Extending vesting for existing accounts in a non-governmental IRC Section 457(f) plan

Background

Since 2007, plan sponsors, advisors, and recordkeepers have expected the IRS to provide additional guidance on 457 regulations. In July 2016, the IRS released long-awaited proposed 457(f) regulations regarding deferred compensation plans of state and local governments and tax-exempt entities.[1]

Extending a vesting date

The proposed regulations allow a plan to extend the substantial risk of forfeiture for previously established accounts (e.g., extending or delaying a vesting date) if the following conditions are met:

- An agreement is made in writing at least 90 days before the existing vesting date.
- The new vesting date is at least two years from the original vesting date. If a participant separates from service prior to achieving the employer-defined vesting event, the account balance is forfeited.[2]
- An immediate employer match of "more than 25%" is added to a full account balance of the account being extended, causing an additional expense to the organization.[2]

Example

- The employer established a vesting date of December 31, 2025, for a participant.
- Prior to September 30, 2025, the participant and employer mutually agree to extend the vesting date to December 31, 2027.
- The value of the account at the time the agreement to extend the vesting date was reached was $100,000.
- The employer must contribute "more than" $25,000 to the account at the time the agreement to extend the vesting date is reached.
- If a participant separates from service prior to the December 31, 2027, vesting event, the account balance is forfeited.

[1] See Prop. Treas. Reg. Sec. 1.457.

[2] See Prop. Treas. Reg. Sec. 1.457-12(e)(2).

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