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Publications

Recent Cash Balance Decisions Pose Limited Threat to Governmental Cash Balance Plans

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In recent years, a number of state and local governmental employers have adopted cash balance plans, which are defined benefit plans that operate in a manner similar to defined contribution plans. The typical cash balance plan credits an employee with a percentage of pay each year, plus a percentage of interest on those pay credits at a rate set forth in the plan document. Unlike a defined contribution plan, however, the participant does not have an individual account with actual assets and earnings reflected in it, but rather the plan has a "pool" of funds to pay all participants, and its earnings may or may not equal the interest rate provided under the plan by the employer.

The participant's benefit is equal to his or her cash balance account and the employer bears the funding investment risk. Cash balance plans have been controversial for years, and engendered much litigation. Two significant recent decisions in the tide of cash balance litigation ¯ Cooper v. The IBM Personal Pension Plan and IBM Corp. in the Southern District of Illinois and Berger v. Xerox Corporation Retirement Income Guaranty Plan in the Seventh Circuit ¯ raise significant issues involving the implementation and operation of many cash balance plans. These rulings primarily impact private sector plans, but also have some potential impact on governmental cash balance plans.

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