

August 22, 2007

The Honorable Henry M. Paulson, Jr.  
Secretary of the Treasury  
U.S. Department of the Treasury  
Main Treasury Building, Room 3330  
1500 Pennsylvania Ave, NW  
Washington, DC 20220

Dear Secretary Paulson:

The undersigned organizations are writing to ask that the Internal Revenue Service suspend temporarily any adverse actions relating to backloading of benefits resulting from grandfather provisions in hybrid pension plans.

In the Pension Protection Act (the "PPA"), Congress addressed a number of key issues relating to hybrid defined benefit pension plans, such as cash balance plans, and conversions from traditional to hybrid plans, and enacted participant protections relating to vesting, interest credits, and protection from post-conversion wearaway of benefits. The PPA did not apply to hybrid plans or conversions prior to specified effective dates, and Congress stated its intent that no inference be drawn, based on the PPA provisions, regarding the treatment of hybrid plans or conversions before those dates.

One issue that the PPA did not explicitly address was the interplay, following a conversion, of the accrual rules that restrict "backloading" of benefits with plan provisions that mitigate prospective benefit reductions in conversions by grandfathering (permanently or temporarily) participants in pre-conversion benefit formulas. In case of a temporary grandfather, the asserted backloading following a conversion generally arises from a pattern in which an older employee continues for a time to accrue benefits under the traditional benefit formula (the "grandfather"), then undergoes a period in which he or she accrues no additional benefits (a "wearaway"), followed by a resumption of accruals under the new hybrid formula. In the case of a permanent grandfather, there could be a pattern in which an employee earns benefits under the hybrid formula, followed by a point at which the traditional benefit first becomes more valuable, and then followed by increases attributable to the traditional formula. It has come to our attention that the Service is now interpreting the law regarding backloading to prohibit or restrict the use in conversions of grandfather provisions that have either of these effects. And we further understand that the Service may be ruling adversely on the qualification of plans because they include such provisions.

As we understand it, among the various stakeholders inside and outside the government, there are different views as to whether this backloading issue can be addressed administratively or whether legislation is required. There may also be different views as how this issue should be resolved. It is important that these critical discussions be pursued without an imminent threat of plan disqualification or elimination of grandfather formulas. Accordingly, we ask you to cease

temporarily any Service actions that are based on asserted failures to comply with the anti-backloading rules by reason of temporary or permanent grandfather provisions. A temporary cessation of these actions will give us the opportunity to have a full discussion of how to resolve these issues fairly for the many participants affected by conversions to hybrid plans as well as for employers.

During this period, we urge you to explore administrative means to resolve this issue, as that would provide the most expeditious means of resolution.

We thank you for your consideration of our request.

Sincerely,

AARP

American Benefits Council

Business Roundtable

Coalition to Preserve the Defined Benefit System

The ERISA Industry Committee

National Committee to Preserve Social Security and Medicare

Service Employees International Union