



IRS Rule on Normal Retirement Age for Governmental Plans

The Wisconsin Retirement System (WRS), like other public employee retirement systems nationwide, is monitoring an Internal Revenue Service (IRS) regulation aimed at governmental pension plans that could change the definition of “normal retirement age,” which is a term referring to the earliest age at which a participant can retire with an unreduced benefit. Many national public employee retirement associations are seeking clarification from the IRS.

Background

Four years ago, the IRS published a rule regarding how low the normal retirement age (NRA) may be for governmental pension plans. The IRS has twice extended the effective date of the rule. The current effective date is January 1, 2013.

Although the rule is focused on in-service distributions, where pension amounts are distributed before the employee has terminated employment, information published by the IRS appears to broaden the application of the rule such that the changed NRA definition applies to all governmental retirement plans, not just to those plans that do in-service distributions.

In simple terms, the regulation provides that:

- An NRA below age 55 years is presumed unreasonable unless the federal Tax Commissioner determines that the age is justified under the facts and circumstances of the plan.
- An NRA between 55 and 62 years is deemed reasonable if the employer makes a good faith determination, based on the applicable facts and circumstances that the plan’s NRA reasonably represents the typical retirement age for the industry in which the covered workforce is employed.
- An NRA of at least 62 years (or age 50 for plans in which substantially all the participants are qualified public safety employees) is presumed to comply.

Here’s what we know now:

1. The NRAs for WRS general employees, teachers, elected officials and state executive categories appear unaffected by the IRS regulation.

Under the WRS, the NRA for general employees and teachers is 65 years and would therefore fall under the automatic presumption of compliance with the regulation. The same is true for elected officials and state executives, whose NRA is 62 years.



2. The NRA for WRS protective occupation participants may be affected by the IRS regulation.

The IRS regulation could increase the NRA of protective occupation employees (police, firefighters, etc.) in the WRS. Under current state law, WRS protective occupation employees can retire at 54 years with less than 25 years of service, or at 53 with 25 years or more of service. The IRS regulation creates an exception for retirement plans with “qualified public safety employees” that would permit an NRA as low as 50 years. However, the regulation requires that in order to use the exception, substantially all of the participants in the plan must be qualified public safety employees.

WRS protective occupation employees are combined with general category employees for administrative purposes, have a different benefit structure and are separate for accounting, rate setting and funding purposes. However, because protective occupation employees do not constitute a majority of the total active membership in the WRS:

- It is possible that the IRS’s “safe harbor” normal retirement age of 50 years for protective occupation employees will not be available (as of January 1, 2013) to WRS protective occupation employees; and
- The WRS’s normal retirement age for protective occupation employees may be presumed unreasonable, unless approved by the Tax Commissioner.

Next Steps

The Department of Employee Trust Funds will continue to work with national retirement organizations to monitor the status of this issue and to gain a better understanding of the ultimate effect of this regulation on the WRS. However, because this is an IRS regulation, we recommend contacting the IRS or your congressional representative if you have concerns or questions about this issue. For IRS contact information specific to your area, go to the IRS Internet site at www.irs.gov.

Additional Resources

[IRS Notice 2009-86 Further Extension of Effective Date of Normal Retirement Age Regulations for Governmental Plans](#)

[Joint National Organization Letter to IRS April 2008](#)

[IRS Notice 2008-98 Extension of Effective Date of Normal Retirement Age Regulations for Governmental Plans](#)

[IRS Notice 2007-69 Relief Related to Plan Amendment of Definition of Normal Retirement Age](#)

[IRS Final Regulation, Distributions From a Pension Plan Upon Attainment of Normal Retirement Age \(72 F.R. 28604\)](#)