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IRS Restores Retiree Lump Sum Windows

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In 2015, the IRS limited the de-risking options available to defined benefit pension plans by effectively prohibiting lump sum windows to retirees who are currently receiving annuity payments (known as "retiree lump sum windows"). Today, the IRS announced that it is reconsidering its position on retiree lump sum windows and that it will not challenge retiree lump sum windows as violating its required minimum distribution (RMD) regulations until it issues further guidance on this issue.

Background

RMD regulations generally prohibit pension plans from changing the form of payment after an annuity has commenced or providing annuity payments that increase after they have commenced, with limited exceptions. Prior to Notice 2015-49, the IRS issued a series of private letter rulings holding that an amendment to offer a 60-90 day window under which retirees could elect to receive a lump sum distribution in lieu of their current annuity payments would not violate the RMD regulations. (Private letter rulings are not generally applicable guidance; only the parties these rulings are issued to can rely on them.) These rulings found that limited retiree lump sum windows resulted from plan amendments that increased benefits, which is an exception to the prohibitions on changing or increasing annuity payments under the RMD regulations.

However, the IRS effectively put an end to retiree lump sum windows in 2015. Notice 2015-49 announced that the IRS intended to amend its RMD regulations to provide that plan amendments would qualify for exceptions to the RMD regulations for changing forms of payment or increasing annuity payments only if annuity payments are actually increased rather than accelerated. Further, the IRS announced that these changes would be retroactively effective as of July 9, 2015, with some exceptions for plans that had taken certain concrete steps toward offering a retiree lump sum window prior to this date.

Notice 2019-18 announces that the IRS no longer intends to amend the RMD regulations and that it will not challenge plan amendments providing for a retiree lump sum window until further guidance is issued.

Implications

Notice 2019-18 may be a significant development for plan sponsors that are considering de-risking options for

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their pension plans. Retiree lump sum windows may be more cost effective and much less complex to implement than risk transfers to insurance carriers.

Until further guidance is issued, Notice 2019-18 provides that the IRS will not challenge retiree lump sum windows as violating the RMD regulations. However, the IRS indicated that it continues to study retiree lump sum windows, including whether retiree lump sum windows are consistent with other provisions of the Internal Revenue Code. Further, the IRS will not issue any private letter rulings during this period that apply to retiree lump sum windows.