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BLOG

CAA Benefits Alert: Pension Retiree Medical Transfers Relief in the 2021 Consolidated Appropriations Act

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The Consolidated Appropriations Act, 2021 (Act), includes relief for sponsors of overfunded defined-benefit pension plans who make qualified transfers to fund a portion of their retiree medical benefit liabilities.

The relief contained in the Act has a somewhat limited audience, as there are not many overfunded defined-benefit pension plans these days. Of those few overfunded plans, not many have opted to make an Internal Revenue Code (Code) Section 420 transfer of overfunded amounts to a retiree health benefits account and/or retiree life insurance account. Of those few who have made or will make Section 420 transfers, even fewer elect to make a "qualified future transfer" under Code Section 420(f).

However, for those plans that do make Section 420(f) qualified future transfers, the Act includes relief that can be viewed as a "get out of jail free card" for plans that are experiencing financial hardship during this time and want to shorten the set transfer period of existing qualified future transfers.

Specifically, the Act provides the following relief:

- Allows plan sponsors who have existing qualified future transfers from the sponsor's pension plan to a retiree health benefits account and/or retiree life insurance account to make an election prior to December 31, 2021, to end the transfer period for any existing qualified future transfer. The plan sponsor specifies the effective date of the election, which can be effective as of any taxable year beginning after the date of the election.
- Pension plans making this election are subject to the following requirements:
  - Minimum cost requirements continue to apply to the qualified future transfer as if the transfer period had not been shortened.
  - The pension plan must remain at least 100% funded for the duration of the original transfer period.
  - The pension plan has the following specified funding targets for the first five years after the original transfer period (this ceases to apply if the plan becomes 120% funded):
    - Year 1: 104%
    - Year 2: 108%

    - Year 3: 112%
    - Year 4: 116%
    - Year 5: 120%
- Any amounts remaining in the retiree health benefits account and/or retiree life insurance account at the end of the shortened transfer period ("remaining transferred amounts") must be returned to the pension plan within a reasonable period of time. The plan sponsor will be subject to a tax under Code Section 4980 on an employer reversion in the amount of the remaining transferred amounts unless the plan sponsor transfers back to the retiree health benefits account and/or retiree life insurance account, as applicable, an amount equivalent to the remaining transferred amounts before the end of the five-year period beginning after the original transfer period. However, the increased tax under Code Section 4980(d) will not apply even if such an amount is not transferred back to the retiree health benefits account and/or retiree life insurance account.

This article is part of our "Unpacking the Employee Benefits Provisions in the Consolidated Appropriations Act, 2021" series. Click here for other CAA-related articles. Please contact a member of the Winston & Strawn Employee Benefits and Executive Compensation Practice Group or your Winston relationship attorney for further information.

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