

TaxNewsFlash

United States

No. 2017-342
August 21, 2017

Notice 2017-44: Model amendments adding bifurcated benefit distribution options, defined benefit plans

The IRS released an advance version of Notice 2017-44 that provides model amendments that sponsors of qualified defined benefit plans may use to amend the plan documents to offer bifurcated benefit distribution options to participants, in accordance with final regulations promulgated in 2016 under Reg. section 417(e).

Read [Notice 2017-44](#) [PDF 230 KB]

Background

To facilitate the payment of benefits partly in the form of an annuity and partly as a single sum (or other accelerated form), final regulations under section 417(e) permit plans to simplify the calculation of the amount of certain optional forms of benefit.

The change was made to encourage sponsors of plans that include single-sum distribution options to offer participants the additional option to bifurcate their benefits in order to receive a portion in an annuity form (providing financial protection against unexpected longevity) and the remainder in an accelerated form (providing increased liquidity during retirement).

Under the [final regulations](#) [PDF 254 KB] (September 2016), a plan is permitted to bifurcate the accrued benefit with the effect that the requirements of Reg. section 1.417(e)-1(d) apply to a specified portion of a participant's accrued benefit as if that portion were the participant's entire accrued benefit. An alternative rule is provided in the final regulations under which a plan that distributes a specified single-sum amount to a participant satisfies the requirements of Reg. section 1.417(e)-1(d) with respect to that payment, provided the remaining portion of the participant's accrued benefit satisfies a minimum requirement.

Read an initial report about these final regulations in [TaxNewsFlash-United States](#)

Notice 2017-44

According to the IRS, stakeholders have indicated that providing model amendments would be helpful, in light of the changes to the determination letter program by Rev. Proc. 2016-37.

Accordingly, in the appendix to Notice 2017-44, there is model language (model amendments) that may be used for each of the two methods set forth in the regulations. The model amendments address the minimum amounts required to be paid in order to comply with the rules of Reg. section 1.417(e)-1(d)(7) for purposes of computing the amount to be paid to a participant who elects to receive his or her accrued benefit in an optional form of payment consisting partially of an annuity and partially of a more accelerated form of payment.

Notice 2017-44 states that while a plan sponsor may use the model amendment to provide a bifurcated distribution option to participants in accordance with the final regulations, a plan that provides for a bifurcated distribution option is not required to include the specific model language. Also, the sponsor of a plan that currently provides for bifurcated distributions under plan terms that comply with the provisions of Reg. section 1.417(e)-1(d)(7), relating to either implicit or explicit bifurcation, does not need to amend those plan terms.

In addition, use of the model language by an employer that has adopted a pre-approved plan will not cause the plan to fail to be identical to the pre-approved plan.

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