

From: [Reno, Juliana](#)
To: [E:OHPSCA1251.EBSA](#)
Subject: late comment re RIN 1210-AB42
Date: Friday, October 01, 2010 5:38:09 PM

Please provide additional guidance regarding whether a change in the plan's eligibility provisions (other than as provided under the current anti-abuse rule) will affect its grandfather status.

In particular, please indicate whether any of the following are permissible without the loss of grandfather status:

- * Changes that clearly expand eligibility. EXAMPLE: Plan provides that employee is eligible if regularly scheduled to work at least 30 hours of work per week. Proposed change is to 25 hours.)
- * Changes that clearly reduce eligibility. EXAMPLE: Plan provides that employee is eligible if regularly scheduled to work at least 25 hours of work per week. Proposed change is to 30 hours.)
- * Changes that will cause some employees to gain eligibility and others to lose eligibility. EXAMPLE: Plan provides that employee is eligible if employee worked at least 100 hours in previous month. Proposed change is that employee will eligible if employee worked an average of at least 100 hours per month in the previous 12 months.

Thank you for your consideration.

Juliana Reno, Esq.
Kutak Rock LLP
1650 Farnam Street
Omaha, NE 68102
402.346.6000 (phone)
402.346.1148 (fax)
juliana.reno@kutakrock.com

#####

ANY FEDERAL TAX ADVICE CONTAINED IN THIS MESSAGE SHOULD NOT BE USED OR REFERRED TO IN THE PROMOTING, MARKETING OR RECOMMENDING OF ANY ENTITY, INVESTMENT PLAN OR ARRANGEMENT, AND SUCH ADVICE IS NOT INTENDED OR WRITTEN TO BE USED, AND CANNOT BE USED, BY A TAXPAYER FOR THE PURPOSE OF AVOIDING PENALTIES UNDER THE INTERNAL REVENUE CODE.

#####

This E-mail message is confidential, is intended only for the named recipient(s) above and may contain information that is privileged, attorney work product or otherwise protected by applicable law. If you have received this message in error, please notify the sender at 402-346-6000 and delete this E-mail message.
Thank you.

#####