



# Bifurcated Distribution Options Made Easier

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On September 9, 2016, the Internal Revenue Service (“IRS”) issued final regulations under Section 417(e) of the Internal Revenue Code. In connection with the final regulations, the IRS issued [Notice 2017-44](#) (“Notice”) earlier this year. The Notice provides model amendments that plan sponsors may use to amend qualified defined benefit plans to offer a bifurcated distribution option. Because the IRS has terminated its determination letter program (except in limited circumstances), plan sponsors may find the model language helpful as they consider design changes to their defined benefit plans for 2018.

Code Section 417 requires that a qualified defined benefit plan offer certain annuity forms of distribution. Section 417(e)(3) then requires that the lump-sum amount of a participant’s accrued benefit not be less than the present value determined by using a specified mortality table and interest rate. These requirements are referred to as the “minimum present value” assumptions. The final regulations explain how to apply these actuarial assumptions when a participant’s benefit will be only partially paid in the form of an annuity, with the remainder paid in a single lump-sum (i.e., a “bifurcated distribution option”).

The Notice provides model language that plan sponsors *may* use to calculate a bifurcated distribution option in compliance with the final regulations. The Notice makes clear that plan sponsors are not required to use the model language, so existing plan provisions that appropriately describe bifurcated distributions need not be amended. The Notice also clarifies that a plan sponsor’s use of the model language in connection with a preapproved plan document will *not* cause the plan to lose its status, resulting in an individually-designed plan.

Plan sponsors considering plan-design changes to accommodate a bifurcated distribution option, or who already have such an option, should review their plan documents in light of the Notice. They may wish to adopt the model language, or at least ensure that their plan already complies with the final regulations.

This blog post was drafted by [Beth Miller](#), an attorney in the Spencer Fane LLP Overland Park, KS office. For more information, visit [spencerfane.com](#).

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