



Buck Comments to IRS on Proposed Hybrid Pension Plan Regulations

Buck submitted comments to the IRS on its proposed regulations governing hybrid pension plans. Our comments may be accessed [here](#).

Background

Hybrid pension plans, mostly cash balance and pension equity designs, have been popular for at least 20 years, but have functioned in a regulatory vacuum. With the passage of the Pension Protection Act of 2006 (PPA), Congress responded to some of the most pressing issues and expressed its intention that hybrid plans should be encouraged.

The IRS issued proposed regulations on the PPA hybrid plan provisions and requested comments. (See our January 15, 2008 [For Your Information](#).)

Highlights of Buck's Comments

Buck's comments include the following –

- Cash balance plans should be allowed to credit a fixed rate of interest of no more than 5%, or to credit a variable rate of interest subject to a floor of no more than 5%, without being considered age discriminatory
- The age discrimination safe harbor in PPA should be made available to a broad selection of plans.
- Transition relief is needed for plans that have to restrict future benefits after the PPA effective date.
- Plans that convert to hybrid designs but continue to accrue benefits for a time, as a minimum, under the prior plan formula, should not be considered in violation of the “no wearaway” rule of PPA (under which accruals must continue immediately after conversion of a plan from a traditional formula to a hybrid formula).
- The IRS should cease raising pre-PPA “whipsaw” issues (under which a lump sum benefit could be in excess of the participant's account balance) until addressed in formal guidance.
- Variable annuities and indexed career-pay plans should not be treated as if they had a “similar effect” to hybrid plans.

- Rules for pension equity plans need to be issued as proposed regulations to allow actual and potential plan sponsors to offer their views.
- Administration of the determination letter program needs to be brought into line with Congressional intent and final regulations.

Conclusion

Buck's consultants are available to discuss defined benefit design and funding strategies, including hybrid plan design and funding strategies.

This FYI is intended to provide general information. It does not offer legal advice or purport to treat all the issues surrounding any one topic.