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Cash Balance Plans

Expected Final Rules 'Meaningfully' Altered From 2010 Proposed Hybrid Rules, Iwry Says

The Treasury Department will soon release final rules on cash balance and pension equity plans that will be significantly different from the proposed rules, a senior Treasury official said April 23 at a U.S. Chamber of Commerce briefing.

The anticipated final hybrid plan rules ''can be expected to be meaningfully different from the proposed regulation issued some time ago,'' said J. Mark Iwry, senior adviser to Treasury Secretary Timothy F. Geithner and deputy assistant treasury secretary for retirement and health policy.

In October 2010, the Internal Revenue Service issued proposed and final rules amending provisions for hybrid defined benefit pension plans under Sections 411(a)(13) and 411(b)(5) of the tax code (200 PBD, 10/19/10; 37 BPR 2306, 10/26/10).

Clarifying the Treasury and IRS hybrid plan rules was among more than a dozen detailed recommendations that the U.S. Chamber of Commerce highlighted at a briefing on private retirement benefits accompanying the April 23 release of a position paper, Private Retirement Benefits in the 21st Century: A Path Forward.

U.S. Chamber Goals. Iwry and other officials were invited to comment on the paper, which included broad recommendations for policymakers to:

- encourage employers to create and maintain retirement plans,
- encourage increased individual savings, and
- encourage strategies to make retirement income last.

Iwry said the Obama administration is open to creating hybrid plans that mix characteristics and features of defined benefit plans and defined contribution plans in innovative ways. For example, he said, collective investments and professional investment management could be used in plans that have characteristics of defined contribution plans.

Similarly, defined contribution plan investing could be done with institutional shares, not retail shares, Iwry said.

There also could be greater sharing and allocating of ''longevity, investment, counter-party, and inflation risks,'' Iwry said. ''The employer does not need to bear all of them but also does not need to transfer all of them to the individual,'' he said.

Modifying current Treasury and IRS rules on required minimum distributions is an achievable goal, Iwry said.

Under an Obama administration proposal introduced by Rep. Richard E. Neal (D-Mass.), seniors who have aggregate balances of less than $100,000 in individual account plans at age 70.5 would be exempt for life from the required minimum distribution rules, Iwry said. ''Only in unusual situations where they might accrue additional benefits would they be subject to those rules,'' he said.

The administration's $100,000 aggregation proposal has a nearly zero cost in terms of lost tax revenue, compared with a more expensive approach that would increase the minimum age for taking RMDs from age 70.5 to age 75, Iwry said.

Phased Retirement. Commenting on the chamber's proposal to eliminate barriers to phased retirement, an executive from Boeing Co. said that private employers need flexibility to experiment and implement phased retirement programs that would keep valuable members of the baby boom generation in the workforce.

''We would like the flexibility to offer to a subset of critical employees, in a nondiscriminatory way, a bona fide phased retirement program,'' Stacey Dion, vice president of corporate public policy at Boeing, said at the chamber briefing. ''We would also like to see in-service distributions allowed, irrespective of whether there is a reduction in hours,'' she said.

Karen Friedman, executive vice president and policy director at the Pension Rights Center, said that, despite policy differences that often exist between the Pension Rights Center and the U.S. Chamber of Commerce, the discussion paper contained fundamental points on which both organizations agree.

''We need to find ways to build on today's voluntary system, although we at the Pension Rights Center also believe we need to work toward a system that is universal, secure and adequate on top of Social Security,'' Friedman said.

Accounting Standards. Referring to a pending crisis in the private defined benefit retirement system, a congressional staff member said at the briefing that U.S. accounting rules need to be evaluated. ''Our Financial Accounting Standards Board is considering European rules that would be applied in a much different fashion to American companies,'' said Gregory Dean, Republican staff chief counsel on the Senate Health, Education, Labor and Pensions Committee. ''If that happens, I do believe our defined benefit system would completely

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come to a halt for all publicly traded companies,'' he said.

By Florence Olsen

Text of the U.S. Chamber of Commerce position paper is at https://www.uschamber.com/sites/default/files/reports/1204Private_Retirement_Paper.pdf.

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