

SUPPORTING STATEMENT
Internal Revenue Service
Notice 2021-57, Funding Relief for Multiemployer Defined Benefit Pension Plans Under the American
Rescue Plan Act
OMB Control Number 1545-XXXX

1. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION

The American Rescue Plan Act of 2021 (ARP), P.L. 117-2, sections 9701, 9702, and 9703 provide elective funding relief for multiemployer defined benefit pension plans to address the continued impact of COVID-19.

This notice provides guidance for sponsors of multiemployer defined benefit pension plans on the elections under sections 9701 and 9702 of the ARP Act, and the relief provided under section 9703 of the ARP Act, relating to Internal Revenue Code (IRC) sections 431 and 432. These provisions permit the plan sponsor to:

- Elect to delay designating a plan as being in endangered, critical, or critical and declining status under IRC section 432(b)(3), as applicable, and updating the plan's funding improvement plan or rehabilitation plan, as applicable;
- Elect to extend the plan's funding improvement period under IRC section 432(c)(4) or the rehabilitation period under IRC section 432(e)(4), as applicable; and
- Spread certain investment losses and other experience losses related to COVID-19 over a period of up to 30 years in determining charges to the funding standard account under IRC section 431.

Section 9701 of the ARP Act permits a multiemployer plan sponsor to make an election relating to the certification and update requirements under IRC section 432 or certain plan years. The election under section 9701 of the ARP Act is referred to as a "freeze election," and a multiemployer plan sponsor may make a freeze election for the first plan year beginning after February 29, 2020, or the next succeeding plan year.

Section 9702 of the ARP Act provides that the sponsor of a multiemployer plan in endangered status or critical status for a plan year beginning in 2020 or 2021 may elect to extend the plan's funding improvement period or rehabilitation period, whichever is applicable, by 5 years ("extension election").

Section 9703(a)(2) of the ARP Act amended IRC section 431(b)(8) to provide a modified version of the special amortization rule under IRC section 431(b)(8)(A) and the special asset valuation rule under IRC section 431(b)(8)(B) for a multiemployer plan that meets the solvency test under IRC section 431(b)(8)(C).

2. USE OF DATA

The information is used by the Internal Revenue Service (IRS) for research and audit purposes.

An election by the plan sponsor under section 9701 or 9702 of the ARP Act must be submitted in writing to the IRS Employee Plans Compliance Unit by email, e-fax, or mail, and written notice describing the section 9701 election must be sent to plan participants, beneficiaries, the Department of Labor, and the Pension Benefit Guaranty Corporation. Absent this notification, the IRS and other federal agencies and the plan's participants and beneficiaries will not be aware that the plan sponsor is electing to apply IRC section 430(c)(8) and/or section 9706 of the ARP Act.

Section 9703(a)(2) of the ARP Act amended IRC section 431(b)(8) to provide a modified version of the special amortization rule and the special asset valuation rule for a multiemployer plan that meets the solvency test. For purposes of this relief, the IRS is required to rely on the plan sponsor's calculations of plan losses unless such calculations are clearly erroneous.

3. USE OF IMPROVED INFORMATION TECHNOLOGY TO REDUCE BURDEN

Electronic submission of the information is currently available.

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 filers can make their elections electronically, which further reduces any burden to small businesses.

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

A less frequent collection would result in the IRS being unable to ensure plan sponsors making an election under the ARP Act provisions correctly fulfill funding and reporting obligations under IRC sections 431, 432(b)(3) and 6059, thereby engendering the inability of the IRS to meet its mission.

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

There are no special circumstances requiring data collection to be inconsistent with Guidelines

in 5 CFR 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

The agency is requesting an emergency clearance and is unable to solicit public comment in advance. The IRS will publish a Federal Register notice seeking public comment after the approval of the emergency ICR.

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

No payment or gift will be provided to any 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 U.S.C. 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 taxpayer identification numbers (TINs) in IRS systems.

12. ESTIMATED BURDEN OF INFORMATION COLLECTION

The provisions of the ARP Act require plan sponsors to provide information and notice to exercise the elections and relief under IRC sections 431 and 432. This notice provides guidance for sponsors of multiemployer defined benefit pension plans on the elections under sections 9701 and 9702 of the ARP Act, and the relief provided under section 9703 of the ARP Act. The IRS estimates that there will be 937 respondents annually, with an estimated total annual burden of 896 hours.

Authority	Description	# of Respondents	# Responses per Respondent	Annual Responses	Hours per Response	Total Burden
ARP section 9701	ARP section 9701	277	1	277	1	277
ARP section 9702	ARP section 9702	145	1	145	1	145
IRC 431	ARP section 9703	515	1	515	.92	474
Totals		937		937		896

13. ESTIMATED TOTAL ANNUAL COST BURDEN TO RESPONDENTS

There is no annualized cost burden to respondents.

14. ESTIMATED ANNUALIZED COST TO THE FEDERAL GOVERNMENT

This is a new collection of information. The estimates of the annualized cost to the Federal Government are not available at this time.

15. REASONS FOR CHANGE IN BURDEN

This is a new notice developed to comply with sections 9701, 9702, and 9703 of the American Rescue Plan Act of 2021, P.L. 117-2. There was no paperwork burden previously approved by OMB. We are making this submission to request 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 notice sunsets 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 for this collection.

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.