

NATIONAL COORDINATING COMMITTEE FOR MULTIEMPLOYER PLANS

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CC:PA:LPD: PR (REG-152914-04)
Room 5203
Internal Revenue Service
POB 7604, Ben Franklin Station
Washington, DC 20044

Electronic submission: <http://www.irs.gov/regs>

Re: Proposed Regulations on Disclosure of Relative Values of Benefit Payment Forms

Dear Friends,

The National Coordinating Committee for Multiemployer Plans (NCCMP) is pleased to offer these comments on the proposed amendments to the regulations on disclosure of relative values of alternative forms of pension payments, and to request the opportunity to testify at the August 24 hearing on this subject. Our testimony will address the points made in this comment letter.¹

The NCCMP is the only national organization devoted exclusively to protecting the interests of the approximately ten million workers, retirees, and their families who rely on multiemployer plans for retirement, health and other benefits. Our purpose is to assure an environment in which multiemployer plans can continue their vital role in providing benefits to working men and women. The NCCMP is a nonprofit organization, with members, plans and plan sponsors in every major segment of the multiemployer plan universe, including in the building and construction, retail food, trucking and service and entertainment industries.

Our comments relate to two questions that come to light in the course of plans' preparations for compliance with the original relative-values regulation. We congratulate the IRS and Treasury for taking action in this proposed regulation to solve the 417(e)(3) conundrum, with the hope that you will be similarly open to resolving those discussed below.

1. Simplified Factors

Many multiemployer plans use simplified factors to convert benefits from one annuity form to another. For example, a plan may provide for the following:

1. Normal Single Form -- Single Life Annuity
2. Joint & 50% Survivor -- 89% adjusted by .4% for spouse age difference
3. Joint & 75% Survivor -- 84% adjusted by .5% for spouse age difference

¹ Our testimony will be presented by Judith F. Mazo. For building security purposes, we would appreciate your listing Ms. Mazo, Patricia Douglas and me, Randy G. DeFrehn, as expected attendees.

4. Joint & 100% Survivor -- 80% adjusted by .6% for spouse age difference

The spousal adjustments would be plus or minus the specified factor, for each full year that the spouse is older or younger than the employee.

These simplified factors, which are published in SPDs for participants' ready reference, make it easy for someone contemplating retirement to see how electing among the alternatives will affect his or her pension payments and to make general financial plans even before getting data from the pension fund. Of course, using a simplified approach also helps the plans themselves get the calculations right. For one thing, since the benefit conversions are readily understandable it is easier for the funds' staff to help participants work through their alternatives.

By definition, however, simplified factors do not track the actuarial values of individuals' annuity benefits as precisely as actuarial factors would. They are designed to yield annuity streams that are at least equal in value to the individual's accrued benefit under the plan at all ages, and to comply with the QJSA valuation requirements at the ages at which most participants require. However, the simplification built into the factors means that the relative value of one form of annuity when measured against another will vary with the participant's age.

For example, here is how the 100% J&S form compares with the 50% J&S form for a particular retiree at various ages, under a plan that uses the factors listed above for benefit conversions and designates the 50% J&S as the default QJSA:

- ◆ Age 68: J&100%S = 99.34% of the J&50%S (July, 1997, GATT assumptions of 6.48%
with GAM83 50/50 blend)
- ◆ Age 70: J&100%S = 101.85% of the J&50%S (May, 1999, GATT assumptions of 5.25%
with GAM83 50/50 blend)
- ◆ Age 76: J&100%S = 105.21% of the J&50%S (May, 2005, GATT assumptions of 4.89%
with GAR94)

When this person retired at age 68, the 50% J&S was the most valuable form for him; if he had waited until age 70, there might have been some doubt, and at age 76 the 100% J&S measures out to be more valuable. The NCCMP recommends that, in addition to the proposed clarification regarding the use of mandated factors under IRC section 417, Q&A 16 of Treas. Reg. section 1.401(a)-20 be amended to confirm that a plan using simplified conversion factors is in compliance based on the results at typical retirement ages even if that is not necessarily the case at every possible retirement age.

In the same vein, it would also be useful for the final regulations to underscore the continued validity of the principle that, for QJSA purposes, actuarial "[e]quivalence may be determined, on the basis of consistently applied reasonable actuarial factors, for each participant *or for all participants or reasonable groupings of participants ...*" 1.401(a)-11(b)(2) (emphasis added). Reiterating this point, perhaps by including or referencing it in section 1.401(a)-20, will help allay concerns (on the part of plan sponsors) and suspicions (on the part of plan participants) that there is something amiss if the relative values do not all line up squarely in an individual case. Given the emphasis in the new disclosure rules on comparing the values from an individual perspective, it is worth providing a formal reminder that a plan satisfies the basic rules if it complies for the group as a whole.

2. Updates and Corrections

Some multiemployer plans have encountered relative-value anomalies because they have different conversion factors associated with different benefit forms, or because the conversion factors for a given set of benefit options are out of date. Some plan sponsors may want to switch from simplified factors to explicit actuarial factors, to eliminate the types of unintentional variations noted above or, in case the final regulation does not include the NCCMP's recommendation, to comply with the above-cited Q&A 16. There is always the risk that these essentially housekeeping changes could shave off an element of value for some individuals.

The standards and procedures for revising payment forms that have been proposed under IRC section 411(d)(6) are extremely demanding. We recommend that the forthcoming regulations include a special streamlined procedure for changes in a plan's actuarial basis for converting one annuity form to another. This would be available for plans that are being amended to go from simplified to actuarial factors, to adopt uniform factors for all of a plan's payment forms other than those subject to the valuation requirements of IRC section 417(e)(3), or to update explicit or implicit mortality assumptions. Such a rule might, for example, allow the change to be made by plan amendment effective for annuity starting dates no earlier than six months after the date of adoption.

The NCCMP will be happy to provide you with any further information or analysis that you may find helpful. Thank you for your consideration.

Sincerely,

Randy G. DeFrehn
Executive Director