

## **SUPPORTING STATEMENT**

Internal Revenue Service

Election of Alternative Deficit Reduction Contributions and Plan Amendments

**OMB Control No. 1545-1883**

### **1. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION**

Procedures are set forth for electing an alternative deficit reduction contribution under §412(l)(12) of the Internal Revenue Code (the Code) (which was added by section 102 of the Pension Funding Equity Act of 2004 (PFEA), Pub. L. No. 108-218), as modified by section 402(i) of the Pension Protection Act of 2006 (PPA), Pub. L. No. 109-280.

Section 412(l)(12) of the Code permits certain employers who are required to make additional contributions under § 412(l) to elect a reduced amount of those contributions (“alternative deficit reduction contributions”) for plan years beginning after December 27, 2003, and before December 28, 2005. Section 412(l)(12) is generally limited to a plan maintained by either (1) a commercial passenger airline or (2) an employer primarily engaged in the production or manufacture of a steel mill product or the processing of iron ore pellets. Section 302(d)(12) of Employee Retirement Income Security Act of 1974 (ERISA) permits an identical election and provides identical requirements with respect to the minimum funding standard of section 302.

- Announcement 2004-38, 2004-1 C.B. 878, provides procedures for electing an alternative deficit reduction contribution including a model election form.
- Announcement 2004-43, 2004-1 C.B. 955, provides guidance on the types of notices that must be given by an employer to plan participants and their beneficiaries and to the Pension Benefit Guaranty Corporation (the PBGC) if that employer elects to make an alternative deficit reduction contribution described in Announcement 2004-38. In addition Announcement 2004-43, as corrected by Announcement 2004-51, 2004-1 C.B. 1041, sets forth timing requirements for the election.
- Notice 2004-59, 2004-2 C.B. 447, provides guidance on the restrictions that are placed on plan amendments following an employer’s election of an alternative deficit reduction contribution under § 412(l)(12) of the Code and section 302(d)(12) of ERISA.

### **2. USE OF DATA**

This information is used to monitor and make valid determinations with respect to employers that elect an alternative deficit reduction contribution for certain plans and make restricted amendments. Election may cause the excise tax for failure to meet the minimum funding standards not to be incurred and if an employer does not give timely notice of an election to make a deficit reduction contribution (including all of the requirements described above), a court may in its discretion impose a penalty.

### **3. USE OF IMPROVED INFORMATION TECHNOLOGY TO REDUCE BURDEN**

There is no plan to offer electronic filing for this collection due to the low volume of filers. IRS

Publications, regulations, published guidance, e.g., revenue rulings and revenue procedures, notices, letters, and letter rulings are to be electronically enabled on an as practicable basis in accordance with the IRS Reform and Restructuring Act of 1998.

**4. EFFORTS TO IDENTIFY DUPLICATION**

The information obtained through this collection is unique and is not already available for use or adaption from another source.

**5. METHODS TO MINIMIZE BURDEN ON SMALL BUSINESSES OR OTHER SMALL ENTITIES**

The collections of information in these regulations will not have a significant economic impact on a substantial number of small entities.

**6. CONSEQUENCES OF LESS FREQUENT COLLECTION ON FEDERAL PROGRAMS OR POLICY ACTIVITIES**

The information will be used by the Internal Revenue Service (IRS) to monitor and make valid determinations with respect to employers that elect an alternative deficit reduction contribution for certain plans and make restricted amendments. If this information is collected less frequently it would compromise the Agency's ability to enforce tax compliance. Tax compliance is a vital part of the government's ability to meet its' mission and serve the public.

**7. SPECIAL CIRCUMSTANCES REQUIRING DATA COLLECTION TO BE INCONSISTENT WITH GUIDELINES IN 5 CFR 1320.5(d)(2)**

Statute requires, in general, that notice must be given 30-day from the date of an election to make an alternative deficit reduction contribution. As a result, the filing of a certification may be earlier than the date prescribed in guidelines.

**8. CONSULTATION WITH INDIVIDUALS OUTSIDE OF THE AGENCY ON AVAILABILITY OF DATA, FREQUENCY OF COLLECTION, CLARITY OF INSTRUCTIONS AND FORMS, AND DATA ELEMENTS**

- Announcement 2004-38 (2004-18 IRB 878; May 3, 2004), provides procedures for electing an alternative deficit reduction contribution (by employer).
- Announcement 2004-43 (2004-21 IRB 955; May 24, 2004); provides guidance on the type of notices that must be given by an employer to participants; with correction to Announcement 2004-43 on June 7, 2004, issued under Announcement 2004-51 (2004--23 IRB 1041). Modifies Announcement 2004-38.
- Notice 2004-59, (2004-36 IRB 447; September 7, 2004), provides guidance on the restrictions that are placed on plan amendments.
- Notice 206-105 (2006-50 IRB 1093; December 11, 2006), provides procedures for election as modified section 402(i) of the Pension Protection Act of 2006. Modifies Announcement 2004-38, amplifies Announcement 2004-43 and Notice 2004-59.

In response to the *Federal Register* notice dated January 30, 2017 (82 FR 8786), we received no comments.

**9. EXPLANATION OF DECISION TO PROVIDE ANY PAYMENT OR GIFT TO RESPONDENTS**

No payment or gift has been provided to any respondents.

**10. ASSURANCE OF CONFIDENTIALITY OF RESPONSES**

Submissions under this notice are considered tax returns and tax return information, which are confidential as required by 26 U.S.C. § 6103. In general, certain matters relating to taxability and deductibility are disclosable under 26 U.S.C. § 6110.

**11. JUSTIFICATION OF SENSITIVE QUESTIONS**

No personally identifiable information (PII) is collected.

**12. ESTIMATED BURDEN OF INFORMATION COLLECTION**

	# Respondents	# Responses Per Respondent	Annual Responses	Hours Per Response	Total Burden
Ann. 2004-38	200	1	200	4	800
Ann. 2004-43	200	2	400	60	12,000
Notice 2004-59	100	1	100	4	400
Totals	200		700		13,200

**13. ESTIMATED TOTAL ANNUAL COST BURDEN TO RESPONDENTS**

There are no start-up costs associated with this collection. \_

**14. ESTIMATED ANNUALIZED COST TO THE FEDERAL GOVERNMENT**

There are no known annualized costs to the federal government.

**15. REASONS FOR CHANGE IN BURDEN**

There is no change in the paperwork burden previously approved by OMB. We are making this submission to renew the OMB approval.

**16. PLANS FOR TABULATION, STATISTICAL ANALYSIS AND PUBLICATION**

There are no plans for tabulation, statistical analysis, and publication.

**17. REASONS WHY DISPLAYING THE OMB EXPIRATION DATE IS INAPPROPRIATE**

We believe that displaying the OMB expiration date is inappropriate because it could cause

confusion by leading taxpayers to believe that the announcement sunset as of the expiration date. Taxpayers are not likely to be aware that the Service intends to request renewal of the OMB approval and obtain a new expiration date before the old one expires.

**18. EXCEPTIONS TO THE CERTIFICATION STATEMENT**

There are no exceptions to the certification statement.

**Note:** The following paragraph applies to all of the collections of information in this submission:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.