

## **New IRS Guidance for Tax-Qualified Pension Plans with Rehired Retirees Due to COVID-19**

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The Internal Revenue Service (IRS) [recently updated its guidance](#) for retiree distributions under a defined benefit plan. Specifically, the new IRS guidance addresses rehires following a bona fide retirement due to COVID-19.

As a background, a defined benefit plan may make distributions to a retiree only in the case of a “bona fide retirement,” which is a facts and circumstances analysis. In prior rulings, the IRS indicated that retiree distributions without a bona fide retirement can cause a defined benefit plan to lose its tax-qualified status, where both all contributions and earnings become immediately taxable.

According to the IRS, a rehire due to COVID-19-related “unforeseen circumstances” generally would not disqualify an individual’s prior retirement from being considered a bona fide retirement under a defined benefit plan. However, the IRS cautioned that such a rehire cannot include any prearrangement to rehire the individual prior to the individual’s retirement. Such a prearrangement still yields a retirement that is not “bona fide.”

Finally, although the IRS issued this guidance in question and answer format primarily for defined benefit plans, plan sponsors should be able to apply the same rationale to distributions from defined contribution plans. In short, the new IRS guidance provides welcome relief to plan sponsors and employers who are looking to rehire retirees in a tight job market.

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