

Permissible Normal Retirement Ages

Proposed Regulations for Governmental Pension Plans

The Internal Revenue Service recently issued proposed regulations governing acceptable Normal Retirement Ages for governmental defined benefit plans. This proposal follows guidance issued as far back as 2007 on this issue for qualified pension plans.

Pension Plan Normal Retirement Age Rules

The Internal Revenue Service issued final regulations in 2007 regarding permissible Normal Retirement Ages for all qualified defined benefit pension plans. The regulations define Normal Retirement Age as “an age that is not earlier than the earliest age that is reasonably representative of the typical retirement age for the industry in which the covered workforce is employed.” In addition, “safe harbor” ages were defined which are deemed to be acceptable ages, including a Normal Retirement Age of 50 or greater for qualified public safety employees and age 62 for all other employees.

The IRS delayed the effective date of these regulations for governmental plans while providing interim guidance.

Proposed Regulations for Governmental Pension Plan

The proposed regulations issued on January 26, 2016 maintain the earlier regulations that the Normal Retirement Age must not be earlier than the earliest age that is reasonably representative for the industry. However, for plans that do not provide for in-service distributions before age 62, the plan’s Normal Retirement Age is not required to comply with the reasonably representative requirement.

There are several safe harbors for both public safety and non-public safety employees which are deemed by definition to meet the reasonably representative age, and include various combinations of age and service. For plans that have a mixture of public safety and non-public safety employees, it is acceptable to have different Normal Retirement Ages for each group.

The regulations are proposed to be effective no earlier than January 1, 2017 and would apply only for employees hired during plan years that begin on or after the effective date.

Next Steps for Plan Sponsors

Since these regulations are in proposed form only, changes can be made. In the interim, plan sponsors should review the definition of Normal Retirement Age for each of their plans.

For plans that allow in-service distributions prior to age 62, a comparison of the plan’s Normal Retirement Age should be made with the various safe harbors to see if any possible changes should be considered for any future employees. For plans that have a combination of public safety and non-public safety employees, it may be necessary to

have different Normal Retirement Ages for the two groups in order to meet a safe harbor.

For plans that do not allow in-service distributions prior to age 62, it appears that they would not need to comply with the reasonably representative requirement and therefore would not need to be concerned with meeting any of the safe harbors. Even though it may be unnecessary to consider any changes to the Normal Retirement Age from a legal perspective, as with all other aspects of the pension plan design, this would be a time to review the Normal Retirement Age to ensure that it appropriately balances the needs of the plan sponsor, employees, and taxpayers.