

employee plans news

PROTECTING RETIREMENT BENEFITS THROUGH EDUCATING CUSTOMERS

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Section 204(h) Notice Not Required in 2007 for Certain PPA Amendments

The IRS and Treasury will soon issue proposed regulations under IRC §4980F (§204(h) of ERISA) addressing advance notice requirements for amendments required under the 2006 Pension Protection Act (PPA). Advance notice to participants of 45 days (or 15 days in the case of a multiemployer plan) – often referred to as a “section 204(h) notice” – is generally required when a plan is amended to significantly reduce the rate of future benefit accrual.

Plan sponsors have asked the IRS whether a section 204(h) notice must be provided for certain PPA amendments in 2007. In addition to other guidance, the proposed regulations will provide the following —

- Benefit restrictions under §436. The notice required under §101(j) of ERISA for amendments restricting benefits in accordance with IRC §436 will satisfy both the timing and content requirements for a section 204(h) notice.
- Single-sum reductions. A reduced single-sum benefit resulting from an amendment to a traditional defined benefit plan to substitute the PPA-prescribed actuarial assumptions under IRC §417(e)(3) for the pre-PPA actuarial assumptions under §417(e)(3) does not require a section 204(h) notice.

IRS Issues Mortality Table to Calculate Defined Benefit Plan Lump Sums in 2008

The IRS has issued [*Revenue Ruling 2007-67*](#), specifying the mortality table that defined benefit retirement plans must use to calculate minimum lump-sum distributions during plan years beginning in 2008. The ruling provides guidance under the PPA's provision mandating use of an "applicable mortality table" (and an "applicable interest rate") to determine the "present value" of a participant's accrued benefit that may be paid in a lump sum following the termination of employment.

The "2008 Applicable Mortality Table" prescribed in the ruling is based on the optional, combined static mortality table that small plans (with fewer than 500 active and inactive participants combined) may use under the IRS's May 29, 2007, proposed rule. The table is not a generational mortality table and is a blend of 50% male and 50% female mortality rates.

The ruling also provides that: the lookback months and stability periods established under the existing regulations under IRC §417(e) continue to apply for plan years beginning on or after January 1, 2008; the applicable mortality table for subsequent years will be published in the future; plans may incorporate the 2008 and later mortality tables by reference; and plan sponsors have until the last day of the first plan year beginning on or after January 1, 2009 (January 1, 2011, in the case of government plans), to adopt a conforming plan amendment.

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