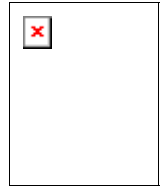


Supplemental Comments Regarding Proposed Regulations Under Code Section 401(a)(9)



August 13, 2001

CC:M&SP:RU (REG-130477-00/ REG-130481-00)

Internal Revenue Service, Room 5226
P.O. Box 7604, Ben Franklin Station
Washington, DC 20044

Re: Supplemental Comments Regarding Proposed Regulations Under Code Section 401(a)(9)

Gentlemen:

The American Society of Pension Actuaries (ASPPA) previously commented on the Proposed Regulations under section 401(a)(9) of the Internal Revenue Code (Code) on April 17, 2001, and on May 1, 2001. This letter supplements our April 17, 2001, comments and addresses: (1) the partially retroactive application of the final regulations; (2) the handling of TEFRA elections; and (3) the use of term certain annuities.

ASPPA is a national organization of approximately 4,200 members who provide actuarial, consulting, administration, legal and other professional services for qualified plans and tax-sheltered annuities. ASPPA's members and their clients are committed to compliance with the legal requirements affecting these plans and arrangements.

I. PARTIALLY RETROACTIVE EFFECT OF THE FINAL REGULATIONS

As stated in our April 17, 2001, comment letter, it is our recommendation that the final regulations be fully retroactive back to 1985. However, if the Service is not willing to apply the final regulations on a fully retroactive basis, we suggest that any RMDs for prior years that have not been completed as of the effective date of the final regulations be allowed to be completed under the final regulations.

II. TEFRA ELECTIONS

We recommend that the final regulations include the following two rules regarding TEFRA §242(b)(2) elections:

1. If a TEFRA election is revoked after the effective date of the final regulations, the make-up distributions required as a result of the revocation should be calculated as if the final regulations had been in effect since the participant's required beginning date.

2. Individuals should be given at least a one-year grace period (e.g., the first full calendar year after the regulations become final) to revoke their TEFRA elections without triggering make-up distributions. Those elections were made under a very different §401(a)(9) environment. With the liberalization of the rules made by the regulations, many individuals might consider a revocation, but if there have been a significant number of years elapsed since their required beginning date, the make-up distribution requirement may make such a revocation inadvisable.

III. TERM CERTAIN ANNUITIES

The regulations should clarify in Q&A-3 of §1.401(a)(4)-6 that the employee can start a single life annuity that includes a term certain based on his single life expectancy, in the event that he does not have a designated beneficiary for minimum distribution purposes as of the annuity starting date.

These comments were prepared principally by Sal L. Tripodi, chair of ASPPA's Legislative Relations Committee, and Jeffrey C. Chang, chair of the ASPPA IRS Subcommittee.

Please contact us if you have any comments or questions regarding our comments.

Sincerely,

Sal L. Tripodi, APM, Esq., Chair
Legislative Relations Committee

Jeffrey C. Chang, APM, Chair
IRS Subcommittee

R. Bradford Huss, APM, Esq., Co-Chair
Government Affairs Committee

Brian Graff, Esq.
Executive Director

Bruce Ashton, APM, Esq., Co-Chair
Government Affairs Committee

Theresa Lensander, CPC, QPA, Chair
Administration Relations Committee

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