

Uncertain Future for the Final Cafeteria Plan Regulations

Employee Benefits Alert

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The proposed cafeteria plan regulations, initially issued by the Internal Revenue Service (IRS) in 1984 and re-issued in 2007, include an "exclusivity rule." Both the initially proposed and the re-proposed regulations declare that a cafeteria plan is the "exclusive means" through which an employer may offer an employee a choice between a taxable and non-taxable benefit without causing the employee to include the full value of the taxable benefit in his or her gross income.

In our [recent article](#) challenging the IRS's basis for imposing the exclusivity rule, we noted that the 2014-2015 priority guidance plan, as so many guidance plans before then, indicated the IRS's intention to finalize the proposed regulations.

However, in the [2015-2016 priority guidance plan](#), the IRS, without explanation, left the proposed cafeteria plan regulations off of its agenda. This omission has been carried over to the [IRS's first quarter update](#) to the 2015-2016 priority guidance plan. We won't speculate as to the reason for this omission, but we will monitor the situation and provide an update if and when a concrete explanation is made available.

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