

Hanson Bridgett Announces IRS Determination Letter Replacement Program

Since the inception of the IRS determination letter program, many sponsors and administrators of qualified retirement plans have come to rely on IRS determination letters to document their plan's tax-qualified status. This may be necessary to, for example, reduce the risk of IRS audit sanctions, satisfy another plan's requirements for accepting plan rollovers, invest in certain common collective investment trusts, obtain an unqualified auditor's opinion, or perform merger and acquisition due diligence. Unfortunately, due to significant changes to this program the IRS has, beginning in 2017, generally discontinued issuing determination letters for individually designed plans, except upon initial qualification and plan termination, leaving many plan sponsors and administrators in a quandary: how to satisfy these requirements, which are unlikely to go away, now that the IRS has generally eliminated periodic determination letters for individually designed plans.

To provide a solution, Hanson Bridgett has decided to offer a Determination Letter Replacement Program (DLRP). This program is designed for private sector (including multiemployer) and governmental individually designed plans that have participated in the IRS periodic determination letter program and have a current favorable IRS determination letter. Under the DLRP, Hanson Bridgett will, upon request and for a standard flat fee, annually:

- Review plan documents against the IRS annual Required Amendments List of changes in qualification requirements.
- Provide a list of plan amendments needed to comply with those changes and the applicable amendment deadlines.
- Issue an opinion letter to the plan sponsor or administrator that the plan, as timely amended to comply with those changes, continues to remain tax-qualified in form for the period since the plan's last favorable IRS determination letter or private opinion letter. The opinion will be conditioned on the accuracy of the plan sponsor's representations, documents and other information provided, and will not include operational compliance.

To participate in the DLRP each calendar year:

- The plan must be an individually designed plan. Plans using IRS pre-approved master and prototype and volume

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submitter plans, except those that cannot rely on the pre-approved plan's IRS advisory or opinion letter due to material modification, may not participate.

- The plan must have a current favorable IRS determination letter or private opinion letter.
- The plan sponsor or plan administrator must contact Hanson Bridgett by September 30 to request to participate in the DLRP, and pay an annual fee that will be invoiced. Hanson Bridgett will not automatically review plans for current clients; plan sponsors or plan administrators need to affirmatively notify Hanson Bridgett of their desire to participate in this new program.
- The plan sponsor or plan administrator must timely provide all relevant plan documents and other information needed to complete the review.

Although the standard DLRP fee will cover only the plans and services described above, the program may be customized to fit unique circumstances. For example, we will, upon request and for an additional fee, draft any required amendments, review and provide an opinion letter for a plan that does not have a current determination letter, or assist in performing an operational self-audit. Hanson Bridgett will prepare required amendments for a flat fee, to be determined based on the scope and complexity of the amendments.

For more information or to request to participate in this program, please call or email your regular Hanson Bridgett contact or, if none, any of the attorneys in the Hanson Bridgett Employee Benefits Section listed on this page.

For more information, please contact:

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