



U.S. TREASURY DEPARTMENT OFFICE OF PUBLIC AFFAIRS

FOR IMMEDIATE RELEASE August 6, 2008
CONTACT Andrew DeSouza (202) 622-2960

TREASURY, IRS ISSUE RULING PREVENTING CERTAIN PENSION TRANSFERS

Agencies Offer Framework for Possible Legislative Change

Washington, DC—The Treasury Department and the Internal Revenue Service today issued Revenue Ruling 2008-45, which states that a transfer of a tax-qualified pension plan from an employer to an unrelated taxpayer when the transfer is not connected with a transfer of significant business assets, operations, or employees, is not permissible under current law. *A copy of the ruling is attached.*

Accompanying today's ruling, the Administration put forth a framework of principles, as described below, that should guide the development of legislation that could permit such transactions, in circumstances where the transaction is in the best interest of plan participants, their beneficiaries, employers, and the pension insurance system. The legislative framework was developed by the Treasury Department, the Labor Department, the Commerce Department, and the Pension Benefit Guaranty Corporation.

Under the legislative framework, a pension plan (or a portion of a plan) under which benefits are no longer accruing (i.e., a frozen plan) could be transferred to an entity unrelated to the employer (or former employer) of the participants in the plan, provided that certain conditions are met. The conditions would reflect the following fundamental requirements:

- Plan participants, their representatives, and ERISA regulators would be required to receive advance notice of a plan transfer, and the parties to the transaction would be required to provide regulators information necessary to review and approve the proposed transaction.
- Only financially strong entities in well-regulated sectors would be permitted to acquire a pension plan in a plan transfer transaction.
- The parties to the transaction would be required to demonstrate that participants' benefits and the pension insurance system would be exposed to less risk as a result of the transfer, and that the transfer would be in the best interests of the participants and beneficiaries.
- Limitations on transfers would be imposed to limit undue concentration of risk.

- Transferees and members of their controlled groups would assume full responsibility for the liabilities of transferred plans and would comply with post-transaction reporting and fiduciary requirements.
- Subsequent transfer transactions would be subject to the rules applicable to original transfer transactions.