



only if the various requirements set out in § 401(a) are met.

.02 Section 1.401-1(b)(1)(i) of the Income Tax Regulations provides the definition of a pension plan for purposes of § 401(a). This section provides, in part, that a pension plan is a plan established and maintained by an employer primarily to provide for the payment of definitely determinable benefits to employees over a period of years, usually for life, after retirement. This section also provides that a pension plan may provide for the payment of a pension due to disability, and may also provide for incidental death benefits.

.03 Rev. Rul. 56-693, 1956-2 C.B. 282, as modified by Rev. Rul. 60-323, 1960-2 C.B. 148, provides that, pursuant to the definition of a pension plan in § 1.401-1(b) of the regulations, a pension plan fails to meet the requirements of § 401(a) if it permits an employee to withdraw any part of the employee's accrued benefit (other than a benefit attributable to voluntary employee contributions) prior to certain distributable events; i.e., retirement, death, disability, severance of employment, or termination of the plan.

.04 Rev. Rul. 94-76 provides that, to satisfy § 401(a), benefits attributable to assets and liabilities transferred, within the meaning of § 414(l), from a money purchase pension plan to a profit-sharing or stock bonus plan must remain subject to the restrictions on distributions from pension plans set forth in Rev. Rul. 56-693 based upon § 1.401-1(b) of the regulations.

.05 Rev. Rul. 94-76 provides that, in order to remain qualified under § 401(a), profit-sharing or stock bonus plans that accept transfers of assets and liabilities from money purchase pension plans and permit distributions prior to retirement, death, disability, severance of employment, or termination of the plan, must be amended to provide that on or after a transfer of assets and liabilities from a money purchase pension plan to the profit-sharing or stock bonus plan, the account balances (including the post-transfer earnings thereon) attributable to the transferred assets and liabilities will be distributed only on or after the occurrence of one of these events on or after which distributions are permitted from a pension plan.

.06 Rev. Rul. 94-76 provides that certain profit-sharing plans or stock bonus plans are permitted to be amended

to eliminate an optional form of benefit provided for in the plan prior to December 12, 1994, solely with respect to benefits attributable to assets and liabilities that are transferred (within the meaning of § 414(l)) from a money purchase pension plan (other than any portion of those assets and liabilities attributable to voluntary employee contributions), to the extent that the optional form permits distribution of those benefits prior to the employee's retirement, death, disability, or severance of employment, and prior to plan termination. The plan amendment eliminating the optional form of benefit must be adopted by the last day of the first plan year beginning on or after December 12, 1994, and must be made effective not later than the first day of that plan year, or, if later, 90 days after December 12, 1994.

.07 With respect to certain plans, employers are entitled to extended reliance pursuant to Rev. Proc. 89-9, 1989-1 C.B. 780, Rev. Proc. 89-13, 1989-1 C.B. 801 (both as modified by Rev. Proc. 93-9, 1993-1 C.B. 474), or Rev. Proc. 93-39, 1993-2 C.B. 513 (relating to master or prototype plans, regional prototype plans, and individually designed plans). Except in certain limited circumstances, plans that are entitled to this extended reliance generally are not required to be amended until 1999 to comply with administrative guidance of general applicability (e.g., revenue rulings). Accordingly, for a profit-sharing or stock bonus plan entitled to extended reliance, if no transfer of assets and liabilities to the plan from a money purchase pension plan occurred or occurs after the date of the plan's most recent determination letter and prior to the date that the amendment required by Rev. Rul. 94-76 is adopted and if the amendment is made effective within certain time limits specified in Rev. Rul. 94-76, there is an extended period for amending the plan.

SECTION 3. MODEL AMENDMENT

.01 All plans—Sponsors described in subsection .02 may amend their plans by adopting the model language in the appendix to this revenue procedure on a word-for-word basis, in accordance with the instructions in this revenue procedure. If a sponsor to whom the model language is available pursuant to subsection .02 adopts the model language, neither application to the Service nor a user fee is required. The Service will

26 CFR 601.201: Rulings and determination letters.

Rev. Proc. 96-55

SECTION 1. PURPOSE

.01 This revenue procedure provides a model amendment for sponsors of certain master and prototype ("M&P"), regional prototype, volume submitter specimen, and individually designed profit-sharing or stock bonus plans in order to assist these plan sponsors in amending their plans to comply with Rev. Rul. 94-76, 1994-2 C.B. 46.

.02 This revenue procedure also extends, until June 30, 1997, the time period to adopt corrective plan amendments provided for in Rev. Rul. 94-76.

SECTION 2. BACKGROUND AND GENERAL INFORMATION

.01 Section 401(a) of the Internal Revenue Code provides that a trust created or organized in the United States and forming a part of a qualified stock bonus, pension, or profit-sharing plan of an employer constitutes a qualified trust

not issue new opinion, notification, advisory, or determination letters for plans that are amended solely to add the model language described in this section.

.02 The model language is available only to sponsors of M&P, regional prototype, volume submitter specimen, and individually designed plans (including volume submitter plans) that 1) are eligible for the relief from failure to be qualified under § 401(a) provided in Rev. Rul. 94-76 and 2) as of the date of the adoption of the model amendment have reliance on a favorable opinion, notification, or determination letter that takes into account the requirements of the Tax Reform Act of 1986, Pub. L. No. 99-514 ("TRA '86") under Rev. Proc. 89-9, 1989-1 C.B. 780, as modified; Rev. Proc. 89-13, 1989-1 C.B. 801, as modified; Rev. Proc. 90-20, 1990-1 C.B. 495; Rev. Proc. 91-41, 1991-2 C.B. 697; Rev. Proc. 91-66, 1991-2 C.B. 870; Rev. Proc. 93-39, 1993-2 C.B. 513; or Rev. Proc. 96-6, 1996-1 I.R.B. 151. Condition 2) in the preceding sentence does not apply to plans 1) that (a) have received a favorable determination, opinion, or notification letter that considered TEFRA, DEFRA, and REA, and (b) have been submitted within the plan's § 401(b) remedial amendment period for a determination, opinion, or notification letter that considers TRA '86 (TRA '86 remedial amendment period) but have not yet received the letter or 2) for which the TRA '86 remedial amendment period has not yet expired, such as adopters of master and prototype plans, regional prototype plans, and volume submitter plans, described in section 3 of Rev. Proc. 95-12, 1995-1 C.B. 508; governmental plans described in Announcement 95-48, 1995-23 I.R.B. 13; and plans maintained by tax-exempt organizations, including non-electing church plans, described in Announcement 95-48.

.03 M&P, Regional Prototype and Volume Submitter Plans—M&P, regional prototype and volume submitter plan sponsors that use the model language must file Form 8837, Notice of Adoption of Revenue Procedure Model Amendments.

SECTION 4. EXTENSION OF TIME TO ADOPT AMENDMENT

The time period for adopting a plan amendment eliminating an optional form of benefit pursuant to Rev. Rul. 94-76 is extended to June 30, 1997, for profit-sharing or stock bonus plans that otherwise were required, under that revenue ruling, to be amended to eliminate any optional form of benefit before that date.

SECTION 5. RELIANCE

An employer entitled to rely on an opinion, notification, or determination letter will not lose reliance on the letter merely because of this amendment. Plans that are amended in accordance with section 3 of this revenue procedure will not cause the plan to lose its otherwise applicable extended reliance period under Rev. Procs. 89-9 and 89-13, as modified by Rev. Proc. 93-9, or section 13 of Rev. Proc. 93-39.

DRAFTING INFORMATION

The principal author of this revenue procedure is Richard Wright of the Employee Plans Division. For further information regarding this revenue procedure, contact the Employee Plans Division's telephone assistance service between 1:30 and 4:00 p.m., Eastern Time, Monday through Thursday on (202) 622-6074/6075 or Mr. Wright at (202) 622-6214. (These telephone numbers are not toll-free numbers.)

APPENDIX MODEL LANGUAGE

(Note to Sponsor: The following model amendment may be used to

amend a profit-sharing or stock bonus plan to eliminate an optional form of benefit provided for in the plan on or before December 12, 1994, solely with respect to benefits attributable to assets and liabilities that have been transferred, within the meaning of § 414(l), from a money purchase pension plan (other than any portion of those assets and liabilities attributable to voluntary employee contributions) to the extent that the optional form permits distribution of those benefits prior to the employee's retirement, death, disability or severance from employment, and prior to plan termination.)

This amendment is effective _____. (For plans, other than those entitled to extended reliance as described in Rev. Rul. 94-76, insert a date not later than the first day of the first plan year beginning on or after December 12, 1994, or, if later, 90 days after December 12, 1994. For plans entitled to extended reliance, see Rev. Rul. 94-76 for the permissible effective date.)

Notwithstanding any provision of this plan to the contrary, to the extent that any optional form of benefit under this plan permits a distribution prior to the employee's retirement, death, disability, or severance from employment, and prior to plan termination, the optional form of benefit is not available with respect to benefits attributable to assets (including the post-transfer earnings thereon) and liabilities that are transferred, within the meaning of § 414(l) of the Internal Revenue Code, to this plan from a money purchase pension plan qualified under § 401(a) of the Internal Revenue Code (other than any portion of those assets and liabilities attributable to voluntary employee contributions).