

## **MODEL AMENDMENT TO ADD BIFURCATED DISTRIBUTION OPTIONS TO DEFINED BENEFIT PLANS**

The IRS issued model amendments that defined benefit plan sponsors (employers) may use to amend their plan documents to offer bifurcated benefit distribution options to participants in accordance with final regulations issued under Code §417(e). The amendment is not required if, for example, the only forms of distribution are annuities. Likewise, even if the plan does have a lump sum option, the employer does need to adopt the amendment if the employer has not used and does not wish to use the bifurcated method of determining the amounts payable when less than the entire amount of the Accrued Benefit is paid in the form of a lump sum distribution (or other form of benefit that is subject to IRC §417(e)).

The IRS issued two model amendments in IRS Notice 2017-44. We are providing only one of those amendments: the amendment for the explicit bifurcation. The reasons are because (1) the explicit method is required for plans that offer lump-sum distributions for a participant's entire accrued benefit, and (2) the explicit method is required to obtain 411(d)(6) relief. See Regulation 1.417(e)-1(d)(7)(iii)(C).

### **When must plans be amended?**

If the amendment is adopted on or before December 31, 2017, then employers are eligible for the **limited** relief from the application of the anti-cutback provisions of Code §411(d)(6) provided under Regulation § 1.417(e)-1(d)(7)(iv). As noted above, the explicit method described by this amendment must be used. The effective date of the **amendment** can be retroactive to prior years if (1) this amendment is adopted by December 31, 2017, and (2) all such distributions made in prior years were determined under the method described by this amendment.

### **Can I adopt this Amendment on behalf of all of my employer clients?**

Yes, this amendment is designed to be adopted by a pre-approved plan sponsor on behalf of all **adopting** employers. If an employer wishes to adopt an alternative amendment, then the IRS model amendment set forth in IRS Notice 2017-44 can be used. This amendment is located in the "other resources" section of pension news at Relius.net

### **Can I modify the Amendment?**

Yes. However, we will add this Amendment to the Relius Document System in a future update. If you modify the Amendment, then it will not match the Amendment generated by the document system.

**AMENDMENT TO ADD BIFURCATED DISTRIBUTION OPTIONS**

**ARTICLE I  
PREAMBLE**

- 1.1 **Effective date of Amendment.** The prototype sponsor and/or volume submitter practitioner, on behalf of the Employer, adopts this Amendment to the Plan effective for annuity starting dates on and after January 1, 2017.
- 1.2 **Superseding of inconsistent provisions.** This Amendment supersedes the provisions of the Plan to the extent those provisions are inconsistent with the provisions of this Amendment.
- 1.3 **Effect of restatement of Plan.** If the Employer restates the Plan, then this Amendment shall remain in effect after such restatement unless the provisions in this Amendment are restated or otherwise become obsolete (e.g., if the Plan is restated onto a plan document which incorporates these provisions).
- 1.4 **Adoption by prototype sponsor/volume submitter practitioner.** The prototype sponsor or volume submitter practitioner hereby adopts this Amendment on behalf of all adopting employers.

**ARTICLE II  
AMENDMENT PROVISION**


Effective for annuity starting dates on and after January 1, 2017, if a Participant so elects, the Participant's Accrued Benefit will be divided and distributed as described below:

A Participant may elect to receive *any* portion of his or her Accrued Benefit in any of the optional forms of benefit distribution offered by the Plan.

If a Participant elects to divide his or her Accrued Benefit between an amount that is subject to IRC §417(e) and an amount that is not subject to IRC §417(e), the amount of the distribution payable with respect to each specified portion of the Accrued Benefit is determined in accordance with the method for calculating the amount of a distribution payable in the optional form elected for that portion as if that portion were the Participant's entire Accrued Benefit.

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This amendment is hereby adopted by the prototype sponsor and/or volume submitter practitioner on behalf of all adopting employers.

 12/18/2017  
(signature and date)

ROBERT M. RICHTER  
(print name)

Prototype Sponsor and/or Volume Submitter Practitioner Name: FIS Business Systems LLC  
*prototype & Volume Submitter*