

SUPPORTING STATEMENT

Internal Revenue Service

TD 9467, (Notice 2020-61) Special Rules for Single-Employer Defined Benefit Pension Plans under the CARES Act,
(Notice 2020-60) Election of Alternative Minimum Funding Standards for Community Newspaper Plans,
(Notice 2021-48) Guidance on Single-Employer Defined Benefit Pension Plan Funding Changes under the American Rescue Plan Act of 2021

OMB Control Number 1545-2095

1. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION

TD 9467 (AFTAP)

United States Code sections 430(d), 430(f), 430(g), 430(h)(2), and 430(i), and 436 provide guidance on the determination of benefit liabilities and the valuation of plan assets for purposes of the funding requirements that apply to single employer defined benefit plans pursuant to changes made by the Pension Protection Act of 2006. In order to implement the statutory provisions under section 430(h)(2), the regulations provide for the sponsor of a defined benefit plan to make any of several elections related to the interest rate used for minimum funding purposes and require written notification of any such election to be provided to the plan's enrolled actuary.

Section 1.430(f)-1(f) requires that plan sponsors make elections regarding a plan's credit balances upon occasion. An election required by §1.430(h)(2)-1(e) is made to use an alternative interest rate for purposes of determining a plan's funding obligations. The following information is required under §§1.430(f)-1(f), §§1.436-1(f), and 1.436-1(h):

- Election to reduce funding balance
- Election to add contribution to prefunding balance
- Designation of 436 contributions

The regulations require the plan sponsor to provide written notification of the election to the plan's enrolled actuary and plan administrator.

This information is required in order for a qualified defined benefit plan's enrolled actuary to provide a timely certification of the plan's adjusted funding target attainment percentage (AFTAP) for each plan year to avoid certain benefit restrictions.

Notice 2020-61 (Special Rules for Single Employer Defined Benefit Pension Plans under the CARES Act)

Section 3608(b) of the Coronavirus Aid, Relief, and Economic Security Act (CARES Act), Pub. L. No. 116-136 provides that for purposes of applying § 436 of the Code (and § 206(g) of ERISA), a sponsor of a single-employer defined benefit pension plan may elect to treat the plan's adjusted funding target attainment percentage (AFTAP) for the last plan year ending before January 1, 2020, as the AFTAP for plan years that include calendar year 2020. Notice 2020-61, in part, provides guidance on the rules relating to this election.

Notice 2020-60 (Election of Alternative Minimum Funding Standards for Community Newspaper Plans)

Section 115(a) of the Setting Every Community Up for Retirement Enhancement Act of 2019 (SECURE Act), Division O of the Further Consolidated Appropriations Act, 2020, Pub. L. No. 116-94, added new § 430(m) to the Code to permit the plan sponsor of a community newspaper plan under which no participant has had an increase in accrued benefit after December 31, 2017 to elect to have alternative minimum funding standards apply to the plan in lieu of the minimum funding requirements that would otherwise apply under § 430. Pursuant to § 430(m)(2), any election under § 430(m) will be made at such time and in such manner as prescribed by the Secretary, and once an election is made with respect to a plan year, it will apply to all subsequent plan years unless revoked with the consent of the Secretary. Notice 2020-60 provides guidance regarding this election.

Notice 2021-48 (Guidance on Single-Employer Defined Benefit Pension Plan Funding Changes under the American Rescue Plan Act of 2021)

This notice provides guidance on the changes to the funding rules for single-employer defined benefit pension plans under § 430 of the Code that were made by §§ 9705 and 9706 of the American Rescue Plan Act of 2021 (the ARP), Pub. L. No. 117-2. The ARP added § 430(c)(8), with respect to plan years beginning after December 31, 2021 (or, at the election of the plan sponsor, plan years beginning after December 31, 2018, December 31, 2019, or December 31, 2020), the shortfall amortization bases for all plan years preceding the first plan year to which this provision applies (and all shortfall amortization installments determined with respect to those bases) are reduced to zero, and shortfall amortization installments for all new shortfall amortization bases are calculated to amortize each shortfall amortization base over 15 plan years.

In addition, § 9706 of the ARP provides changes to the applicable minimum and maximum percentages for the 24-month average segment rates set forth in the table in § 430(h)(2)(C)(iv)(II) of the Code, effective with respect to plan years beginning after December 31, 2019. However, § 9706(c)(2) provides that a plan sponsor may elect not to have the amendments made by § 9706 apply to any

plan year beginning before January 1, 2022, either (as specified in the election) for all purposes or solely for purposes of determining the AFTAP for the plan year. This notice provides guidance regarding the elections under § 430(c)(8) of the Code and § 9706(c)(2) of the ARP.

2. USE OF DATA

The election data under section 430(f) and (h)(2) will be used in determining a defined benefit plan's funding status, and the certifications under section 436 will be used by a plan sponsor to determine whether and as of what date any benefit restrictions under section 436 apply to a plan. The regulations require the plan sponsor to provide written notification of the election to the plan's enrolled actuary.

The data under section 3608(b) (**Notice 2020-61 (Special Rules for Single Employer Defined Benefit Pension Plans under the CARES Act)**) will not be used by the Service. The data is provided to the plan's actuary and the plan administrator. The sponsor of the plan (the employer) must notify the plan actuary and plan administrator in writing (pursuant to Treas. Reg. § 1.430-f(1)(a)(i)) that the sponsor intends to make the election. The plan actuary and administrator will then take that election into account when determining benefit restrictions under § 436 of the Code. The plan actuary will take it into account when calculating the plan's funding levels, and the plan administrator may then provide the benefits to participants that may otherwise have been disallowed had the election not been made.

The data under section 430(m) (**Notice 2020-60 (Election of Alternative Minimum Funding Standards for Community Newspaper Plans)**) will not be used by the Service. This notice states that an election by the plan sponsor to apply § 430(m) must be provided in writing to the community newspaper plan's actuary, plan administrator, and controlled group members. Absent this notification, the community newspaper plan's actuary, plan administrator, and controlled group members may not be aware that the plan sponsor is electing to apply § 430(m).

The data under § 430(c)(8) of the Code and 9705(a) of the ARP (**Notice 2021-48 (Guidance on Single-Employer Defined Benefit Pension Plan Funding Changes under the American Rescue Plan Act of 2021)**) will also not be used by the Service. This notice states that an elections by the plan sponsor to apply § 430(c)(8) of the Code and § 9706 of the ARP are made by the plan sponsor by providing written notification of these elections to both the plan's enrolled actuary and the plan administrator. Absent this notification, the plan's actuary and plan administrator may not be aware that the plan sponsor is electing to apply § 430(c)(8) and/or § 9706 of the ARP.

3. USE OF IMPROVED INFORMATION TECHNOLOGY TO REDUCE BURDEN

The IRS has no plans to offer electronic enabling because this is a notification of requirements.

4. EFFORTS TO IDENTIFY DUPLICATION

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

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

The IRS proactively works with both internal and external stakeholders to minimize the burden on small businesses, while maintaining tax compliance. The Agency also seeks input regarding the burden estimates from the public via notices and tax product instructions. The Agency will continue to as applicable find ways to reduce the burden on small businesses or other small entities.

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

This information is required in order for a qualified defined benefit plan's enrolled actuary to provide a timely certification of the plan's adjusted funding target attainment percentage (AFTAP) for each plan year to avoid certain benefit restrictions. Consequences of less frequent collection will inhibit timely certification and notification.

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

There are no special circumstances requiring data collection to be inconsistent with guidelines in 5CFR 1320.5(d)(2).

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

We received no comments during the comment period in response to the Federal Register notice (85 FR 67424), dated October 22, 2020.

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

No payments or gifts will be provided to respondents.

10. ASSURANCE OF CONFIDENTIALITY OF RESPONSES

Generally, tax returns and tax return information are confidential as required by 26 U.S.C. § 6103.

11. JUSTIFICATION OF SENSITIVE QUESTIONS

A privacy impact assessment (PIA) has been conducted for information collected under this request as part of the “Business Master File (BMF)” system and a Privacy Act System of Records notice (SORN) has been issued for this system under IRS 24.046-Customer Account Data Engine Business Master File. The Internal Revenue Service PIAs can be found at <https://www.irs.gov/uac/Privacy-Impact-Assessments-PIA>.

Title 26 USC 6109 requires inclusion of identifying numbers in returns, statements, or other documents for securing proper identification of persons required to make such returns, statements, or documents and is the authority for social security numbers (SSNs) in IRS systems.

12. ESTIMATED BURDEN OF INFORMATION COLLECTION

Section 1.430(f)-1(f) requires that plan sponsors make elections regarding a plan’s credit balances upon occasion. An election required by §1.430(h)(2)–1(e) is made to use an alternative interest rate for purposes of determining a plan’s funding obligations. The total burden for these requirements is estimated to be 161,080 hours.

Authority	Description	# of Respondents	# Responses per Respondent	Annual Responses	Hours per Response	Total Burden
TD 9467	sponsor of a defined benefit plan elections	80,000	1	80,000	1.5	120,000
	Notice 2020-61	1,000	1	1,000	1.0	1,000
	Notice 2020-60	20	1	20	4	80
	Notice 2021-48	80,000	2	160,000	.25	40,000
Totals		161,020				161,080

13. ESTIMATED TOTAL ANNUAL COST BURDEN TO RESPONDENTS

To ensure more accuracy and consistency across its information collections, IRS is currently in the process of revising the methodology it uses to estimate burden and costs. Once this methodology is complete, IRS will update this information collection to reflect a more precise estimate of burden and costs.

14. ESTIMATED ANNUALIZED COST TO THE FEDERAL GOVERNMENT

To ensure more accuracy and consistency across its information collections, IRS is currently in the process of revising the methodology it uses to estimate burden and costs. Once this methodology is complete, IRS will update this information collection to reflect a more precise estimate of burden and costs.

15. REASONS FOR CHANGE IN BURDEN

The change in burden is reflective of the addition of Notice 2021-48. The new burden is 161,080, an increase of 40,000 burden hours. There are no forms involved with the notice below:

Notice 2021-48 (Guidance on Single-Employer Defined Benefit Pension Plan Funding Changes under the American Rescue Plan Act of 2021)

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In addition, § 9706 of the ARP provides changes to the applicable minimum and maximum percentages for the 24-month average segment rates set forth in the table in § 430(h)(2)(C)(iv)(II) of the Code, effective with respect to plan years beginning after December 31, 2019. However, § 9706(c)(2) provides that a plan sponsor may elect not to have the amendments made by § 9706 apply to any plan year beginning before January 1, 2022, either (as specified in the election) for all purposes or solely for purposes of determining the AFTAP for the plan year. This notice provides guidance regarding the elections under § 430(c)(8) of the Code and § 9706(c)(2) of the ARP.

16. PLANS FOR TABULATION, STATISTICAL ANALYSIS AND PUBLICATION

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

17. REASONS WHY DISPLAYING THE OMB EXPIRATION DATE IS INAPPROPRIATE

IRS believes that displaying the OMB expiration date is inappropriate because it could cause confusion leading taxpayers to believe that the revenue procedure

will sunset as of the expiration date. Taxpayers are not likely to be aware that the Service may 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 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 the 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.