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B-329474

October 13, 2017

The Honorable Orrin G. Hatch
Chairman
The Honorable Ron Wyden
Ranking Member
Committee on Finance
United States Senate

The Honorable Kevin Brady
Chairman
The Honorable Richard Neal
Ranking Member
Committee on Ways and Means
House of Representatives

Subject: *Department of the Treasury, Internal Revenue Service: Mortality Tables for Determining Present Value Under Defined Benefit Pension Plans*

Pursuant to section 801(a)(2)(A) of title 5, United States Code, this is our report on a major rule promulgated by the Department of the Treasury, Internal Revenue Service (IRS) entitled “Mortality Tables for Determining Present Value Under Defined Benefit Pension Plans” (RIN: 1545-BM71). We received the rule on October 4, 2017. It was published in the *Federal Register* as final regulations on October 5, 2017. 82 Fed. Reg. 46,388.

The final rule prescribes new mortality tables to be used by most defined benefit pension plans to calculate the present value of a stream of expected future benefit payments for purposes of determining the minimum funding requirements for a defined benefit plan as well as in determining the minimum required amount of a lump-sum distribution from such plan. The rule also updates requirements that a plan sponsor must meet to obtain IRS approval to use mortality tables specific to the plan for minimum funding purposes instead of using the generally applicable mortality tables.

The Congressional Review Act (CRA) requires a 60-day delay in the effective date of a major rule from the date of publication in the *Federal Register* or receipt of the rule by Congress, whichever is later. 5 U.S.C. § 801(a)(3)(A). This final rule was published in the *Federal Register* on October 5, 2017. 82 Fed. Reg. 46,388. It was received October 4, 2017, and has a stated effective date of October 5, 2017. Therefore, the final rule does not have the required 60-day delay in its effective date. However, IRS stated that the final rule applies to plan calendar years starting on January 1, 2018, and later.

Enclosed is our assessment of IRS's compliance with the procedural steps required by section 801(a)(1)(B)(i) through (iv) of title 5 with respect to the rule. With the exception of the 60-day delay in effective date requirement, our review of the procedural steps taken indicates that IRS complied with the applicable requirements.

If you have any questions about this report or wish to contact GAO officials responsible for the evaluation work relating to the subject matter of the rule, please contact Shirley A. Jones, Assistant General Counsel, at (202) 512-8156.

signed

Robert J. Cramer
Managing Associate General Counsel

Enclosure

cc: Martin V. Franks
Chief, Publications and Regulations Branch
Department of the Treasury

REPORT UNDER 5 U.S.C. § 801(a)(2)(A) ON A MAJOR RULE
ISSUED BY THE
DEPARTMENT OF THE TREASURY,
INTERNAL REVENUE SERVICE
ENTITLED
“MORTALITY TABLES FOR DETERMINING PRESENT VALUE
UNDER DEFINED BENEFIT PENSION PLANS”
(RIN: 1545-BM71)

(i) Cost-benefit analysis

The Internal Revenue Service (IRS) summarized the costs of this final rule. IRS stated that substantially all of the amounts involved (decreased tax revenue, increased plan contributions, and PBGC premiums) constitute transfer payments rather than costs. According to IRS, this is because these amounts are monetary payments from one entity to another that do not affect total resources available to society. IRS believes that the incremental administrative costs to implement this regulation are negligible, because plan sponsors would have to incur the same costs to update their plan administration software to reflect the new mortality tables under these regulations as they would incur in implementing the annual update to the mortality tables that would apply in the absence of these regulations. The final rule has tables showing the impact of the rule and revenue collection, contribution requirements, and PBGC premiums.

(ii) Agency actions relevant to the Regulatory Flexibility Act (RFA), 5 U.S.C. §§ 603-605, 607, and 609

IRS certified that this rule has no significant economic impact upon a substantial number of small entities.

(iii) Agency actions relevant to sections 202-205 of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. §§ 1532-1535

IRS did not discuss the Unfunded Mandates Reform Act in the final rule.

(iv) Other relevant information or requirements under acts and executive orders

Administrative Procedure Act, 5 U.S.C. §§ 551 et seq.

On December 29, 2016, IRS published a proposed rule. 81 Fed. Reg. 95,911. IRS received 14 comments and held a public hearing on April 13, 2017. IRS responded to comments in the final rule.

Paperwork Reduction Act (PRA), 44 U.S.C. §§ 3501-3520

IRS did not discuss the PRA in the final rule.

Statutory authorization for the rule

IRS stated that it promulgated the rule under 26 U.S.C. § 430(h)(3)(A), (C). IRS also stated it was complying with the new revisions required in the Bipartisan Budget Act of 2015, Pub. L. No. 114-74, § 503.

Executive Order No. 12,866 (Regulatory Planning and Review)

IRS determined the rule was a significant regulatory action subject to review by the Office of Management and Budget and prepared a Regulatory Impact Assessment included with the final rule.

Executive Order No. 13,132 (Federalism)

IRS did not discuss Executive Order No. 13,132 in the final rule.