October 11, 2017

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Deputy Commissioner for Services and Enforcement
Internal Revenue Service
1111 Constitution Avenue, NW
Washington, DC 20224-0002

David Kautter
Assistant Secretary
Office of Tax Policy
United States Department of the Treasury
1500 Pennsylvania Avenue, NW,
Washington, DC 20220

Re: Mortality Tables for Determining Present Value Under Defined Benefit Pension Plans Final Regulation

Dear Sir and Madam:

The U.S. Chamber of Commerce (Chamber) and the National Association of Manufacturers (NAM) are writing in reference to the Internal Revenue Service (IRS) final rule on Mortality Tables for Determining Present Value Under Defined Benefit Pension Plans (Final Rule).[1] We are disappointed that the agency did not respond to our request to delay the proposed effective date. We do not believe that the effective date of January 1, 2018, provides sufficient time for plan sponsors to prepare and comply with the rule as finalized. As such, we recommend that the IRS issue a notification of the delay in the effective date as soon as practicable.

The Chamber and the NAM represent employers of all sizes throughout the United States and across many industries that sponsor defined benefit (DB) pension plans. Although defined contribution plans have become increasingly commonplace, many employers still provide DB pension plans to their employees. As such, it is important that the rules impacting these plans be fully analyzed to ensure that the benefits outweigh the burdens and that the effective date gives employers adequate time to prepare for the significant additional cost that is required to comply with these new provisions.

In joint comments to the IRS earlier this year,[2] we expressed our concern with the January 1, 2018, effective date. Specifically, we asked the IRS to delay implementation beyond the 2018 calendar year to allow for further study and additional time for plan sponsors to prepare for additional funding obligations. We also asked the IRS to consider a multiple year phase-in option for funding and administrative requirements rather than having such a significant impact in a single year. This is very important to plan sponsors who otherwise may need to contribute large sums of money to a plan to reach a certain funded percentage—such as an 80 percent level—to avoid benefit payment restrictions. We further noted that other IRS method changes allow multiple years to completely settle the cash impacts of a change and mortality changes should be treated similarly.

[1] Mortality Tables for Determining Present Value Under Defined Benefit Pension Plans, 82 Fed. Reg. 46,388 (Oct. 5, 2017), *available at* https://www.federalregister.gov/documents/2017/10/05/2017-21485/mortality-tables-for-determining-present-value-under-defined-benefit-pension-plans.
[2] Internal Revenue Bulletin: 2017-4 (January 23, 2017), *available at* https://www.irs.gov/irb/2017-04_IRB/ar13.html.

Additionally, since the rule was not finalized until October, the request for a delay of the effective date is even more urgent. Requiring essentially immediate adoption of a new table resulting in such large increases in cost represents a significant burden on plan sponsors. The significant additional cost of drawing more capital into the pension plan in the form of higher contributions rather than being available to invest this capital into their businesses is extremely detrimental, not only for the companies but also for economic growth. Moreover, this change in tables will also affect pension administration systems resulting in additional plan administrative burdens in 2017 and may result in transition issues for lump sums paid in 2018. Plans providing lump sums based on statutory mortality may have a significant change in the amount of available lump sums for participants commencing in the first month of the 2018 plan year.

Our concerns about the effective date are reinforced by the fact that the proposed rule was reclassified as "economically significant" by the Office of Information and Regulatory Affairs, which makes it subject to additional review processes under Executive Order 12866. Because neither the proposed nor final rule was issued with an economic analysis, contrary to Executive Orders 12866 and 13563, we furthermore urge the IRS to re-issue the regulation with a proper analysis of the economic impact.

Thank you in advance for considering our request. We reiterate the need for a delay in the current effective date and urge the IRS to issue such delay as soon as possible. If you would like to meet to discuss this issue, please do not hesitate to contact us.

Sincerely,

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National Association of Manufacturers

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