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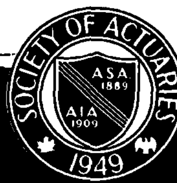

The Newsletter of the
Society of Actuaries
VOL. 23, NO. 2
FEBRUARY 1989

THE Actuary

Centennial celebration draws near

by Ian M. Rolland

The gala Centennial Celebration June 12-14 in Washington, D.C., will mark a century of challenge, growth, and achievement for the actuarial profession in North America.

At this landmark meeting, we will take a thoughtful look at our profession's past and make some exciting projections into our future. Sponsoring organizations are the American Academy of Actuaries, Canadian Institute of Actuaries, Casualty Actuarial Society, Conference of Actuaries in Public Practice, and Society of Actuaries.

Our profession has evolved dramatically over the past 100 years. Once working primarily in individual life insurance, actuaries now influence major corporate and public policy decisions in many areas. They are increasingly called upon to address diverse social and economic problems.

The meeting theme, "Challenges to the Actuarial Profession," will help us prepare for continued growth of our profession's influence in a rapidly changing environment.

These challenges will be explored through three morning panel discussions, each followed by afternoon breakout sessions. The June 12 panel, "The Challenge from Within," will address the ideas and concepts that will challenge the profession in the twenty-first century. On June 13, a panel discussion on "The Challenge from Without" will focus on how the actuary of today must change to meet tomorrow's challenges from employers, regulators, and other professions. The

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Integration of qualified plans with U.S. Social Security

by Donald S. Grubbs, Jr.

The U.S. Internal Revenue Code prohibits qualified pension and profit sharing plans from discriminating in favor of highly compensated employees. It states that a plan is not discriminatory merely because contributions or benefits are a uniform percentage of pay. In addition, the code allows some disparity between highly compensated employees and other employees with respect to their contributions or benefits as a percentage of pay. This provision recognizes that employers pay taxes to fund benefits under Social Security and that both contributions and benefits under Social Security are a smaller percentage of compensation to highly compensated employees. Plans that incorporate such a disparity in the contributions and/or benefits are referred to as "integrated plans."

The Tax Reform Act of 1986 substantially changed the requirements regarding the allowable disparity in integrated plans, adding subsection 401(l) to the Internal Revenue Code. Minor changes to these requirements were enacted as part of technical corrections legislation on November 10, 1988, but these had been indicated by the Joint Committee on Taxation 18 months earlier and came as no surprise to those persons following the issue. These new rules apply to plan years beginning in 1989.

Regulations were essential in order for employers to know how to implement the new requirements. Recognizing that employers would need substantial lead time to amend their plans and be prepared to process actual benefit payments by January 1989, the 1986 statute required that the Secretary of the Treasury publish final regulations concerning integration before February 1, 1988. The Secretary of the Treasury, who failed to meet this deadline, published proposed regula-

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Integration cont'd

tions November 15 under Code section 401(1).

Some time in 1989 a public hearing will be held on the proposed regulation, and many persons will want to submit comments. Even the eventual final regulations apparently will not provide employers and their advisors with the information needed to determine their options. The proposed regulations under section 401(1) would provide a narrow path an employer may follow to have an integrated plan, but also would allow many other paths. However, the alternative paths will be described only in new regulations under section 401 (a) (4), which are expected to be issued in proposed form next summer and later in final form.

As this is written in December 1988, many employers believe that they lack the information needed to make appropriate decisions or that it is not possible to make any changes by January 1 even if they now know what to do. While it will be possible to adopt plan amendments as late as the end of the plan year beginning in 1989 and make them retroactive to the beginning of the year, this presents two problems. One problem is that appropriate changes may require a decrease in benefits accrued after January 1, 1989, but ERISA's anticutback rule prohibits any decrease. The second problem relates to the necessity of paying benefits – in the form of either a monthly annuity or a lump sum distribution – to employees who retire or otherwise terminate employment early in the year. If the payment is later determined to be too large, will the employer need to try to collect the excess or have the plan disqualified?

On December 13, the Internal Revenue Service, aware that the lack of timely guidance has created a major problem for employers, announced that for a temporary period certain cutbacks will be allowed and that certain payments exceeding the integration limits will be permitted. This provides some temporary relief as far as compliance with the code is concerned, but does not exempt the plan from any claim by a participant whose benefit is cut back.

Congress stated that a goal of the new requirements was "simplifying the integration rules," but the regulation writers apparently overlooked this statement. The proposed regulation brought many surprises, even to those who had followed the developments closely. One surprise relates to the "integration level" for defined benefit excess plans. (The percentage benefit related to compensation above this level may exceed the percentage benefit below it.) Both the Joint Committee explanation and the amendment to the statute enacted on November 10 described this as the average of the maximum Social Security taxable wage base for "the 35-year period ending with the year in which the employee attains the social security retirement age." However, the proposed regulation specifically calls for using a period ending one year earlier. This difference is apparently deliberate. While minor in magnitude, it creates one more uncertainty about what the eventual regulation will say and whether a court will rule that the regulation is incorrect because it fails to follow a clear provision of the statute. Far more important than the minor difference in the definition is the apparent willingness of the Secretary of the Treasury to ignore the Internal Revenue Code, hardly encouraging others to comply with it.

Meanwhile, many employers and their advisors are taking a wait-and-see approach, while others are rushing ahead in an effort to meet the deadline and attempt to pay benefits in accordance with the new requirements of the law beginning January 1. Only time will tell which approach was better in any particular situation.

Donald S. Grubbs, Jr., is President and consulting actuary with Grubbs and Company, specializing in pensions. He is a former Secretary of SOA and a former chairperson of the SOA Committee on Retirement Plans.

Centennial cont'd

June 14 panel will be composed of presidents of five actuarial organizations. They'll examine the major issues facing their organizations and look at ways to strengthen the profession.

Preliminary registration figures indicate that almost 2,000 actuaries from around the world will attend the celebration. If you would like another registration packet, please call either Sandy Kossack or Chelle Brody at 312-706-3516.

Ian M. Rolland, SOA President, is President, Lincoln National Corporation.