



Congress of the United States
House of Representatives

COMMITTEE ON
FINANCIAL SERVICES
SUBCOMMITTEES:
FINANCIAL INSTITUTIONS AND
CONSUMER CREDIT
INSURANCE, HOUSING AND
COMMUNITY OPPORTUNITY
JOINT ECONOMIC
COMMITTEE

March 14, 2012

The Honorable Timothy J. Geithner, Secretary
United States Department of the Treasury
1500 Pennsylvania Avenue NW
Washington, DC 20220

Dear Secretary Geithner:

I am writing to you today regarding the impact of implementation of Internal Revenue Service regulations 1.401(a)-1(b) pertaining to the distributions from pension plans upon attainment of the normal retirement age (NRA). It is my understanding that the original regulations were published in the Federal Register on May 22, 2007, with an implementation date upon publication, with the exception of governmental pension plans, which were provided two extensions, the most recent of which expires January 1, 2013.

According to correspondence received from the IRS Milwaukee (WI) Office, public safety employees are exempt from NRA rules if a substantial number of employees all participate in the same plan, known commonly as the "safe harbor" rule. While the rule as approved does provide safe harbor provisions for public safety employees, those employed in Wisconsin would not fall under the safe harbor exclusion due to the fact that public employees in Wisconsin, unlike many other states, participate in the Wisconsin Retirement System (WRS) regardless of status. Approximately 8.7 percent of the WRS plan's participants are deemed protective status. Clearly this is not a substantial number when compared to the totality of WRS participants, thereby eliminating eligibility for safe harbor provisions. This new regulation, if implemented, provides police officers and firefighters with limited options — either retire early (prior to January 1, 2013) or extend their career by several years, and the impact of either could have serious consequences.

As I travel the 7th Congressional District of Wisconsin, I have heard countless stories of how the NRA rule, if implemented, would affect local public safety. As an example, Lincoln County Sheriff Jeff Jaeger noted to me that many of his employees are contemplating early retirement prior to implementation of the NRA. For his agency, this would mean a loss of a majority of his command staff. Not only will this result in vacancies in essential positions, it also causes the department to have less experienced personnel in roles of supervisory authority. In law enforcement, on the job experience is invaluable whether one is an Investigator, Lieutenant or Sheriff. Under NRA rules, this experience would be lost in not only Lincoln County, but in virtually every locale throughout Wisconsin.

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Beyond the loss of experience in command positions, there are also the risks that are posed by having public safety employees on the job later in life. Law enforcement and firefighting are extremely dangerous careers, and they require top physical conditioning. With age, ailments can develop that cause reduced reaction time, loss of strength, and loss of stamina, not to mention medical conditions such as heart disease. Any one of these factors, or any combination of them, enhances the risk public safety employees have when performing their jobs; the potential for injuries significantly increases as these employees age. Extending a career even a few years can result in fatal consequences.

It is not proper to change the rules for those who may have been planning a retirement within a year or two, who now must face the decision to retire earlier with a penalty or extend their career by several years to comply with the NRA regulations. I ask that you consider amending the NRA regulations to provide a clear allowance for protective occupations that are not covered under safe harbor provisions such as the public safety employees who are currently participating in the WRS. I am aware that dialogue has already taken place concerning this regulation and ask that you continue this discussion in order to provide a clear path for the future of public safety employees.

Should you have any questions or require any additional information on how this rule would affect local public safety employees, please do not hesitate to contact my Outreach Director, Kevin Jenkins, at (715) 298-9344 or by e-mail at kevin.jenkins@mail.house.gov.

Thank you for your attention to this matter and your service to this country. I look forward to working with you to address this issue that has understandably caused great concern in the Wisconsin law enforcement community.

Sincerely,

A handwritten signature in black ink that reads "Sean P. Duffy". The signature is written in a cursive, flowing style.

Sean P. Duffy
Member of Congress

SPD/kj