



The Wagner Law Group Announces Private Determination Letter Program

Boston, March 8, 2017 – In 2016, the Internal Revenue Service (“IRS”) announced the elimination of its decades-long determination letter program for ongoing tax-qualified retirement plans. Now, individually-designed plans may obtain an IRS determination letter only at inception or upon termination. Sponsors of ongoing individually-designed retirement plans will no longer have an official mechanism to obtain assurance that their plans continue to meet tax-qualification requirements as the complex law and regulations governing tax-qualified plans change.

[The Wagner Law Group](#) has developed its own Private Determination Letter Program (“PDLP”) to fill the void left by the IRS’s abandoning this vital program and to address plan sponsors’ legitimate concerns that their plan documents remain compliant with the law as it evolves. This industry-leading program will help protect the tax-qualified status of all types of individually-designed retirement plans by providing a comprehensive review of the current document and any amendments by experienced attorneys based on the plan’s most recently issued favorable determination letter and subsequent IRS guidance. The PDLP culminates in the issuance of a detailed written opinion letter to the plan sponsor that its plan has been properly amended for applicable changes in the law and that any design changes made to the plan meet all requirements under the Internal Revenue Code.

The PDLP opinion letter will enable a plan sponsor to provide assurance of its plan’s satisfaction of the tax-qualification requirements to third-party-administrators, investment providers, plan auditors and participants rolling over distributions from and into the plan, and in connection with IPOs, mergers and acquisitions and other corporate transactions. Without a PDLP opinion that their plans are tax-qualified, plan sponsors are at risk of losing the benefits of a tax-qualified plan – employer deductions for plan contributions, tax exemption for the plan’s trust, and tax deferral for plan participants – if an IRS auditor or Department of Labor investigator challenges the plan language. Moreover, in the face of increasing litigation by plan participants against plan sponsors, a comprehensive review of a plan’s governing documents is considered a best practice to protect the plan sponsor against lawsuits.

The PDLP is recommended for all forms of individually-designed retirement plans, including 401(k) plans, profit sharing plans, defined benefit pension plans, money purchase pension plans, cash balance plans and employee stock ownership plans (ESOPs), and is available to all types of plan sponsors, including for-profit, tax-exempt and government entities.

Inquiries about the PDLP should be directed to [Marcia Wagner](#).

The Wagner Law Group:

The Wagner Law Group, widely recognized as the country’s top ERISA and employee benefits law firms, has been dedicated to the highest standards of integrity, excellence and thought leadership for over two decades. The firm has 27 attorneys in six offices, providing unparalleled legal advice to its clients, including large, small and nonprofit corporations as well as individuals and government entities, in over 45 states and several foreign countries.