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IRS REVIVES RETIREE LUMP-SUM WINDOWS IN DEFINED BENEFIT PLANS

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In a rare about-face, the IRS is halting its plans to permanently end retiree lump-sum windows in defined benefit (DB) plans, reviving a risk-reduction strategy considered dead since 2015. [Notice 2019-18](#) announces that the IRS no longer plans to revise the minimum distribution regulations to prohibit these cashouts. The IRS is continuing to study the issue, but until further guidance is issued, the agency won't assert that the cashouts violate minimum distribution rules. In the meantime, DB plan sponsors interested in reducing balance-sheet risk may want to take a fresh look at this strategy.

SHORT LIFE OF LUMP-SUM WINDOWS

Retiree lump-sum windows first made the news in 2012, when Ford Motor Co. announced it would permit participants and beneficiaries who were already receiving annuity payments to elect (within a prescribed time frame) to receive a lump sum in lieu of future annuity payments. General Motors and other plan sponsors were quick to follow.

The strategy proved controversial: The minimum distribution rules generally prohibit changing the period or form of a distribution after payments have commenced, with limited exceptions (26 CFR § [1.401\(a\)\(9\)-6](#)). But some plan sponsors took the position that a lump-sum window provides "increased benefits that result from a plan amendment" and therefore qualifies for the exception in Q&A-14 of the rules.

The IRS issued private letter rulings to Ford and General Motors, allowing the cashouts under the increased-benefits exception. Several more employers proceeded to offer lump-sum windows on this basis until 2015, when the IRS put an abrupt and seemingly definitive end to the practice. In [Notice 2015-49](#), the IRS halted retiree windows and stated its intent to amend the minimum distribution regulations accordingly.

IRS VIEWS COME FULL CIRCLE

The IRS position on retiree cashouts has flip-flopped more than once. Before issuing rulings to Ford and General Motors, IRS officials steadfastly opposed these payments. The agency went back to that position in Notice 2015-49 and put its plans to amend the minimum distribution rules on its regulatory agenda. Now the IRS appears to have scrapped its plans to revise the rules — at least for now.

This may be welcome news to plan sponsors searching for risk-reduction strategies. But sponsors considering this strategy should take note that the IRS still won't offer private letter rulings specifically on this issue. However, determination letters (now generally available only upon initial plan qualification and termination) will no longer specifically exclude such windows from the determination.

RELATED RESOURCES

- [Notice 2019-18](#) (IRS, March 6, 2018)
- [Notice 2015-49](#) (IRS, July 9, 2015)
- [Minimum Distribution Rules](#) (26 CFR § 1.401(a)(9)-6)

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