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section, section 410 shall be considered to apply to a plan year if an election has been made under section 1017(d) of the Employee Retirement Income Security Act of 1974 to have section 410 apply to such plan year, whether or not the election is conditioned upon the issuance by the Commissioner of a favorable determination letter.

(5) Government, church plans, etc. In the case of an organization described in section 410(c)(1), section 410 will be considered to apply to a plan year of such organization for any plan year to which section 410(c)(2) applies to such plan.

(d) Definitions. For the purposes of paragraph (b) of this section and § 1.7476–2:

(1) Employer. The term “employer” includes all employers who maintain the plan with respect to which an advance determination applies. A sole proprietor shall be considered such person’s own employer and a partnership is considered to be the employer of each of the partners.

(2) Eligible to participate. For purposes of this section, an employee is eligible to participate in a plan if such employee:

(i) Is a participant in the plan,

(ii) Would be a participant in the plan if such employee met the minimum age and service requirements of the plan or

(iii) Would be a participant in the plan upon making mandatory employee contributions.

In applying this paragraph (d)(2), plan provisions (with respect to which the determination regarding qualification is to be based) not in effect on the first date on which notice is given to interested parties shall be treated as though they were in effect on such date.

(3) Place of employment. A place of employment includes all worksites within a plant, installation, store, office, or similar facility. Any employee who has no principal place of employment shall be treated as though such employee’s principal place of employment is that place to which such employee regularly reports to the employer.

(e) Effective date. The provisions of this section apply to applications referred to in paragraph (a) of this section made on or after June 21, 1976.


§ 1.7476–2 Notice to interested parties.

(a) In general. Any person applying to a district director for a determination described in paragraph (b)(7) of § 1.7476–1 shall cause notice of the application to be given to persons who qualify as interested parties under § 1.7476–1 with respect to the application, whether or not such application is received by the Internal Revenue Service before the date on which section 410 applies to the plan.

(b) Nature of notice. The notice required by this section shall—

(1) Contain the information and be given within the time period prescribed in § 601.201(o)(3) of this chapter; and

(2) Be given in a manner prescribed in paragraph (c) of this section.

(c) Method of giving notice. (1) In the case of a present employee, former employee, or beneficiary who is an interested party, the notice may be provided by any method reasonably calculated to ensure that each interested party is notified of the application for a determination. If an interested party who is a present employee is in a unit of employees covered by a collective-bargaining agreement between employee representatives and one or more employers, notice shall also be given to the collective-bargaining representative of such interested party by any method that satisfies this paragraph. Whether the notice is provided in a manner that satisfies the requirements of this paragraph is determined on the basis of all the relevant facts and circumstances. Because the facts and circumstances differ depending on the interested party, it may be necessary to use more than one method of delivery in order to ensure timely and adequate notice to all interested parties.

(2) If the notice to interested parties is delivered using an electronic medium under an electronic system that satisfies the applicable notice requirements of § 1.401(a)–21 of this chapter, the notice is deemed to be provided in
a manner that satisfies the requirements of paragraph (c)(1) of this section.

(d) Examples. The principles of this section are illustrated by the following examples:

Example 1. (i) Employer A is amending Plan C and applying for a determination letter. Plan C is not maintained pursuant to one or more collective bargaining agreements and is not being terminated. As part of the determination letter application process, Employer A provides the notice required under this section to interested parties. For present employees, Employer A provides the notice by posting the notice on Employer A’s web site (internet or intranet). Employers at worksites 1 through 4 customarily receive employer notices to employees with regard to employment and employee benefit matters.

(ii) In this Example 1, Employer A satisfies the notice to interested parties requirement described in this section.

Example 2. (i) Employer B is amending Plan D and applying for a determination letter. As part of the determination letter application process, Employer B provides the notice required under this section to interested parties.

(ii) Employer B has multiple worksites. Employer B’s employees located at worksites 1 through 4 have reasonable access to computers at their workplace. However, Employer B’s employees located at worksite 5 do not have access to computers.

(iii) For present employees with reasonable access to computers (worksites 1 through 4), Employer B provides the notice by posting the notice on Employer B’s web site (internet or intranet). Each employee at worksites 1 through 4 customarily receive employer notification with regard to employment and employee benefit matters from the Employer B’s web site. For present employees without computer access (worksites 5), Employer B provides the notice by posting the notice at worksite 5 in a location that is customarily used for employer notices to employees with regard to employment and employee benefit matters.

(iv) Employer B also sends the notice by e-mail to each collective-bargaining representative of interested parties who are present employees of Employer B covered by a collective-bargaining agreement between Employer B and any former employee who did not provide an e-mail address. Employer C sends the notice by regular mail to the last known address of such former employee or beneficiary.

(v) In addition, Employer C sends the notice by e-mail to each interested party who is a former employee or beneficiary, using the e-mail address previously provided to Employer C by such collective-bargaining representative.

(vi) In this Example 3, Employer C satisfies the notice to interested parties requirement described in this section.

(e) Effective date. (1) The provisions of this section shall apply to applications referred to in §1.7476–1(a) made on or after January 1, 2003.

(ii) For applications made on or after June 21, 1976 and before January 1, 2003, §1.7476–2 (as it appeared in the April 1, 2002 edition of 26 CFR part 1) applies.

§ 1.7476–3 Notice of determination.

(a) In general. Under section 7476(b)(5) if a district director sends to the employer, the plan administrator, an interested party with respect to the plan, or the Pension Benefit Guaranty Corporation (or in the case of certain individuals who qualify as interested parties under paragraph (b) of §1.7476–1, to the person described under paragraph (c) of this section as the representative of such individuals) by certified or registered mail a notice of determination