

Steve Leimberg's Employee Benefits and Retirement Planning Email Newsletter Archive Message #684

Date:13-Nov-17

Subject: [Mary E. Vandenack - Final Regulations on Mortality Tables](#)

“The Internal Revenue Service issued final regulations with respect to mortality tables to be used by most defined benefit plans. The final regulations replace the 2008 mortality tables and also update procedures to use plan-specific mortality tables. The final regulations affect certain defined benefit retirement plans. The regulations are generally effective, subject to transition relief, for plan years beginning on January 1, 2018.

The final regulations replace previous mortality tables, update the requirements to use plan specific mortality tables, revise the methodology to develop generally applicable mortality tables, revise the rules for using substitute mortality table, and provide a method for developing substitute mortality tables for plans with smaller populations. Because the new mortality tables reflect increases in life expectancy, the value of plan liabilities will increase as funding obligations increase. Lump sum values will also increase.”

Mary Vandenack comments on the [final regulations](#) dealing with mortality tables used by defined benefit plans.

Mary E. Vandenack is founding and managing member of **Vandenack Weaver LLC** in Omaha, Nebraska. Mary is a highly regarded practitioner in the areas of tax, benefits, private wealth planning, asset protection planning, executive compensation, equity fund development, business and business succession planning, tax dispute resolution, international tax, state and local tax, and tax-exempt entities. Mary’s practice serves businesses and business owners, executives, real estate developers and investors, health care providers, companies in the financial industry, and tax exempt organizations. Mary is a member of the American Bar Association Real Property Trust and Estate Section where she serves as Co-Chair of the Futures Task Force, Co-Chair of the Technology and Economics of Law Practice Committee and Vice Chair of the Asset

Protection Planning Committee. Mary is a frequent writer and speaker on tax, benefits, asset protection planning, and estate planning topics as well as on practice management topics including improving the delivery of legal services, technology in the practice of law, building sustainable law firms, and developing profitable flat fees.

Here is her commentary:

EXECUTIVE SUMMARY:

The Internal Revenue Service issued [final regulations](#)ⁱ with respect to mortality tables to be used by most defined benefit plans. The final regulations replace the 2008 mortality tables and also update procedures to use plan-specific mortality tables. The final regulations affect certain defined benefit retirement plans. The regulations are generally effective, subject to transition relief, for plan years beginning on January 1, 2018.

FACTS:

A mortality table reflects the rate of deaths occurring in a defined population during a specified time interval. The probability of survival from year to year is based on a number of factors including gender, age, and other factors.

Internal Revenue Code (“IRC”) §412 contains requirements for defined pension benefit plans to achieve minimum funding levels. IRC §430 provides the minimum funding rules that apply to defined benefit plans that are not multiemployer plans. Generally, the minimum funding rules require that plans make a contribution based on the present value of all accrued or earned benefits under the plan as of the first day of the plan year for which the contribution is made.

Mortality tables are used to determine the minimum required contribution for a plan year. In addition, mortality tables are used to calculate minimum required lump sum distributions under IRC §417(e)(3).

IRC §430(h)(3) specifies rules regarding the mortality tables to be used. The IRS issues generally applicable mortality tables at least every ten years. The final regulations adopt the generally applicable mortality tables

published in proposed regulations on December 29, 2016.ⁱⁱ Such mortality tables are gender-distinct.

Defined benefit plans can also use substitute mortality tables. IRC §430(h)(3)(c) provides rules for a plan sponsor's use of substitute mortality tables. Such substitute tables can reflect the specific mortality experience of a plan's population in lieu of using the generally applicable mortality tables.

The final regulations make various changes to the rules regarding plan-specific substitute mortality tables. A substitute mortality table must be constructed by multiplying the mortality rates from a projected version of the generally applicable base mortality table by a mortality ratio. The use of mortality ratios replaces the rules in the 2008 regulations requiring the graduation of raw mortality rates. Such change is expected to make it easier for plan sponsors to develop a substitute mortality table.

Plans with fully creditable mortality information can use a substitute mortality table that applies underlying projected mortality improvement to a base substitute mortality table developed using an experience study of the population. The final regulations allow a plan sponsor to develop a single mortality ratio for both genders and then build gender-specific substitute mortality tables.

The final regulations permit plan sponsors to use substitute mortality tables for plans that do not have fully creditable mortality information. Such a plan would use a weighted average of the standard mortality table and the mortality table that would be developed for the plan if it were to have fully creditable mortality information. Essentially, this approach is a hybrid of the generally applicable IRS table and a plan-specific table.

The final regulations allow the development of substitute mortality tables for smaller plans. A plan shall be considered to have creditable mortality information if the actual numbers of deaths for the population during the experience study period is 100.

The final regulations extend the period for which newly-affiliated plans are not required to comply with controlled group consistency requirements. Generally, the controlled group consistency requirements will not apply until

the end of the second plan year following the plan year in which an entity becomes a part of a controlled group.

The final regulations apply to plan years beginning on or after January 1, 2018.

The final regulations modify and supersede Rev. Proc 2008-62; 2008-2 CB 935. The final regulations modify Rev. Proc. 2017-4, IRB 2017-1. The IRS issued two related guidance items Notice 2017-60 setting forth mortality tables for lump sum for distributions during stability periods beginning in 2018 and updated mortality tables for 2018 determined under prior regulations; and Rev. Proc. 2017-55 providing procedures for obtaining approval of plan-specific mortality tables.

COMMENT:

The final regulations replace previous mortality tables, update the requirements to use plan specific mortality tables, revise the methodology to develop generally applicable mortality tables, revise the rules for using substitute mortality table, and provide a method for developing substitute mortality tables for plans with smaller populations.

Because the new mortality tables reflect increases in life expectancy, the value of plan liabilities will increase as funding obligations increase. Lump sum values will also increase.

HOPE THIS HELPS YOU HELP OTHERS MAKE A *POSITIVE* DIFFERENCE!

Mary Vandénack

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CITATIONS:

ⁱ Reg. §1.430(h)(3)-1

ⁱⁱ 81 FR 95911