

IRS Reverses Course on QSERP Portion of Proposed Nondiscrimination Regs

In Announcement 2016-16, the IRS withdrew its proposal to apply a higher nondiscrimination test passing threshold to retirement plan formulas that are not based on a “reasonable business classification.”

Background

In response to coverage and nondiscrimination testing challenges faced by employers sponsoring closed defined benefit plans, the IRS had proposed numerous changes to its nondiscrimination regulations aimed at allowing those plans to survive. But the [proposal](#) also included some changes aimed at individualized plan formulas that the IRS characterized as “taking advantage” of the flexibility in the existing rules. Plan sponsors who had provided some executive benefits within qualified plans with individualized lists of supplemental benefits (QSERPs) or that otherwise defined each HCE as a member of his or her own “group” under the plan formula would have needed to make adjustments if the rules were finalized as proposed. Our [February 4, 2016 For Your Information](#) provides additional background and details on the various elements of the proposed changes.

Back to the Drawing Board

The proposed changes for individualized formulas immediately drew criticism from employers and retirement plan trade groups. In today’s [Announcement 2016-16](#) IRS explained that they gave additional consideration to the potential effect of these changes on employers establishing or maintaining retirement plans in deciding to pull back the proposals, but said that further consideration will be needed on these provisions — signaling that this may not be the final word on restrictions for individualized benefit formulas.

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