

IRS OFFERS RETIREMENT PLAN RELIEF

The IRS has recently released final regulations that allow employers, for the first time, to eliminate joint and survivor annuity options from certain defined contribution plans. For the typical profit sharing plan or 401(k) plan, this means that the compliance risks associated with the spousal consent rules as well as the notice and explanation requirements for the joint and survivor annuity (including the pre-retirement joint and survivor annuity) can be avoided. To make the change, a plan amendment is required. This amendment will be effective 90 days after participants are provided a summary describing the amendment or, if no such summary is provided, on the first day of the second plan year following the year in which the amendment is adopted. Because the amendment cannot be adopted with retroactive effect, employers who would like to make this change should not wait for the so-called AGUST amendments required by the end of the 2001 plan year. For defined benefit and money purchase pension plans, the joint and survivor rules are unchanged, and the joint and survivor annuity form of distribution as well as the pre-retirement joint and survivor annuity must be offered to all married participants.

Andrew S. Williams
Aronberg Goldgehn Davis & Garmisa
One IBM Plaza, Suite 3000
Chicago, Illinois 60611
312/755-3145
awilliams@agdglaw.com

210321.1

Andrew S. Williams
Aronberg Goldgehn Davis & Garmisa
One IBM Plaza, Suite 3000
Chicago, Illinois 60611
(312) 755-3145
awilliams@agdglaw.com