

Court Upholds Revocation of Frozen Profit Sharing Plan's Tax Exempt Status for Failure to Amend

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On March 15, 2011, the U.S. Tax Court upheld a frozen profit-sharing plan's loss of tax exempt status as a qualified plan because the plan sponsor failed to amend the plan as required for several tax law changes. Despite arguments that the plan had been terminated and therefore did not need to be amended for such changes, the court held that (i) the discontinuance of contributions and barring of new participants was not sufficient to demonstrate that the plan had been terminated; and (ii) without a formal termination of the plan, the plan's trust was not a "wasting trust" (a trust remaining for the purpose of distributing plan assets) and must comply with statutory requirements for continued favorable tax treatment. The case is a reminder that until there is a formal termination of the qualified plan and liquidation of the trust funding the plan, required amendments still must be made. *Christy & Swan Profit Sharing Plan v. Commissioner of Internal Revenue*, T.C. Memo 2011-62 (Mar. 15, 2011).