

(4) Single Life, with no survivorship benefit. Currently, a participant's survivorship benefit election is irrevocable.

Plan Administrator Y provides benefit estimates to participants in the plans before their retirement. Estimates may differ from the actual benefits paid to a participant due to the actual retirement date or survivorship option being different from that used to calculate the estimate. In some cases, Plan Administrator Y receives additional salary information after the participant has retired but before the finalization of the benefit amount resulting in a final benefit amount different than the benefit estimate.

When Plan Administrator Y receives additional information about a participant's compensation or service credit, the laws of State X require Plan Administrator Y to recalculate the benefit amount. In most cases, the recalculation is finalized shortly after the participant's retirement.

State X enacted Bill Z in 2020 allowing participants in any of the plans up to 90 calendar days after the receipt of their first monthly retirement allowance to prospectively change their survivorship benefit election. If a participant changes the survivorship election, the change is effective the first day of the following month. The provisions of Bill Z become effective following the receipt of a favorable private letter ruling from the Internal Revenue Service that the limited ability to change a survivorship benefit election during the 90-day window conforms with federal law.

Based on the foregoing facts and representations, you have requested a ruling that the minimum distribution requirements of § 401(a)(9) are not violated due to Bill Z, which allows current and future participants in the eight affected defined benefit plans administered by Plan Administrator Y to change their survivor option election within 90 days after receipt of their first retirement allowance.

Law

Section 414(d) provides that the term "governmental plan" means a plan established and maintained for its employees by the Government of the United States, by the government of any State or political subdivision thereof, or by any agency or instrumentality of any of the foregoing.

Section 401(a)(9)(A) provides, in general, that a trust will not be considered qualified unless the plan provides that the entire interest of each employee (i) will be distributed to such employee not later than the required beginning date, or (ii) will be distributed, beginning not later than the required beginning date, over the life of such employee or over the lives of such employee and a designated beneficiary or over a period not extending beyond the life expectancy of such employee or the life expectancy of such employee and a designated beneficiary.

Section 1.401(a)(9)-1, Q&A-2(d) of the Income Tax Regulations provides that a governmental plan (within the meaning of section 414(d)) is treated as having complied with § 401(a)(9) for all years to which § 401(a)(9) applies to the plan if the plan complies with a reasonable and good faith interpretation of § 401(a)(9).

Ruling

In the present case, you have represented that the plans established and maintained by State X on behalf of certain employees of State X are governmental plans (as defined in § 414(d)). Accordingly, those plans are treated as having complied with § 401(a)(9) for all years to which § 401(a)(9) applies to the plan if the plan complies with a reasonable, good faith interpretation of § 401(a)(9).

A participant's option to change the survivorship election within the first 90 days of receiving the first benefit payment does not cause the plans to fail to satisfy the underlying requirements of § 401(a)(9)(A). Thus, the plans comply with a reasonable, good faith interpretation of § 401(a)(9)(A). Accordingly, the minimum distribution requirements of § 401(a)(9) are not violated due to Bill Z, which allows current and future participants in the plans administered by Plan Administrator Y to change their survivorship benefit election within 90 days after receipt of their first retirement allowance.

The rulings contained in this letter are based upon information and representations submitted by your personal representative and accompanied by a penalties of perjury statement executed by an appropriate party, as specified in Rev. Proc. 2021-1, 2021-1 I.R.B. 1, § 7.01(16)(b). This office has not verified any of the material submitted in support of the request for rulings, and such material is subject to verification on examination. The Associate office will revoke or modify a letter ruling and apply the revocation retroactively if there has been a misstatement or omission of controlling facts; the facts at the time of the transaction are materially different from the controlling facts on which the ruling was based; or, in the case of a transaction involving a continuing action or series of actions, the controlling facts change during the course of the transaction. See Rev. Proc. 2021-1, § 11.05.

Except as expressly provided above, no opinion is expressed or implied concerning the federal income tax consequences of any other aspects of any transaction or item of income described in this letter ruling.

This letter is directed only to the taxpayer requesting it. Section 6110(k)(3) provides that it may not be used or cited as precedent.

In accordance with the Power of Attorney on file with this office, a copy of this letter is being sent to your authorized representatives.

Sincerely,

Laura B. Warshawsky
Branch Chief
Qualified Plans Branch 1
Office of Associate Chief Counsel
(Employee Benefits, Exempt Organizations,
and Employment Taxes)

cc: