

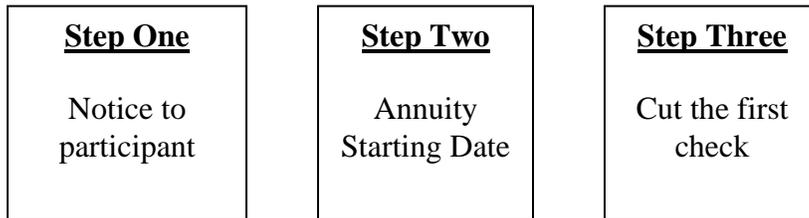
Retroactive Annuity Starting Date
What Do I Have To Do?

You have heard about the Retroactive Annuity Starting Date regulations under Code section 417, but you aren't sure exactly what they mean for your plans. You're not alone.

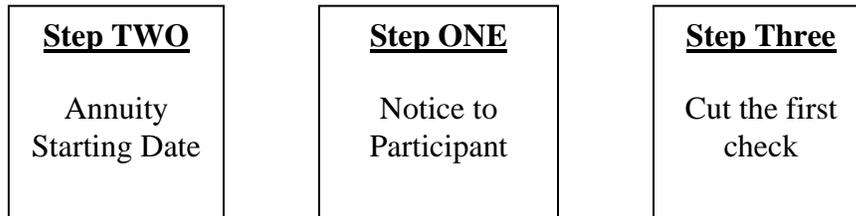
Here's an explanation in plain English: The Retro ASD regulations apply to some, but certainly not all, retroactive payments under a pension plan. You may be surprised where they do apply – and where they don't. We hope that the diagrams and examples below will clear up some of the confusion.

The Process

The benefit commencement process is supposed to work like this, under Code section 417:



The Retro ASD regs kick in when the process is out of order, like this:



Out of Order: The New Regs

The key factor for determining when the new regulations apply is this:

When was the notice to participants sent out?

The regulations apply only where the notice is issued *on or after* the ASD (loosely speaking, the ASD is the retirement date). We have seen this process become “out of order” in the following circumstances:

- **Missing Term Vested Participants Over Age 65.** The Plan requires normal retirement benefits to commence at age 65, but your terminated vested

participants are nowhere to be found. When these participants are located years later, their notice is issued and benefits are paid retroactively back to age 65. As a result, the notice might be sent many years *after* the age-65 retirement date.

- **Fast Turnaround.** The participant requests his benefit too late to complete the paperwork before the retirement date, but your benefits department is sympathetic. As a result, an earlier retirement date might be honored even though the notice was issued to him *afterwards*.

Note: This may or may not result in a Retro ASD, depending on *when the notice was delivered*. For example, assume a participant announces on July 27 that he would like to retire effective July 31 and start receiving benefits on August 1. His ASD is August 1 (although he probably won't get a check on August 1; instead, he will probably get two checks on September 1). Whether the Retro ASD regs are applicable depends on whether he gets a notice before August 1.

- **Stale Notice.** You send the notice out in a timely fashion, but the participant waits too long before sending his forms back in (so, the notice is more than 90 days old). A second notice should be issued. This second notice might be sent *after* the ASD.
- **Bad Data.** The notice was delivered on time, but contained faulty benefit estimates due to bad data. As a result, the notice is materially inaccurate and needs to be re-issued, and is now dated *after* the original retirement date.

Note: This is different from a situation where the notice included an estimate that was a little bit off. In such a case, you wouldn't need to reissue the notice.

- **Disability Benefits.** Your plan requires a disability determination from the Social Security Administration before disability benefits can be paid. But these determinations can take months, sometimes a year, before being issued. As a result, the notice is delayed until the SSA determination arrives, which may be many months *after* the original disability retirement date under the plan.

But Not Always

Keep in mind that not all retroactive payments are covered by the new regs. For example, the new regs *do not apply* in the following circumstances:

- **Administrative Delay in Payment.** The notice goes out *before* the ASD, but then it takes a few months to sort out the data and, therefore, the payments don't start right away. The payments will be made retro to the ASD. But the retro ASD regulations are not applicable to this situation, because the notice went out before the ASD.