the deadline for submitting an individual determination letter application to the IRS for pre-approved defined contribution plans. While this step is not required, it may nevertheless be the prudent course of action in many circumstances, as explained below.

The institutions that sponsor pre-approved plans have received an IRS opinion letter on their pre-approved plan. If you adopt one of these pre-approved plans, the IRS opinion letter indicates the IRS's acceptance of the terms of your underlying plan document, but opinion letters are not an individualized ruling or determination on the tax-qualified status of your particular plan. Opinion letters will provide the most reliance for employers who have adopted their pre-approved plan word-for-word, or who have only elected modifications that are offered among the menu of options provided within the plan's adoption agreement.

However, if you have modified the pre-approved plan by making changes not accommodated in the adoption agreement, or if your modifications are unique or numerous, obtaining an individual determination letter may be the more prudent course of action, because an individual determination letter can provide added assurance that your plan (as modified) meets the IRS' criteria for tax-qualified status. For example, if you have changed the pre-approved plan with regard to categories of employees that are excluded from plan participation or eligibility requirements for employer contributions, you may wish to consider getting an individualized determination letter on your plan. In addition, having an individualized determination letter may be advantageous in plan mergers, corporate transactions, and plan terminations.

These two important April 30th deadlines are right around the corner. Sponsors of pre-approved defined contribution plans should contact plan providers soon to obtain EGTRRA plan restatements and to discuss determination letter submissions. Venable's [Employee Benefits and Executive Compensation](#) attorneys are available to assist you throughout the process, including with any determination letter applications.

If you have friends or colleagues who would find this alert useful, please invite them to subscribe at www.Venable.com/subscriptioncenter.

CALIFORNIA MARYLAND NEW YORK VIRGINIA WASHINGTON, DC

1.888.VENABLE | www.Venable.com

©2010 Venable LLP. This alert is published by the law firm Venable LLP. It is not intended to provide legal advice or opinion. Such advice may only be given when related to specific fact situations that Venable has accepted an engagement as counsel to address.

Click [here](#) to unsubscribe

575 7th Street, NW, Washington, DC 20004

© 2010 Venable LLP | www.Venable.com | 1.888.VENABLE