

## Plans Can Offer Employees the Option to Delay Taking Minimum Required Distributions

On February 28, 1997, the IRS issued Announcement 97-24. This Announcement provides limited relief to employers with plans containing language that requires actively employed, non-5% owner-participants who reached age 70½ in 1996 to receive payments, known as minimum required distributions, by April 1, 1997. (Note: All plans contain this language.) These employers may now offer an option to affected participants to defer benefit payments beyond April 1, 1997; to the April 1st following the calendar year in which they retire. An employer will not need to amend its plan before providing this deferral option (and the plan will still maintain its qualified status) as long as the plan is amended retroactively by the IRS-imposed deadline (which had not been announced as we went to print).

IRS Announcement 97-24 does *not* address:

- the conditions under which employers may offer actively employed non-5% owner-participants, who have reached age 70½ and have started to receive payments, an election to stop receiving payments until they retire; and
- whether the anti-cutback rules would apply to an amendment that eliminates the right to receive a distribution prior to retirement after age 70½.

The Announcement cautions employers that suspension of benefit payments that are in a "pay" status could be a violation of:

- the plan qualification requirements;
- the spousal consent requirements;
- the joint and survivor annuity requirements; and
- other related matters.

Future IRS guidance will address these issues as well as the timing of relevant plan amendments.

### Action Required

If you have any actively employed, non-5% owner-participants who turned age 70½ in 1996, you may want to:

- contact them and offer them the option *not to start* taking their payments by April 1, 1997; and
- tell them that unless they affirmatively elect to receive the payment, it will not be made.

\*Republished November 2004 to reflect Prudential Financial's acquisition of CIGNA's retirement business.

Please notify us immediately of any participants who elect to receive payments.

*Important:* If you have participants receiving minimum required distributions who are eligible to stop receiving them under the new law, we recommend you wait until the IRS issues future guidance before offering them the option to stop these payments.

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