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## Effective Date of Normal Retirement Age Regulations Extended for Governmental Plans

The IRS recently released guidance extending the effective date of its normal retirement age regulations ("NRA regulations") as they apply to governmental plans. Specifically, IRS Notice 2009-86 provides that the NRA regulations will not be effective with respect to governmental plans until the first plan year beginning on or after January 1, 2013, instead of January 1, 2011. (The regulations were effective for non-governmental plans as of the first plan year beginning on or after June 30, 2008.)

Pension plans are required to establish a normal retirement age. This is generally the age at which benefit payments may begin without an actuarial reduction for early payment. This is also the age at which in-service benefit payments may be made to participants if a plan so permits. The NRA regulations set out specific rules for establishing a plan's normal retirement age. The rules require that such age not be earlier than the earliest age that is reasonably representative of the typical retirement age for the industry in which the covered workforce is employed.

Under the NRA regulations, a normal retirement age of 62 or above is deemed to be reasonable, and one of age 55 or below is deemed to be unreasonable in most cases. There is an exception for public safety employees, in which case age 50 or above is deemed to be a reasonable normal retirement age. To the extent that a plan wishes to set its normal retirement age between ages 55 and 62, a facts and circumstances analysis must be performed to determine whether such age is reasonable in the applicable industry.

Many governmental plans have normal retirement ages that may not meet these new rules. The extension of the effective date of the rules for governmental plans will allow the IRS more time to consider the specific impact that the NRA regulations will have on governmental employers. In particular, the IRS is currently reviewing comments related to normal retirement ages conditioned on the completion of a specified number of years of service.

The lawyers in Venable's [Employee Benefits and Executive Compensation Group](#) have extensive experience with governmental plans and would be happy to assist you with any questions you may have about the NRA regulations or other issues relating to your employee benefit and executive compensation plans.

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