

**SUPPORTING STATEMENT**

Internal Revenue Service

Plan-Specific Substitute Mortality Tables for Determining Present Value

OMB Control Number **1545-2073**1. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION

Section 412 of the Internal Revenue Code (Code) prescribes minimum funding requirements for defined benefit pension plans. Section 430 specifies the minimum funding requirements that apply generally to defined benefit plans that are single-employer plans (that is, not multiemployer plans).<sup>1</sup> For a plan subject to section 430, section 430(a) defines the minimum required contribution for a plan year by reference to the plan's funding target for the plan year. Under section 430(d)(1), a plan's funding target for a plan year generally is the present value of all benefits accrued or earned under the plan as of the first day of that plan year.

Section 430(h)(3) provides rules regarding the mortality tables to be used under section 430. Under section 430(h)(3)(A), except as provided in section 430(h)(3)(C) or (D), the Secretary is to prescribe by regulation mortality tables to be used in determining any present value or making any computation under section 430. Section 430(h)(3)(C) prescribes rules for a plan sponsor's use of substitute mortality tables reflecting the specific mortality experience of a plan's population instead of using the generally applicable mortality tables. Under section 430(h)(3)(C), the plan sponsor may request the Secretary's approval to use plan-specific substitute mortality tables that meet requirements specified in section 430(h)(3)(C)(iii). If the Secretary determines that the proposed tables meet the statutory standards and approves the request, the substitute mortality tables are used to determine present values and make computations under section 430 during the period of consecutive plan years (not to exceed 10) specified in the request.

TD 10005 sets forth final regulations that update the requirements that a plan sponsor of a single employer defined benefit plan must meet to obtain IRS approval to use mortality tables specific to the plan in calculating present value for minimum funding purposes (as a substitute for the generally applicable mortality tables).

In addition, the Treasury Department and IRS are issuing Rev. Proc. 2024-32, which updates the procedures set forth in Rev. Proc. 2017-55 to reflect the amendments to

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<sup>1</sup> Section 302 of the Employee Retirement Income Security Act of 1974, Public Law No. 93-406, 88 Stat. 829 (1974), as amended (ERISA), sets forth funding rules that are parallel to those in section 412 of the Code, and section 303 of ERISA sets forth additional funding rules for defined benefit plans (other than multiemployer plans) that are parallel to those in section 430 of the Code. Pursuant to section 101 of Reorganization Plan No. 4 of 1978, 5 U.S.C. App., as amended, the Secretary of the Treasury has interpretive jurisdiction over the subject matter addressed in these regulations for purposes of ERISA, as well as the Code. Thus, these regulations issued under section 430 of the Code also apply for purposes of section 303 of ERISA.

§1.430(h)(3)-2 made by this Treasury decision.

This is a request to reinstate the OMB approval number of an existing Information Collection (IC) tool.

2. USE OF DATA

The data will be used by the Internal Revenue Service to evaluate a substitute mortality table of an employer that maintains a defined benefit pension plan and will assist the employers in the notification process. This data may be shared with the Employee Benefits Security Administration of the U.S. Department of Labor or the Pension Benefit Guaranty Corporation pursuant to the enforcement provisions of title III of the Employee Retirement Income Security Act of 1974 as amended.

3. USE OF IMPROVED INFORMATION TECHNOLOGY TO REDUCE BURDEN

IRS Publications, Regulations, Notices, and Letters are to be electronically enabled on an as practicable basis in accordance with the IRS Reform and Restructuring Act of 1998. We intend to offer electronic filing to the extent it is practicable however in this case it isn't practicable because of the evaluative nature of the determination.

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 regulations under section 430(h) of the Code preclude a small business or other small entity from using substitute mortality tables. Moreover, the revenue procedure requires that the applicable plan have certain populations and experience to establish valid substitute mortality tables. Generally, these factors can only be found in larger plans.

In addition, the revenue procedure contains a checklist to assist applicants in ascertaining whether they have completed the information sought by the IRS.

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

This collection is only required once when seeking approval and does not require subsequent submissions. A less frequent collection would hinder the IRS from determining the validity of the tables.

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

Beginning in 2020 and extending into the first part of 2023, for many defined benefit pension plans, the mortality experience of the plan participants was significantly higher than expected due to the COVID-19 pandemic. To address this concern, proposed regulations (REG-103525-23), that provide rules regarding the use of mortality experience data for the COVID-19 pandemic period in the construction of substitute mortality tables were published in the **Federal Register** on October 20, 2023 (88 FR 72409).

Four comments on the proposed regulations were received. No commenters requested to speak at a public hearing. The Treasury Department and IRS considered the comments that were received and are finalizing the proposed regulations with certain revisions.

The Treasury Department and IRS received four comments regarding the adjustment factors set forth in the proposed regulations. The four commenters stated that a single adjustment factor for each year inadequately captured the age, gender, and regional variances in excess mortality during the COVID-19 pandemic. In addition, three commenters suggested that the adjustment factor for 2023 be eliminated (because preliminary data from 2023 showed a decline in excess mortality such that no adjustment may be needed for 2023), and that the adjustment factor for 2022 be reduced. After considering these comments and the most recent mortality data available, the Treasury Department and IRS are eliminating the adjustment for 2023 and reducing the adjustment for 2022. However, the Treasury Department and IRS concluded that providing adjustment factors based on age would be inconsistent with the overall model for developing substitute mortality tables, and that providing separate adjustment factors based on gender or geography would add a degree of complexity that would outweigh any potential increase in precision that these adjustment factors may provide. The four commenters also suggested that, as an alternative to applying the adjustment factors, plan sponsors be permitted to construct substitute mortality tables without taking into account any mortality experience from the COVID-19 pandemic period. The Treasury Department and IRS have considered this approach but rejected it because providing for such an approach would mean that the mortality experience used to

construct the substitute mortality table could be so out of date that it would be less reliable in predicting future mortality for the plan population. For example, if a plan sponsor was applying for approval of a substitute mortality table in 2024 using calendar year mortality experience without taking into account mortality experience for 2020, 2021, and 2022, the most recent mortality experience would be from 2019, which is more than 4 years prior to the application for approval.

Under a transition rule in the proposed regulations, substitute mortality tables that were previously approved for use for a plan year beginning in 2025 would be treated as satisfying the rules for developing substitute mortality tables that apply for that plan year. This transition rule, which is included in these regulations, addresses plans with previously approved substitute mortality tables that were based on a mortality experience study that included data from the COVID-19 pandemic period (and therefore do not satisfy the requirements specified in these regulations).

One commenter requested clarification as to the extent to which other previously approved substitute mortality tables may continue to be used for the remainder of their approval period even if that approval period extends beyond 2025. The Treasury Department and IRS considered this comment and decided to continue to allow the use of previously approved substitute mortality tables that were developed based on an experience study that did not include data from the COVID-19 pandemic period for the original duration of the approval, provided that there has not been a significant change in plan coverage, as described in the first sentence of §1.430(h)(3)-2(c)(6)(iii)(A).<sup>2</sup> Thus, if the experience study for a substitute mortality table that has been approved for use for a plan year beginning in 2025 includes mortality data from 2020, 2021, or 2022 (or the number of individuals covered by the substitute mortality table is less than 80 percent or more than 120 percent of the average number of individuals in that population over the years covered by the experience study), then the substitute mortality table may be used for a plan year beginning in 2025 (but may not be used for later years).

In response to the Federal Register notice dated September 9, 2024 (89 FR 73190), we received no comments during the comment period.

#### 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

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<sup>2</sup> The termination of the use of previously approved substitute mortality tables is described in section 12 of Rev. Proc. 2024-32. Under that revenue procedure, if there has been a significant change in plan coverage, a previously approved substitute mortality table cannot be used for a plan year that begins on or after January 1, 2026, even if the plan actuary certifies that the table continues to be accurately predictive of future mortality of the plan population.

Generally, tax returns and tax return information are confidential as required by 26 USC 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

The estimated total annual reporting/recordkeeping burden is 4,000 hours.

The estimated annual burden per respondent/recordkeeper varies from 167 to 900 hours, depending on individual circumstances, with an estimated average burden of 267 hours. The estimated annual number of respondents/recordkeepers is 15.

Authority	Description	Total Annual Responses	Hours Per Response	Total Burden
Rev Proc 2024-32	Substitute Mortality Tables	15	267	4,000

13. ESTIMATED TOTAL ANNUAL COST BURDEN TO RESPONDENTS

From proposed regulations notice dated October 20, 2023, no public comments were received on the estimates of cost burden that are not captured in the estimates of burden hours, i.e., estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information. As a result, estimates of these cost burdens are considered nominal.

14. ESTIMATED ANNUALIZED COST TO THE FEDERAL GOVERNMENT

The IRS estimates an annual governmental cost to be nominal.

15. REASONS FOR CHANGE IN BURDEN

Beginning in 2020 and extending into the first part of 2023, for many defined benefit

pension plans, the mortality experience of the plan participants was significantly higher than expected due to the COVID-19 pandemic. The Treasury Department and the IRS were concerned that if a substitute mortality table constructed using that mortality ratio is used for a plan's actuarial valuation, then the plan's liabilities will be understated.

New regulations and updated procedures previously approved under 1545-0047 will account for the burden in this request to reinstate this separate approval number. The estimated total annual reporting/recordkeeping burden is 4,000 hours. The estimated annual number of respondents/recordkeepers is 15.

We are making this submission as a reinstatement of a previously approved IC.

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

The IRS believes that displaying the OMB expiration date is inappropriate because it could cause confusion by leading taxpayers to believe that the information collection expires as of the expiration date. Taxpayers are not likely to be aware that the IRS 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.