



AMERICAN BENEFITS

COUNCIL

July 23, 2019

Submitted via e-mail

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U.S. Treasury Department
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Victoria Judson
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Tax Exempt and Government Entities
Internal Revenue Service
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Re: Request for extension of relief through 2020 for certain closed defined benefit pension plans

Dear Carol and Vicki:

We are writing to request the extension of relief from the imposition of certain nondiscrimination rules applicable to closed defined benefit pension plans through 2020. We appreciate the extensions which have been provided in the past. They have been enormously helpful. On August 24, 2018, the Internal Revenue Service (IRS) issued Notice 2018-69, which extended through 2019 relief from the imposition of certain nondiscrimination rules on qualifying defined benefit pension plans that froze eligibility with respect to new hires prior to December 13, 2013. This notice extends relief that the IRS initially provided in Notice 2014-5 and subsequently extended in IRS Notices 2015-28, 2016-57 and 2017-45.

As you know, under the extended relief, if a defined benefit plan cannot pass certain nondiscrimination tests, it can be aggregated with non-elective contributions provided under defined contribution plan(s) maintained by the plan sponsor. While the relief does not eliminate all nondiscrimination testing and does not address all situations, it is extremely important for many companies.

We appreciate that the IRS is reviewing concerns that were raised about the proposed regulations issued by it in 2016 to address the challenges facing closed plans. As noted in many comments received by the IRS, the proposed regulations are a significant

improvement over current law, but they would continue to treat many benign arrangements as violating the nondiscrimination rules solely because the grandfathered group gradually becomes more highly compensated over time. The result is that many plans would be forced to completely freeze their plans impacting thousands of participants who would lose benefits.

Congress is also considering addressing this issue. The Setting Every Community Up for Retirement Enhancement (SECURE) Act (H.R. 1994), which includes a provision addressing the problem, passed the U.S. House of Representatives by a vote of 417-3 on May 21 and is pending in the Senate.

The need for an immediate extension of relief is critical for sponsors of affected plans. Many have already made decisions, but many others have waited and will make decisions about the future of their plans in the very near term. Clearly, a permanent workable solution is urgently needed. However, extending the relief now is a practical solution while the issues are resolved by policymakers. An extension would prevent disruption of plan operations and protects the benefits of thousands of older and longer service workers.

Thank you for considering our request.

Sincerely,

A handwritten signature in cursive script that reads "Lynn D. Dudley". The signature is written in black ink and is positioned below the word "Sincerely,".

Lynn D. Dudley

Senior Vice President, Global Retirement and Compensation Policy