



# TaxNewsFlash

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## Rev. Proc. 2020-40: Extension of plan amendment deadlines, pre-approved plans

The IRS today released an advance version of Rev. Proc. 2020-40 that modifies prior guidance to expand situations when the plan amendment deadline for discretionary amendments made to qualified pre-approved plans and section 403(b) pre-approved plans may be extended.

[Rev. Proc. 2020-40](#) [PDF 39 KB] amends guidance previously provided by Rev. Proc. 2016-37 and Rev. Proc. 2019-39.

Today's revenue procedure states that these modifications are consistent with the extensions of the plan amendment deadlines for discretionary amendments set forth in Rev. Proc. 2016-37 with respect to qualified individually designed plans and Rev. Proc. 2019-39 with respect to section 403(b) individually designed plans.

### Background

The provisions of the prior revenue procedures as revised by Rev. Proc. 2020-40 are as follows—

Provisions of Rev. Proc. 2016-37 that set forth:

- Procedures for obtaining determination letters for qualified individually designed plans and opinion letters for qualified pre-approved plans submitted to the IRS, including providing plan amendment deadlines for interim and discretionary amendments made to these plans
- The deadline for the timely adoption of a discretionary amendment to a qualified pre-approved plan (in general, a discretionary amendment is considered to have been adopted timely if the plan amendment is adopted by the end of the plan year in which the plan amendment is operationally put into effect and provides that the deadline applies unless a statutory provision or guidance issued by the IRS sets forth an earlier deadline to timely adopt a discretionary amendment with respect to a plan year)

Provisions of Rev. Proc. 2019-39 that set forth:

- Procedures for obtaining opinion and advisory letters for section 403(b) pre-approved plans submitted to the IRS, and provide plan amendment deadlines for interim and discretionary amendments made to section 403(b) pre-approved plans and for discretionary amendments made to section 403(b) individually designed plans
- The deadline for the timely adoption of a discretionary amendment to a section 403(b) pre-approved plan (a discretionary amendment generally is considered to have been adopted timely if the plan amendment is adopted by the end of the plan year in which the plan amendment is operationally put into effect, and this rule applies unless a statutory provision or guidance issued by the IRS sets forth an earlier deadline to timely adopt a discretionary amendment with respect to a plan year)

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