# IRS Extends Relief for Closed Defined Benefit Plans through 2020

In IRS Notice 2019-49, the Internal Revenue Service extends the temporary nondiscrimination relief for closed defined benefit plans that is provided in Notice 2014-5, 2014-2 I.R.B. 276, by making that relief available for plan years beginning before 2021 if the conditions of Notice 2014-5 are satisfied.

## Background

Notice 2014-5 provides temporary nondiscrimination relief for certain "closed" defined benefit pension plans (that is, defined benefit plans that provide ongoing accruals but that have been amended to limit those accruals to some or all of the employees who participated in the plan on a specified date). Specifically, for plan years beginning before 2016, Section III.B of Notice 2014-5 permits a DB/DC plan that includes a closed defined benefit plan (that was closed before December 13, 2013) and that satisfies certain conditions set forth in the notice to demonstrate satisfaction of the nondiscrimination in amount requirement of § 1.401(a)(4)-1(b)(2) on the basis of equivalent benefits even if the DB/DC plan does not meet any of the existing eligibility conditions for testing on that basis under § 1.401(a)(4)-9(b)(2)(v).

Notice 2015-28, 2015-14 I.R.B. 848, Notice 2016-57, 2016-40 I.R.B. 432, Notice 2017-45, 2017-38 I.R.B. 232, and Notice 2018-69, 2018-37 I.R.B. 426, extend the temporary nondiscrimination relief provided in Notice 2014-5 by applying that relief to plan years beginning before 2020 if the conditions of Notice 2014-5 are satisfied. Notice 2015-28 further provides that, during the period for which the extension applies, the remaining provisions of the nondiscrimination regulations under § 401(a)(4) continue to apply.

Proposed regulations relating to nondiscrimination requirements for closed plans were published in the Federal Register on January 29, 2016 (81 FR 4976). The proposed regulations set forth relief for closed plans under §§ 1.401(a)(4)-4, 1.401(a)(4)-8, and 1.401(a)(4)-9 (subject to satisfaction of certain conditions set forth in the regulations), and contain other proposed nondiscrimination rules. The regulations are proposed to apply generally to plan years beginning on or after the date of publication of the

final regulations. The proposed regulations provide that taxpayers are permitted to apply certain provisions of the proposed regulations (including all of the provisions that apply specifically to closed plans) for certain plan years beginning before the proposed applicability date.

## IRS Expects Final Regulations

Many comments have been submitted on the proposed regulations, including oral comments at a public hearing held on May 19, 2016. The Internal Revenue Service (IRS) and the Department of the Treasury (Treasury Department) expect that the final regulations will include a number of significant changes in response to those comments. However, it is anticipated that the final regulations will not be published in time for plan sponsors to make plan design decisions based on the final regulations before expiration of the relief provided under Notice 2014-5 (as last extended by Notice 2018-69). Accordingly, the IRS and the Treasury Department have determined that it is appropriate to extend the relief provided under Notice 2014-5 for an additional year.

## Extension of Relief For Closed Plans

The temporary nondiscrimination relief for closed plans that is provided in Notice 2014-5 is extended to plan years beginning before 2021 if the conditions of Notice 2014-5 are satisfied. This extension is provided in anticipation of the issuance of final amendments to the § 401(a)(4) regulations. In addition, it is expected that the final regulations will provide that the reliance granted in the preamble to the proposed regulations may be applied for plan years beginning before 2021.

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