



BENEFIT NEWS BRIEFS

IRS Internal Guidance on Normal Retirement Age in Multiemployer Collectively Bargained Plans

The IRS has [posted interim internal guidelines](#) for Employee Plans Determinations and Examinations employees in reviewing *determination letter submissions* by multiemployer collectively bargained pension plans that provide for a normal retirement age (NRA) that is earlier than age 62, but not earlier than age 55. The guidance is welcome news for multiemployer pension plans whose determination letter submissions are still under review as during this multiemployer determination cycle the IRS had begun requesting “documentation” to support such a plan’s “under age 62” NRA.

Generally, “studies” supporting the use of an “over 55-under 62” NRA are non-existent. The use of such an NRA seems to be self-evidently reasonable for multiemployer plan participants in the construction industry. The physically demanding work performed by construction workers takes a toll on the human body making such retirement ages reasonable in light of the facts and circumstances.

The IRS internal guidance for its reviewers states the guidelines apply to a multiemployer collectively bargained plan (not just construction industry plans) that provides an NRA that is earlier than age 62, but not earlier than age 55 and instructs agents to use a three-step analysis in reviewing the NRA:

1. Determine whether the plan is maintained pursuant to at least one collective bargaining agreement.
2. Determine whether the plan is a multiemployer plan.
3. If 1 and 2 are satisfied, the NRA shall be considered to be *reasonably representative* of the *typical retirement age* for the industry in which the covered workforce is employed.

Although for internal use only, the guidance is an insight into the IRS' self-proclaimed standards for reviewing the NRA in multiemployer pension plan determination letter submissions and reflects what should be the IRS reviewer's position on the issue of NRA in multiemployer plans with NRAs between 55 and 62.

The IRS guidance updates its [Internal Revenue Manual \(IRM\)](#) which contains guidance on various topics including reviewing [multiemployer plan determination letters](#) and the IRS [examination guidelines for multiemployer plans](#). The IRS posts updates to the IRM at: <https://www.irs.gov/uac/Part-7-Rulings-and-Agreements>.

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