IRS CHANGES ITS MIND (AGAIN) ON RETIREE LUMP-SUM BUY-OUT OFFERS

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In Notice 2015-49, the Internal Revenue Service expressed its intent to prohibit qualified defined benefit plans from offering in-pay retirees an opportunity to convert their annuity into a lump-sum payment because it would violate the rules on required minimum distributions. That Notice was contrary to certain private letter rulings the IRS previously issued that indicated that those offers would not violate the required minimum distribution regulations. By issuing that Notice, the IRS effectively prohibited defined benefit plans from offering a lump-sum buy-out offer to in-pay retirees. The IRS has now issued Notice 2019-18, which reverses the IRS's position by retracting Notice 2015-49. The IRS indicated they will not assert that a plan amendment providing for such an offer violates required minimum distribution rules of Code Section 401(a)(9). The IRS indicated that it will continue to evaluate whether such an amendment would satisfy other Internal Revenue Code provisions dealing with non-discrimination requirements, non-forfeiture requirements, benefit limitations, spousal protections, and compliance with certain funding based plan restrictions. Plan sponsors who have considered lump-sum buy-out options as a means of de-risking a plan or a method to reduce PBGC premiums may wish to consider whether a lump-sum buy-out offer to in-pay retirees may be suitable. To view IRS Notice 2015-49, click here.

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