



TAX EXEMPT AND
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DEPARTMENT OF THE TREASURY
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MEMORANDUM FOR EMPLOYEE PLANS (EP) EMPLOYEES

FROM: Robert S. Choi /s/
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SUBJECT: Normal Retirement Age in Multiemployer Collectively Bargained
Plans

This memorandum sets forth interim guidelines for EP Determinations and Examinations employees in reviewing multiemployer collectively bargained plans that provide for a normal retirement age (NRA) that is earlier than age 62, but not earlier than age 55.

This is not a pronouncement of law and is not subject to use, citation, or reliance as such. Nothing herein shall affect the operation of any other provision of the Internal Revenue Code, regulations, or guidance thereunder.

Background

Generally, qualified plans must set forth an NRA that is not younger than age 62, unless the facts and circumstances demonstrate that the NRA is "reasonably representative of the typical retirement age for the industry in which the covered workforce is employed." § 1.401(a)-1(b)(2), Income Tax Regs. Generally, a collective bargaining agreement is a bona fide agreement between employee representatives and one or more employers. "Employee representatives" shall not include any organization more than half the members of which are owners, officers, or executives of the employer. See IRC § 7701(a)(46). Generally, a multiemployer plan is a plan to which more than one employer is required to contribute which is maintained pursuant to one or more collective bargaining agreements between one or more employee organizations and more than one employer. See IRC §414(f).

Administrative Guidelines

These guidelines apply to a multiemployer collectively bargained plan that provides an NRA that is earlier than age 62, but not earlier than age 55.

1. Determine whether the plan is maintained pursuant to at least one collective bargaining agreement.
2. Determine whether the plan is a multiemployer plan.
3. If 1 and 2 are satisfied, the NRA shall be considered to be reasonably representative of the typical retirement age for the industry in which the covered workforce is employed.

Effect on Other Documents

This guidance will be incorporated into IRM 7.11.1 and 4.72.14.3 by February 22, 2018.

Effective Date

This memo is effective February 23, 2016.

For questions regarding this interim guidance, contact Seth Tievsky (seth.tievsky@irs.gov).

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