



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

OFFICE OF THE CHIEF COUNSEL

August 5, 2014

Number: **2014-0030**
Release Date: 9/26/2014

CONEX-126244-14

UIL: 9999.98-00

The Honorable Nick Rahall
U.S. House of Representatives
Washington, DC 20515

Dear Mr. Rahall:

I am responding to your inquiry dated June 27, 2014, which you wrote on behalf of your constituent, . asked about the normal retirement age rules under section 1.401(a)-1(b) of the Income Tax Regulations, which were published in the Federal Register on April 5, 2007 (72 FR 16894) (the 2007 NRA regulations). He wanted to know if the Treasury Department and the IRS have a new approach for governmental plans or if they intend to apply the 2007 NRA regulations as currently written to governmental plans beginning on January 1, 2015.

The Treasury Department and the IRS issued the enclosed Notice 2012-29 on April 30, 2012, which addresses both of concerns. The notice announced that the "IRS and the Treasury Department intend to modify provisions of the 2007 NRA regulations as applied to governmental plans . . ." It also asked for comments on additional ways that the 2007 NRA regulations could be modified. The Treasury Department and the IRS have reviewed the comments received through this notice and are drafting proposed regulations that would modify the 2007 NRA regulations. Once the proposed regulations are issued, the governmental plans community will have the opportunity to provide comments on them.

Notice 2012-29 also addresses concern about the effective date of the 2007 NRA regulations to governmental plans. It specifically provides that:

The IRS and Treasury intend to amend the 2007 NRA regulations to change the effective date 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) the close of the first regular legislative session of the legislative body with the authority to amend the plan that begins on or after the date that is 3 months after the final regulations are published

in the **Federal Register**. Governmental plan sponsors may rely on this notice with respect to the extension until such time as the 2007 NRA regulations are so amended. (Emphasis added.)

Thus, the January 1, 2015 effective date would only apply if it was later than the 2nd part of the effective date, which would be a date after final regulations modifying the 2007 NRA regulations are published. Since proposed regulations modifying the 2007 NRA regulations have not yet been issued, it is highly unlikely that the first part of the effective date would ever apply. As Notice 2012-29 provides, governmental plans may rely on the extended effective date.

I hope this information is helpful in responding to . If you have any questions, please call me, , or at () .

Sincerely,

JOHN T. RICOTTA
Branch Chief, Qualified Plans Branch 2
Employee Benefits
Tax Exempt & Government Entities