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Dear Carol and Vicki:

IRS Notice 2019-26 requests comments regarding certain mortality improvement issues. In this letter, on behalf of the American Benefits Council (the "Council"), we would like to raise a different issue related to mortality improvement rates.

The Council is a Washington D.C.-based employee benefits public policy organization. The Council advocates for employers dedicated to the achievement of best-in-class solutions that protect and encourage the health and financial well-being of their workers, retirees and families. Council members include over 220 of the world's largest corporations and collectively either directly sponsor or administer health and retirement benefits for virtually all Americans covered by employer-sponsored plans.

We have very much appreciated the opportunity to continue the open and constructive dialogue we have had on mortality issues. Treasury and the IRS have worked very hard to address the concerns of all stakeholders in the past and that is greatly appreciated.

We wanted to provide new input based on a recent development that may be of interest to you. The new development relates to the annual mortality improvement rate itself, which is assumed to be 1% (for ages 85 and younger) indefinitely in the current regulations. Our concern is based on the following points:

- **Social Security assumes a lower improvement rate:** As you know, the one agency with the most expertise in mortality issues – the Social Security Administration ("SSA") -- assumes a lower improvement rate, i.e., .77%. The Long-Range Demographic Assumptions for the 2019 Trustees Report, Office of the Chief Actuary, Social Security Administration, April 22, 2019 ("2019 SSA Report"), at Demography, page 4. Treasury and the IRS relied on the recommendation of an advisory panel to SSA, rather than on the SSA. As discussed below, this reliance needs to be revisited in light of more recent events.

- **In adopting the 1% assumption, the IRS and Treasury relied on a now discredited recommendation**.

    - **IRS and Treasury relied on the Technical Panel of the Social Security Advisory Board**:

        - "Treasury and the IRS took into consideration the views of the Technical Panel of the Social Security Advisory Board. . . . The Technical Panel, which issues a report every 4 years, has consistently recommended that the mortality improvement assumption used by the Office of the Actuary [of the Social Security Administration] be increased." Preamble to the final mortality regulations, 82 Federal Register 14392 (October 5, 2017)

    - **The SSA rejected the Technical Panel's recommendation and the Chair of that Technical Panel has now admitted that SSA was right to reject that recommendation:**

        - "[The Technical Panel's] 1.00 percent annual reduction recommendation was based on the average rate of reduction in the total population (all ages and causes combined) observed for the period since 1950. However, the mortality data through 2016 have continued to improve much less than was assumed for the 2015 through 2018 Trustees Reports. ***Based on recent slow rates of mortality improvement, the chairperson of the panel stated that she was glad that the Trustees did not follow the panel's recommendation for faster overall mortality reduction*** . . ." 2019 SSA Report. (emphasis added)

- **1% assumption is inconsistent with a clear pattern of far lower improvements.** Over the last 11 years for which data is available,[1] improvement rates have averaged .72% according to the SSA or .44% according to the Center for Disease Control. This empirical evidence was persuasive to the Technical Panel's chair

[1] The data for 2017 and 2018 is based on SSA projections.

and to the SSA. Treasury and the IRS should similarly find the pattern in the recent data to be persuasive that the 1% assumption is too high.

- **1% assumption is inherently speculative.** The regulations and the guidance thereunder accept the view of the Retirement Plans Experience Committee ("RPEC") of the Society of Actuaries ("SOA") that mortality rates will in the long-term improve by 1% indefinitely. Just to be clear, no one, including the RPEC, would maintain that there is any documented basis for this or any other future assumption. On the contrary, the 1% assumption is based on the speculation of a small number of actuaries on the RPEC working on the mortality project. We have the utmost respect for the work done by the RPEC, but no one disputes that this assumption is not supported by any evidence.

- **No other agency has adopted the 1% assumption.** No other agency in the Administration has adopted the RPEC's assumption about future improvement rates.

We ask Treasury and the IRS to reduce the regulatory assumption that mortality will improve 1% indefinitely, in light of the above new information. Not only is there no basis for the 1% assumption, it is based on a now discredited report that was rejected by the agency with the most expertise in this area.

Thank you for considering the views set forth in this letter.

Sincerely,

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