

Date: June 28, 2010

TCRS 2010-04: IRS Notice 2010-48 Provides Disaster Relief to Sponsors of Pre-Approved Defined Contribution Plans

In Notice 2010-48, issued June 21, 2010, the IRS provides administrative relief for plan sponsors of IRS pre-approved defined contribution plans (master & prototype and volume submitter) that were affected by the storms and severe weather in those counties in Alabama, Connecticut, Massachusetts, Mississippi, New Jersey, Rhode Island, Tennessee and West Virginia declared Presidential Disaster Areas during the period March 1, 2010, through May 31, 2010.

Under this relief, affected pre-approved defined contribution plan sponsors who may have missed the April 30, 2010 deadline for restating and filing for a favorable determination letter to conform to the Economic Growth and Tax Relief Reconciliation Act of 2001 (EGTRRA) will have that deadline extended to July 30, 2010.

A pre-approved defined contribution plan is eligible for relief under the Notice if any of the following locations relating to the plan were in the federally declared disaster areas at the time of the disasters:

1. The principal place of business of the employer that maintains the plan (in the case of a single-employer plan, determined by disregarding the controlled group rules of § 414(b) and (c) of the Code);
2. The principal place of business of the employer that employs more than 50% of the active participants covered by the plan (in the case of a plan covering employees of more than one employer, determined by disregarding the controlled group rules of § 414(b) and (c));
3. The office of the plan or the plan administrator;
4. The office of the primary recordkeeper serving the plan; or
5. The office of any advisor of the plan or the employer at the time of the storms or other severe weather that is directly involved with the adoption of the EGTRRA-approved master & prototype or volume submitter defined contribution plan or that is directly involved in submitting a determination letter application to the IRS by the due date of April 30, 2010.

The Notice makes clear that the reference to “office” in items 3, 4 and 5, above, includes only the worksite of those individuals and the location of any records necessary to adopt and file the EGTRRA restated pre-approved plan.

Plan sponsors taking advantage of this relief and filing for an EGTRRA favorable determination letter should write “Extension Relief per Notice 2010-48” in the upper left margin of the cover letter accompanying their submission.

Absent this relief, plan sponsors of affected plans who missed the April 30, 2010 deadline would have had to look for relief under the IRS’ Employee Plans Compliance Resolution System and would have had to incur the costs of preparing a submission to the IRS and the accompanying IRS user fee.

This Summary is designed to provide an overview of IRS’ Notice 2010-48 Provides Disaster Relief to Sponsors of Pre-Approved Defined Contribution Plans and is not intended to be comprehensive. The Transamerica Center for Retirement Studies® (“The Center”) is a non-profit corporation and private foundation. The Center may be funded by contributions from Transamerica Life Insurance Company and its affiliates or other unaffiliated third-parties. For more information about The Center, please refer to www.transamericacenter.org. The Center and its representatives cannot give ERISA, tax or legal advice. This material is provided for informational purposes only and should not be construed as ERISA, tax or legal advice. Interested parties must consult and rely solely upon their own independent advisors regarding their particular situation and the concepts presented here. Although care has been taken in preparing this material and presenting it accurately, The Center disclaims any express or implied warranty as to the accuracy of any material contained herein and any liability with respect to it.