

## IRS Issues Anti-Cutback Relief for ESOPs Eliminating In-Service Distributions

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In Notice 2013-17, the IRS extended the deadline to amend an employee stock ownership plan (ESOP) to eliminate certain statutory in-service distributions as a diversification option that applies to an ESOP that does not hold publicly traded employer securities when the employer's securities become publicly traded and to an ESOP that becomes subject to the diversification requirements that apply to ESOPs holding publicly traded employer securities. This guidance permits the change in the diversification rules and distribution rights without causing the ESOP to be in violation of the anti-cutback provisions of Section 411(d)(6) of the Internal Revenue Code. The prior deadline to so amend an ESOP was the deadline to amend under the Pension Protection Act (PPA). Pursuant to Notice 2013-17, the new deadline is the later of the PPA deadline or the last day of the first plan year starting on or after January 1, 2013. A copy of the notice can be found [here](#).