



DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D. C. 20224

OFFICE OF THE CHIEF COUNSEL

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The Honorable John D. Rockefeller IV
United States Senate
Washington, DC 20510

Dear Senator Rockefeller:

This letter responds to your inquiry dated August 2, 2012, in which you asked whether the IRS changed the normal retirement age rules that apply to governmental plans (as defined in section 414(d) of the Internal Revenue Code). You wrote on behalf of your constituent who works in the . Your constituent believes that the normal retirement age regulations will become effective on January 1, 2013, and has some concerns about the impact the regulations will have on government employees.

We published the normal retirement age regulations (the 2007 NRA regulations) in the Federal Register as TD 9325 (72 FR 28604) on May 22, 2007. The 2007 NRA regulations generally require that a normal retirement age be an age that is not earlier than the earliest age that is reasonably representative of the typical retirement age for the industry in which the covered workforce is employed. Currently, the 2007 NRA regulations do not apply to governmental plans.

The IRS and Treasury Department are in the process of developing guidance that will address how the 2007 NRA regulations apply to governmental plans. We received comments in response to Notice 2007-69 that raise concerns, like those of your constituent, about the potential impact that the 2007 NRA regulations could have on government employees. We understand the importance of this issue, and our guidance will reflect our careful consideration of the feedback we received.

The IRS and Treasury Department recently issued Notice 2012-29 (copy enclosed), which addresses some of your constituent's concerns. The Notice provides that the IRS and Treasury Department anticipate issuing guidance that would clarify that governmental plans that do not provide for in-service distributions before age 62 are not

required to have a definition of normal retirement age. We expect that this proposal will significantly limit the application of the 2007 NRA regulations to governmental plans. In addition, Notice 2012-29 further extends the effective date of the 2007 NRA regulations for governmental plans.¹ The notice provides that we intend to change the effective date of the 2007 NRA regulations for governmental plans to annuity starting dates that occur in plan years beginning on or after the later of (1) January 1, 2015, or (2) a date that is at least 3 months after the final regulations are published. Governmental plans may rely on Notice 2012-29 for the extended effective date. Therefore, your constituent may inform his or her employees that the 2007 NRA regulations will not apply to governmental plans in 2013.

I hope this information is helpful. If you have any questions, please call me at
or at .

Sincerely,

Victoria A. Judson
Division Counsel/Associate Chief Counsel
(Tax Exempt & Government Entities)

Enclosure

¹ Notices 2008-98, 2008-44 I.R.B., and 2009-86, 2009-46 I.R.B. 629, extended the effective date of the 2007 NRA regulations for governmental plans to January 13, 2013.