Defined Benefit Plans to be Prohibited from Replacing Annuities with Lump-Sum Payments

Notice 2015-49, **Use of Lump Sum Payments to Replace Lifetime Income Being Received By Retirees Under Defined Benefit Pension Plans,** informs taxpayers that the Treasury Department and the IRS intend to amend the required minimum distribution regulations under § 401(a)(9) of the Internal Revenue Code to address the use of lump sum payments to replace annuity payments being paid by a qualified defined benefit pension plan. The regulations, as amended, will provide that qualified defined benefit plans generally are not permitted to replace any joint and survivor, single life, or other annuity currently being paid with a lump sum payment or other accelerated form of distribution. The Treasury Department and the IRS intend that these amendments to the regulations will apply as of July 9, 2015, except with respect to certain accelerations of annuity payments described in section IV of this notice.

More specifically, according to the AICPA Journal article, Defined benefit plans to be prohibited from replacing annuities with lump-sum payments, By Sally P. Schreiber, J.D., July 9, 2015, in Notice 2015-49, the IRS announced that it will amend the Sec. 401(a)(9) required minimum distribution regulations to prohibit the use of lump-sum payments to replace annuity payments in defined benefit plans. Some plans have treated the right to accelerate benefits and receive a lump sum as complying with the regulations because the plans claim there is an increase in benefits, which is required under the rules.

The IRS noted that the Sec. 401(a)(9) regulations reflect an intent, among other things, to prohibit, in most cases, changes to the annuity payment period for ongoing annuity payments from a defined benefit plan, including changes accelerating (or providing an option to accelerate) ongoing annuity payments. The IRS has concluded that a broad exception for increased benefits in the regulations permitting lump-sum payments to replace rights to ongoing annuity payments would undermine that intent.

To prevent this practice, the IRS intends to amend Regs. Sec. 1.401(a)(9)-6, A-14(a)(4), to provide that the types of benefit increases permitted include only those that increase the ongoing annuity payments, not those that accelerate the annuity payments. The new rules will not permit acceleration of annuity payments to which an individual receiving annuity payments was entitled before the amendment, even if the plan amendment also increases annuity payments.

The amendments, when they are issued, will apply as of July 9, 2015, the date the notice was issued, except for certain grandfathered benefit plans.

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Who We Are

Torrillo & Associates, LLC specializes in employee benefit plan audits including 401k audits, 403b audits, pension plan audits, and other retirement plan audits. We are licensed in

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