

THE FORMULA APPROACH IN GENERAL

As noted above, we do not think the adjustment factors have the degree of mathematical certainty that they were perhaps intended to have. With one biasing the result upward and the other downward, an immediate factor of "push and pull" is introduced. If certain assumptions cannot be agreed upon, the result becomes a massive numbers game. We are sure, for example, that having asked for mathematical alternatives the IRS will find a considerable number of letters on its desk providing ingenious formula approaches. Further, we dare say the vast majority will have one thing in common, the result will be close to 37½ percent, almost as if the mathematical world has found the magic all-purpose number. Not that there are not good reasons for this. In fact, we think this result is inevitable because notwithstanding the frailties inherent in the construction of this rule it has been accepted for a long period of time. Further, insofar as it is already benefit oriented—i.e., close to the percentage relationship of the primary insurance benefit and the base wage—it is no worse than a "ball-park" figure. Also from the practical standpoint the 37½ percent test may be a fair estimate as to what the average employer can afford to pay even though "discrimination" might not exist if the test were 40–50 percent or even higher. Finally, setting aside debatable assumptions—or as the Announcement implies, inadequate ones—the fact that the result has been long-range stability seems to indicate at least in part that the government has recognized his real need in terms of the sound development of private pensions.

All of these observations seem to us to suggest one very significant conclusion. The current 37½-percent test, good, bad, or indifferent, *does* provide a result—a result which has had the virtue of exposure for 15 years. If we measure it simply as a result, what do we find? Has the test prevented discrimination?

A BUREAU OF LABOR STATISTICS STUDY OF PRIVATE PLANS

A recent BLS study seems to indicate that the result is in keeping with the goal. More specifically, the Bureau in studying over 25,000 private pension plan reports for 1963 filed with the U.S. Department of Labor's Office of Labor-Management and Welfare-Pension Reports concludes in part:

"Since the social security payment represents a larger proportion of preretirement earnings for workers with low earnings than for those with high earnings and since private plans also tended in the same direction, lower paid workers clearly received a larger total benefit in relation to previous earnings than higher paid workers."⁹ [Emphasis added.]

While the study is much more detailed and does not directly address the issue of the results of the 37½-percent test as applied at the \$6,600 level, the finding above seems to eliminate any great need for concern—a least as to what the test has accomplished in the past. What is more, it suggests to us that perhaps a study of results would be much more meaningful than the actuarial estimating game which is played when the formula itself is the issue every five years. We think all would agree that if the object is to prevent discrimination, however defined, the test of success should be the degree to which such discrimination does or does not exist.

RESULTS OF A MAPI SURVEY

Besides the discrimination impact, we think it appropriate to indicate in brief other likely results of the proposal as suggested in the Announcement. First, as you know, the complexities of the integration rule are such that quick answers as to potential effects are just about impossible, but we have polled our member companies to determine what their initial findings were as to the impact of a 24-percent test.

One clear conclusion resulting from this survey is that the *transition rules* being suggested would mean that virtually all plans would have to be reviewed in detail by experts in the pension field at no small cost to the employers. Further, there will be a tremendous burden on both the government and the same employers because many of these plans, perhaps the vast majority, will have to make some adjustment and be subject to the IRS clearance procedures. Many of these plans are, of course, the result of collective bargaining and required

⁹ "Private Pension Plan Benefits," Bulletin No. 1485, Bureau of Labor Statistics, U.S. Department of Labor, June 1966, pp. 13–14.