



IRS reminds agents to pursue disqualification of unsigned plans

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The IRS Office of the Chief Counsel recently issued a generic legal advice memorandum ([AM 2019-002](#)) urging exam agents to pursue disqualification of retirement plans when an employer can't produce a signed plan document. The memo responds to staff questions about the US Tax Court's ruling in [Val Lanes Recreation Center Corp. v. Commissioner](#) (T.C. Memo. 2018-92 (2018)). That decision found IRS abused its discretion when the agency disqualified a plan for the employer's failure to produce a signed document.

The *Val Lanes* case involved very unusual facts: The employer's office incurred water damage in a storm, resulting in a loss of documents. Although the employer couldn't supply a signed plan document to IRS exam agents, the tax court ruled that other evidence indicated the employer had signed the document before the storm. The memo reminds agents that this unusual case should not deter them from pursuing disqualification under more typical circumstances.

Related resources

- [Generic legal advice memorandum AM 2019-002](#) (IRS, Dec. 9, 2019)
- [Val Lanes Recreation Ctr. Corp. v. Comm'r](#), T.C. Memo. 2018-92 (2018)

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