
IRS Releases Final Regulations on Pension Funding Issues and Benefit Restrictions

Last month, USI Consulting Group distributed a Client Bulletin announcing that the IRS issued guidance providing relief in valuing defined benefit plan liabilities for plan years commencing in 2010. That guidance referred to final regulations that would be issued in the near future under Internal Revenue Code Sections 430 (minimum funding) and 436 (benefit restrictions). That future is now.

Consistent with the earlier guidance, the final regulations confirm that the IRS will permit sponsors of defined benefit pension plans to re-elect the discount rate basis to be used for 2010 plan years. This is welcome news, and allows sponsors to take advantage of higher yield curve rates for 2009, secure in the knowledge that flexibility in the choice will be permitted for 2010.

This bulletin provides some highlights of the extensive regulations (which run over 300 pages), most of which are technical in nature, and notes some areas where further guidance will be needed. We will continue to review the regulations and contact plan sponsors for whom there is a significant impact.

Summarized below are the key updates in the final regulations:

1. In addition to the interest rate relief, plan sponsors may choose between asset valuation methods (market or smoothed) for 2009, and also be able to switch in 2010, without IRS pre-approval.
 2. If the yield curve is selected in a future year, no lookback months will be available (i.e., only the month that includes the valuation date may be used as the applicable month, rather than any of the four preceding months).
 3. Rules regarding application and maintenance of the credit balances (the funding standard carryover balance and the prefunding balance) have been clarified.
 4. Standing elections to use credit balances to satisfy minimum contributions (without having to specify dollar amounts) are permitted. However, a plan sponsor must still affirmatively elect to use a credit balance to satisfy quarterly contributions each and every quarter, and specify the amount used.
 5. Where a range certification is issued, the final certification may be delayed until the last day of the plan year (instead of the last day of the ninth month of that plan year).
 6. Prior guidance defined a collectively bargained plan as one with at least 25% of its *participants* subject to collective bargaining. This was expanded to include plans with at least 50% of *employees benefiting* (i.e., active participants accruing benefits).
 7. Any non-de minimis unpredictable contingent event (e.g., an unexpected plant closing) must be reflected in the valuation.
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8. If a plan amendment that is effective after the valuation date would increase the plan's funding target to the extent that benefit restrictions would apply, then the amendment must be taken into account for both funding purposes and application of benefit restrictions.

The IRS has reserved for future guidance/regulations several other issues, including:

1. Clarification on types of plan expenses that must be included in the target normal cost. In the meantime, we will continue to include administrative expenses paid from plan assets.
2. Some of the details in applying the asset smoothing process.
3. Participant notice content regarding benefit restrictions.
4. Certain issues regarding quarterly contribution requirements.

Your USI Consulting Group consultant will contact you regarding these issues if it appears these new rules may impact your plan(s). In the meantime, we will be working to incorporate these regulations into our valuations and reports.

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