



IRS Again Extends Effective Date of Regulations on Normal Retirement Age for Governmental Plans

The IRS has extended the deadline for governmental plans to comply with its final regulations on the definition of normal retirement age until 2013. Last year, the IRS extended the deadline until 2011.

Background

The Internal Revenue Code and regulations prescribe rules on how qualified pension plans may define normal retirement age (NRA). In final regulations issued in 2007 (see our June 6, 2007 [For Your Information](#)), the IRS requires that the NRA not be earlier than “the earliest age that is reasonably representative of the typical retirement age for the industry in which the covered workforce is employed.” An NRA meets this requirement if –

- the NRA is age 62 or higher
- the NRA is age 55 through age 62, if supported by the facts and circumstances
- the NRA is age 50 and the plan primarily covers qualified public safety employees.

An NRA below age 55 is presumed to be unacceptable unless the IRS determines it meets the industry standard.

The 2007 final regulations were not scheduled to take effect for governmental plans until plan years beginning on or after January 1, 2009. Last year the IRS issued Notice 2008-98, giving governmental plans until plan years beginning in 2011 to comply. (See our October 20, 2008 [For Your Information](#).)

Delayed Effective Date

In [Notice 2009-86](#), the IRS has again extended the effective date of the final regulations on NRAs for governmental plans – this time until plan years beginning on or after January 1, 2013.

Conclusion

This further delay is welcome. The IRS is considering comments on the effect the NRA regulations have on governmental plans, in particular with regard to an NRA that is a combination of age and service (e.g., rule of 75), and may very well decide that these rules should not apply to them. Governmental plan sponsors should adopt a wait-and-see approach until further guidance is issued.

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.