



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

OFFICE OF THE CHIEF COUNSEL

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Dear _____ :

This letter responds to your request for information dated September 23, 2016. You ask if the limitation on benefits provision under section 415(b) of the Internal Revenue Code applies to a participant in a governmental defined benefit plan that becomes disabled between the date that the participant separated from service and the date that the participant commences receiving his or her pension benefit.

Section 415(b)(1) generally limits the amount of annual benefits that a participant may receive from a qualified defined benefit plan. Section 415(b)(2)(C) further reduces the annual benefits limit if benefits under the plan begin before age 62 (the "age adjustment"). However, section 415(b)(2)(I)(i) states that the age adjustment does not apply to income received from a governmental plan as a pension or annuity as "the result of the recipient becoming disabled by reason of personal injuries or sickness." Section 1.415(b)-1(d)(4) of the Treasury Regulations further states, in relevant part, that no age adjustment is made for retirement benefits from a governmental plan beginning before age 62 "on account of the participant's becoming disabled by reason of personal injuries or sickness."

This means that the age adjustment applies unless the participant is entitled to benefits under the relevant plan on account of, or as a result of, a disability resulting from personal injury or sickness. If a participant is entitled to benefits under the relevant plan on account of, or as a result of, a different event, such as a separation from service, the age adjustment applies. For this purpose, if a governmental defined benefit plan provides that a plan participant is entitled to retirement benefits upon either separation from service or onset of a disability, the event on account of which benefits are paid would be the first to occur of either of those events. Accordingly, if a participant in such

a plan separates from service before the onset of his or her disability, the benefits received are not on account of or as the result of the disability and the age adjustment applies.

This letter has called your attention to certain general principles of the law. It is intended for informational purposes only and does not constitute a ruling. See Rev. Proc. 2017-1, § 2.04, 2017-1 IRB 9 (Jan. 3, 2017). If you have any additional questions, please contact our office at .

Sincerely,

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