

April 5, 2007

CC:PA:LPD:DRU (Notice 2007-8)  
Room 5203  
Internal Revenue Service  
POB 7604 Ben Franklin Station  
Washington, DC 20044

Gentlemen:

This letter is in response to your request for comments on phased retirement as set forth in Notice 2007-8. It deals with the third question:

“Whether final regulations permitting in-service distributions under a bona fide phased retirement program should be issued, in light of the ability of plans to permit in-service distributions after age 62 pursuant to *401(a)(36)*? ”

Increasingly, the focus on retirement reflects new ideas about retirement. Many people are leaving the workforce in steps. I recently co-authored a new report from The Conference Board “Phased Retirement After the Pension Protection Act” that starts out *“As the U.S. workforce grows older and workers live longer, the playbook for retirement is being rewritten.”* A copy is enclosed. Various studies document that many people are leaving the workforce in steps. As we think about this evolution, we need to focus on people from ages 50-75, as people in a large age range are redefining their transition from full-time work to full-time retirement. As an actuary working within the retirement community, I have long been concerned about building a better retirement system and new options for people.

For many people, their preferred option may be continued and redefined work with a long-term employer, but the options are often limited. Personal strategies that allow collection of all or part of the pension benefit earned with continued work most often mean working for a new employer. The existing rules are a barrier to employers who wish to explore innovative options that allow employees a range of choices. I applaud the IRS for raising the issue of completing the bona fide phased retirement regulations with regard to in-service distributions, and hope that you will do that, but only after getting public input on the range of issues relating to such employment options, and then reissuing the proposed regulations to reflect some of that input.

Some of the issues to be considered as you get new public input include the following:

- At what ages are individuals seeking to continue work and redefine their work obligations?



- How important are in-service distributions and what is the range of how they might be structured so that they would be attractive to employers and employees?
- What safe harbors would assist employers in rehiring retirees?
- What safe harbors are needed to assure employers who design job options that they will not be creating age discrimination compliance problems?
- Are there related issues when employers focus on the Medicare as Secondary Payor rules?

With respect to the last two issues, I recognize that the IRS does not have authority to issue guidance in these areas, but I encourage you to reach out to the appropriate parties with the hope of developing integrated solutions that work in total.

Thank you for the opportunity to provide input.

Sincerely,

Anna M. Rappaport, F.S.A., M.A.A.A.