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Council commends IRS extension of relief for frozen defined benefit pensions, urges permanent, comprehensive fix to help workers, employers

WASHINGTON, D.C. — “The one-year extension of relief issued today by the Internal Revenue Service (IRS) will help some employers avoid the need to stop accruing benefits for long-tenured workers in order not to violate pension nondiscrimination rules,” Council President James A. Klein said.

When employer sponsors of traditional defined benefit pensions “soft freeze” their plans (close them to newly hired employees), they typically want to allow older, longer-term employees to continue accruing greater pension benefits for the duration of their employment. However, over time, this can become technically inconsistent with current regulations prohibiting discrimination in favor of highly compensated employees due to greater turnover among lower compensated employees and because some of those long-tenured employees become “highly compensated” as they continue working.

“This glitch in the nondiscrimination rules effectively penalizes employers for trying to ‘do the right thing’ for their older workers. It is compelling some employers to “hard freeze” their plans by ceasing accruals. This is something neither the employers, nor the workers of course, want to see happen,” Klein said.

[Notice 2016-57](#) effectively adds one additional year to existing relief (provided under [IRS Notice 2014-5](#) issued in December 2013 and extended through 2016 in [IRS Notice 2015-28](#)), under which some affected companies can avoid triggering a violation of the rules. Unfortunately, many affected companies cannot benefit from today’s relief. The IRS has also issued [proposed regulations](#) to address the issue on a permanent basis, but

as the Council noted in its [written comments](#), they are still not adequate to help the full range of affected companies and their workers.

“While the Council has advocated for a more comprehensive solution to this issue, the extension of relief comes as a welcome interim development for some employers,” Klein said. “We will continue to work through the regulatory process and support legislation, like the [Retirement Security Preservation Act \(S. 2855\)](#)/[\(H.R. 5381\)](#) sponsored in the previous Congress, that would address the matter more fully and fairly.”

For more information on retirement policy matters, or to arrange an interview with Klein, contact Jason Hammersla, Council senior director of communications, at jhammersla@abcstaff.org or by phone at 202-289-6700 (office) or (202) 422-4652 (cell).

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The American Benefits Council is the national trade association for companies concerned about federal legislation and regulations affecting all aspects of the employee benefits system. The Council's members represent the entire spectrum of the private employee benefits community and either sponsor directly or administer retirement and health plans covering more than 100 million Americans.