

TaxNewsFlash

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Notice 2018-69: Nondiscrimination relief for “closed” defined benefit plans extended through 2019

The IRS today issued an advance copy of Notice 2018-69 that extends—for a fourth time—the temporary nondiscrimination relief for certain “closed” defined benefit pension plans—i.e., defined benefit plans that provide ongoing accruals but that have been amended to limit those accruals to some or all of the employees who participated in the plan on a specified date—through 2019 if the conditions of Notice 2014-5 are satisfied.

[**Notice 2018-69**](#) [PDF 34 KB] extends this temporary nondiscrimination relief for an additional year.

The relief originally provided by Notice 2014-5 was extended by Notice 2015-28, Notice 2016-57, and again by Notice 2017-45 pending the finalization of regulations that were proposed in January 2016.

Background

Notice 2014-5 (issued in December 2013) permits certain employers that sponsor a closed defined benefit plan and a defined contribution plan to demonstrate that the aggregated plans comply with the nondiscrimination requirements of Reg. section 401(a)(4) on the basis of equivalent benefits—even if the aggregated plans do not satisfy the current conditions for testing on that basis. The relief was subsequently extended in 2015, 2016, and again in 2017, if the conditions of Notice 2014-5 are satisfied. Read [**TaxNewsFlash-United States**](#)

Proposed regulations (January 2016) relating to nondiscrimination requirements for closed plans set forth relief for closed plans and contain other proposed nondiscrimination rules. Those regulations are proposed to apply generally to plan years beginning on or after the date of publication of the final regulations. The proposed regulations provide that taxpayers are permitted to apply certain provisions

of the proposed regulations (including all of the provisions that apply specifically to closed plans) for certain plan years beginning before the proposed applicability date

Notice 2018-69

Today's IRS notice extends the temporary nondiscrimination relief for closed defined benefit plans for plan years beginning before 2020 if the conditions of Notice 2014-5 are met.

The extended relief is provided, according to the IRS notice, in anticipation of the issuance of final changes to the regulations under section 401(a)(4). The notice explains that the final regulations will be intended to provide that the reliance granted in the preamble to the 2016 proposed regulations may be applied for plan years beginning before 2020.

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