

INTERNAL REVENUE BULLETIN



HIGHLIGHTS OF THIS ISSUE

Bulletin No. 2017-31
July 31, 2017

These synopses are intended only as aids to the reader in identifying the subject matter covered. They may not be relied upon as authoritative interpretations.

EMPLOYEE PLANS

Notice 2017-39, page 150.

This notice sets forth updates on the corporate bond monthly yield curve, the corresponding spot segment rates for July 2017 used under § 417(e)(3)(D), the 24-month average segment rates applicable for July 2017, and the 30-year Treasury rates. These rates reflect the application of § 430(h)(2)(C)(iv), which was added by the Moving Ahead for Progress in the 21st Century Act, Public Law 112-141 (MAP-21) and amended by section 2003 of the Highway and Transportation Funding Act of 2014 (HATFA).

ADMINISTRATIVE

Rev. Proc. 2017-43, page 152.

Rev. Proc. 2017-43 revises procedures for applying for Treasury Department approval of a suspension of benefits under a multiemployer defined benefit pension plan that is in critical and declining status under § 432(e)(9). Effective for applications submitted on or after September 1, 2017, the revenue procedure modifies and supersedes Rev. Proc. 2016-27 and is intended to facilitate the Treasury Department's review in light of its experience in processing benefit suspension applications.

INCOME TAX

REG-139633-08, page 175.

This is a partial withdrawal of notice of proposed rulemaking (REG-163314-03) published on March 10, 2005 in the Federal Register (70 FR 11903) containing proposed regulations under sections 332, 351, and 368 (2005 Proposed Regulations). On December 12, 2008, Treasury adopted the Creditor Continuity of Interest provisions of the 2005 Proposed Regulations (TD 9434) published in the Federal Register (73 FR 75566). Minor portions of the 2005 Proposed Regulations that reflected statutory changes to sections 332 and 351 were adopted as part of a Treasury decision adopting final regulations under sections 334(b)(1)(B) and 362(e)(1) (TD 9759), published in the Federal Register (81 FR 17066) on March 28, 2016. The Treasury Department and the IRS have decided to withdraw the remainder of the 2005 Proposed Regulations that generally would have provided the non-recognition rules in subchapter C of chapter 1 of subtitle 1 of the Code do not apply unless there is an exchange (or, in the case of section 332, a distribution) of net value (the net value requirement).

The IRS Mission

Provide America's taxpayers top-quality service by helping them understand and meet their tax responsibilities and enforce the law with integrity and fairness to all.

Introduction

The Internal Revenue Bulletin is the authoritative instrument of the Commissioner of Internal Revenue for announcing official rulings and procedures of the Internal Revenue Service and for publishing Treasury Decisions, Executive Orders, Tax Conventions, legislation, court decisions, and other items of general interest. It is published weekly.

It is the policy of the Service to publish in the Bulletin all substantive rulings necessary to promote a uniform application of the tax laws, including all rulings that supersede, revoke, modify, or amend any of those previously published in the Bulletin. All published rulings apply retroactively unless otherwise indicated. Procedures relating solely to matters of internal management are not published; however, statements of internal practices and procedures that affect the rights and duties of taxpayers are published.

Revenue rulings represent the conclusions of the Service on the application of the law to the pivotal facts stated in the revenue ruling. In those based on positions taken in rulings to taxpayers or technical advice to Service field offices, identifying details and information of a confidential nature are deleted to prevent unwarranted invasions of privacy and to comply with statutory requirements.

Rulings and procedures reported in the Bulletin do not have the force and effect of Treasury Department Regulations, but they may be used as precedents. Unpublished rulings will not be relied on, used, or cited as precedents by Service personnel in the disposition of other cases. In applying published rulings and procedures, the effect of subsequent legislation, regulations, court decisions, rulings, and procedures must be considered, and Service personnel and others concerned are cautioned

against reaching the same conclusions in other cases unless the facts and circumstances are substantially the same.

The Bulletin is divided into four parts as follows:

Part I.—1986 Code.

This part includes rulings and decisions based on provisions of the Internal Revenue Code of 1986.

Part II.—Treaties and Tax Legislation.

This part is divided into two subparts as follows: Subpart A, Tax Conventions and Other Related Items, and Subpart B, Legislation and Related Committee Reports.

Part III.—Administrative, Procedural, and Miscellaneous.

To the extent practicable, pertinent cross references to these subjects are contained in the other Parts and Subparts. Also included in this part are Bank Secrecy Act Administrative Rulings. Bank Secrecy Act Administrative Rulings are issued by the Department of the Treasury's Office of the Assistant Secretary (Enforcement).

Part IV.—Items of General Interest.

This part includes notices of proposed rulemakings, disbarment and suspension lists, and announcements.

The last Bulletin for each month includes a cumulative index for the matters published during the preceding months. These monthly indexes are cumulated on a semiannual basis, and are published in the last Bulletin of each semiannual period.

The contents of this publication are not copyrighted and may be reprinted freely. A citation of the Internal Revenue Bulletin as the source would be appropriate.

Part III. Administrative, Procedural, and Miscellaneous

Update for Weighted Average Interest Rates, Yield Curves, and Segment Rates

Notice 2017-39

This notice provides guidance on the corporate bond monthly yield curve, the corresponding spot segment rates used under § 417(e)(3), and the 24-month average segment rates under § 430(h)(2) of the Internal Revenue Code. In addition, this notice provides guidance as to the interest rate on 30-year Treasury securities under § 417(e)(3)(A)(ii)(II) as in effect for plan years beginning before 2008 and the 30-year Treasury weighted average rate under § 431(c)(6)(E)(ii)(I).

YIELD CURVE AND SEGMENT RATES

Generally, except for certain plans under sections 104 and 105 of the Pension Protection Act of 2006 and CSEC plans under § 414(y), § 430 of the Code speci-

fies the minimum funding requirements that apply to single-employer plans pursuant to § 412. Section 430(h)(2) specifies the interest rates that must be used to determine a plan's target normal cost and funding target. Under this provision, present value is generally determined using three 24-month average interest rates ("segment rates"), each of which applies to cash flows during specified periods. To the extent provided under § 430(h)(2)(C)(iv), these segment rates are adjusted by the applicable percentage of the 25-year average segment rates for the period ending September 30 of the year preceding the calendar year in which the plan year begins.¹ However, an election may be made under § 430(h)(2)(D)(ii) to use the monthly yield curve in place of the segment rates.

Notice 2007-81, 2007-44 I.R.B. 899, provides guidelines for determining the monthly corporate bond yield curve, and the 24-month average corporate bond segment rates used to compute the target normal cost and the funding target. Consistent with the methodology specified in Notice 2007-81, the monthly corporate

bond yield curve derived from June 2017 data is in Table I at the end of this notice. The spot first, second, and third segment rates for the month of June 2017 are, respectively, 1.96, 3.60, and 4.39.

The 24-month average segment rates determined under § 430(h)(2)(C)(i) through (iii) must be adjusted pursuant to § 430(h)(2)(C)(iv) to be within the applicable minimum and maximum percentages of the corresponding 25-year average segment rates. For plan years beginning before 2021, the applicable minimum percentage is 90% and the applicable maximum percentage is 110%. The 25-year average segment rates for plan years beginning in 2015, 2016, and 2017 were published in Notice 2014-50, 2014-40 I.R.B. 590, Notice 2015-61, 2015-39 I.R.B. 408, and Notice 2016-54, 2016-40 I.R.B. 429, respectively.

24-MONTH AVERAGE CORPORATE BOND SEGMENT RATES

The three 24-month average corporate bond segment rates applicable for July 2017 without adjustment for the 25-year average segment rate limits are as follows:

<i>Applicable Month</i>	<i>First Segment</i>	<i>Second Segment</i>	<i>Third Segment</i>
July 2017	1.72	3.80	4.72

Based on § 430(h)(2)(C)(iv), the 24-month averages applicable for July 2017

adjusted to be within the applicable minimum and maximum percentages of the

corresponding 25-year average segment rates, are as follows:

<i>For Plan Years Beginning In</i>			<i>Adjusted 24-Month Average Segment Rates</i>		
	<i>Applicable Month</i>		<i>First Segment</i>	<i>Second Segment</i>	<i>Third Segment</i>
2016	July	2017	4.43	5.91	6.65
2017	July	2017	4.16	5.72	6.48

30-YEAR TREASURY SECURITIES INTEREST RATES

Generally for plan years beginning after 2007, § 431 specifies the minimum funding requirements that apply to multiemployer plans pursuant to § 412. Section 431(c)(6)(B) specifies a minimum amount

for the full-funding limitation described in § 431(c)(6)(A), based on the plan's current liability. Section 431(c)(6)(E)(ii)(I) provides that the interest rate used to calculate current liability for this purpose must be no more than 5 percent above and no more than 10 percent below the weighted average of the rates of interest on 30-year Treasury securi-

ties during the four-year period ending on the last day before the beginning of the plan year. Notice 88-73, 1988-2 C.B. 383, provides guidelines for determining the weighted average interest rate. The rate of interest on 30-year Treasury securities for June 2017 is 2.80 percent. The Service determined this rate as the average of the daily

¹Pursuant to § 433(h)(3)(A), the 3rd segment rate determined under § 430(h)(2)(C) is used to determine the current liability of a CSEC plan (which is used to calculate the minimum amount of the full funding limitation under § 433(c)(7)(C)).

determinations of yield on the 30-year Treasury bond maturing in May 2047. For plan years beginning in the month shown below,
the weighted average of the rates of interest on 30-year Treasury securities and the permissible range of rates used to calculate current liability are as follows:

<i>For Plan Years Beginning in</i>		<i>30-Year Treasury Weighted Average</i>	<i>90%</i>	<i>Permissible Range</i>	
<i>Month</i>	<i>Year</i>			<i>to</i>	<i>105%</i>
July	2017	2.90	2.61		3.04

MINIMUM PRESENT VALUE
SEGMENT RATES

In general, the applicable interest rates under § 417(e)(3)(D) are segment rates

computed without regard to a 24-month average. Notice 2007–81 provides guidelines for determining the minimum present value segment rates. Pursuant to that notice, the minimum present value segment rates determined for June 2017 are as follows:

<i>First Segment</i>	<i>Second Segment</i>	<i>Third Segment</i>
1.96	3.60	4.39

DRAFTING INFORMATION

The principal author of this notice is Tom Morgan of the Office of the Associ-

ate Chief Counsel (Tax Exempt and Government Entities). However, other personnel from the IRS participated in the development of this guidance. For further information regarding this notice, contact Mr. Morgan at 202-317-6700 or Tony Montanaro at 202-317-8698 (not toll-free numbers).

Table I
Monthly Yield Curve for June 2017
Derived from June 2017 Data

<i>Maturity</i>	<i>Yield</i>	<i>Maturity</i>	<i>Yield</i>	<i>Maturity</i>	<i>Yield</i>	<i>Maturity</i>	<i>Yield</i>	<i>Maturity</i>	<i>Yield</i>
0.5	1.39	20.5	4.16	40.5	4.42	60.5	4.51	80.5	4.56
1.0	1.56	21.0	4.17	41.0	4.42	61.0	4.51	81.0	4.56
1.5	1.71	21.5	4.18	41.5	4.43	61.5	4.51	81.5	4.56
2.0	1.84	22.0	4.19	42.0	4.43	62.0	4.52	82.0	4.56
2.5	1.95	22.5	4.20	42.5	4.43	62.5	4.52	82.5	4.56
3.0	2.04	23.0	4.21	43.0	4.44	63.0	4.52	83.0	4.56
3.5	2.13	23.5	4.22	43.5	4.44	63.5	4.52	83.5	4.56
4.0	2.22	24.0	4.23	44.0	4.44	64.0	4.52	84.0	4.56
4.5	2.32	24.5	4.24	44.5	4.44	64.5	4.52	84.5	4.56
5.0	2.42	25.0	4.25	45.0	4.45	65.0	4.52	85.0	4.57
5.5	2.52	25.5	4.26	45.5	4.45	65.5	4.53	85.5	4.57
6.0	2.63	26.0	4.27	46.0	4.45	66.0	4.53	86.0	4.57
6.5	2.74	26.5	4.27	46.5	4.46	66.5	4.53	86.5	4.57
7.0	2.84	27.0	4.28	47.0	4.46	67.0	4.53	87.0	4.57
7.5	2.95	27.5	4.29	47.5	4.46	67.5	4.53	87.5	4.57
8.0	3.05	28.0	4.30	48.0	4.46	68.0	4.53	88.0	4.57
8.5	3.15	28.5	4.30	48.5	4.47	68.5	4.53	88.5	4.57
9.0	3.25	29.0	4.31	49.0	4.47	69.0	4.53	89.0	4.57
9.5	3.33	29.5	4.32	49.5	4.47	69.5	4.54	89.5	4.57
10.0	3.42	30.0	4.32	50.0	4.47	70.0	4.54	90.0	4.57
10.5	3.49	30.5	4.33	50.5	4.47	70.5	4.54	90.5	4.57
11.0	3.56	31.0	4.33	51.0	4.48	71.0	4.54	91.0	4.57
11.5	3.63	31.5	4.34	51.5	4.48	71.5	4.54	91.5	4.58
12.0	3.69	32.0	4.35	52.0	4.48	72.0	4.54	92.0	4.58
12.5	3.74	32.5	4.35	52.5	4.48	72.5	4.54	92.5	4.58
13.0	3.79	33.0	4.36	53.0	4.49	73.0	4.54	93.0	4.58
13.5	3.84	33.5	4.36	53.5	4.49	73.5	4.54	93.5	4.58
14.0	3.88	34.0	4.37	54.0	4.49	74.0	4.55	94.0	4.58
14.5	3.91	34.5	4.37	54.5	4.49	74.5	4.55	94.5	4.58
15.0	3.95	35.0	4.38	55.0	4.49	75.0	4.55	95.0	4.58
15.5	3.97	35.5	4.38	55.5	4.49	75.5	4.55	95.5	4.58
16.0	4.00	36.0	4.38	56.0	4.50	76.0	4.55	96.0	4.58
16.5	4.03	36.5	4.39	56.5	4.50	76.5	4.55	96.5	4.58
17.0	4.05	37.0	4.39	57.0	4.50	77.0	4.55	97.0	4.58
17.5	4.07	37.5	4.40	57.5	4.50	77.5	4.55	97.5	4.58
18.0	4.09	38.0	4.40	58.0	4.50	78.0	4.55	98.0	4.58
18.5	4.10	38.5	4.40	58.5	4.51	78.5	4.55	98.5	4.58
19.0	4.12	39.0	4.41	59.0	4.51	79.0	4.56	99.0	4.58
19.5	4.13	39.5	4.41	59.5	4.51	79.5	4.56	99.5	4.59
20.0	4.15	40.0	4.42	60.0	4.51	80.0	4.56	100.0	4.59

26 CFR § 1.432(e)(9)-1: *Benefit suspensions for multiemployer plans in critical and declining status.*

(Also § 432). *Application Procedures for Approval of Benefit Suspensions for Certain Multiemployer Defined Benefit Pension Plans under § 432(e)(9)*

Rev. Proc. 2017-43

This revenue procedure contains revised procedures for applications for a suspension of benefits under a multiemployer defined benefit pension plan that is in critical and declining status under § 432(e)(9). These procedures replace the procedures set forth in Rev. Proc. 2016-27, 2016-19 I.R.B. 725, and are intended to facilitate the review of an application for a suspension of benefits in light of the experience of the Department of the Treasury (Treasury Department) in processing applications. The procedures set forth in this revenue procedure must be followed for applications submitted on or after September 1, 2017.

SECTION 1. BACKGROUND AND PURPOSE

Section 201 of the Multiemployer Pension Reform Act of 2014, Division O of the Consolidated and Further Continuing Appropriations Act, 2015, Public Law 113-235 (128 Stat. 2130 (2014)) (MPRA), amended the Internal Revenue Code (Code) and the Employee Retirement Income Security Act of 1974, Public Law 93-406 (88 Stat. 829 (1974)), as amended (ERISA), to permit the sponsor of a multiemployer defined benefit plan in critical and declining status to suspend benefits in certain situations.

In particular, MPRA amended § 432(e)(9) of the Code and section 305(e)(9) of ERISA to permit the sponsor of a multiemployer defined benefit plan in critical and declining status to submit to the Secretary of the Treasury (Secretary) an application to suspend benefits in certain situations. MPRA requires the Secretary to approve a plan sponsor's proposed suspension if the plan is eligible for the proposed suspension and the proposed suspension satisfies § 432(e)(9)(C) through (F) of the Code.¹

On April 28, 2016, the Treasury Department and IRS published final regulations (TD 9765) under § 432(e)(9) in the Federal Register (81 FR 25540). The Treasury Department and the IRS issued Rev. Proc. 2016-27 contemporaneously with the final regulations. Rev. Proc. 2016-27 (which replaced Rev. Proc. 2015-34 (2015-27 I.R.B. 1218)) prescribed the application process for approval of a proposed benefit suspension in accordance with § 432(e)(9)(G) and provided a model notice that a plan sponsor proposing a benefit suspension could use to satisfy the content and readability requirements of § 432(e)(9)(F)(ii) and (iii)(II).

This revenue procedure supersedes Rev. Proc. 2016-27 and applies to submissions made on or after September 1, 2017. Therefore, plan sponsors should follow the application process prescribed in this revenue procedure for an application for approval of a proposed benefit suspension submitted on or after that date.

This revenue procedure includes the following changes from Rev. Proc. 2016-27:

- Section 2.07 has been revised to provide that if the Treasury Department identifies an error in the application after it is submitted, then the Treasury Department may request that the plan sponsor provide additional materials to correct the error.
- Sections 3.01(2) and 3.02(2) contain a new requirement that the projected withdrawal liability payments that are included as part of the projection of the plan's available resources, and as part of the support for the certification that the plan is projected to avoid insolvency (taking the proposed suspension into account), must be separately identified as projected payments attributable to prior withdrawals and projected payments attributable to expected future withdrawals.
- Sections 4.01(1) and 4.01(2) have been simplified by replacing the requirement to provide sample calculations with respect to the guarantee-based limitation under § 432(e)(9)(D)(i) and

the disability-based limitation under § 432(e)(9)(D)(iii) for an individual in each category or group that is treated differently under the suspension with a requirement that those sample calculations be provided only for an individual currently receiving benefits, a contingent beneficiary of an individual currently receiving benefits, and a future retiree.

- Section 4.01(3) has been clarified to specify the age categories for which sample calculations with respect to the age-based limitation under § 432(e)(9)(D)(ii) (taking into account the guarantee-based limitation and, if applicable, the disability-based limitation) must be provided.
- Section 4.04(2) has been revised to provide that certain information that would otherwise be required to demonstrate that the proposed suspension is equitably distributed in accordance with § 432(e)(9)(D)(vi) need not be provided in the case of an application in connection with a proposed partition of a plan under section 4233 of ERISA ("partition").
- Section 4.05 has been revised to clarify the different categories of individuals with respect to which sample notices must be provided as part of the application.
- A new section 6.03 and Appendix B have been added to consolidate the descriptions of the actuarial assumptions used with respect to certain illustrations and projections included in the application (formerly contained in sections 3.01, 3.02, 4.02 and 4.03) and to provide additional detail regarding those assumptions.
- Section 6.09 (formerly section 6.08) has been revised to require the inclusion of a narrative statement of the reasons the plan is in critical and declining status.
- Section 7.08 has been revised to add a requirement to provide (as part of the required excerpts from the most recently filed Form 5500) the accountant's report under section 103(a)(3) of ERISA.

¹Section 201 of MPRA made amendments to section 305 of ERISA that are parallel to the amendments to § 432(e)(9) of the Code and directed the Treasury Department to publish guidance to implement these provisions under ERISA as well as the Code. See also section 101 of Reorganization Plan No. 4 of 1978 (43 FR 47713). Accordingly, the provisions of this revenue procedure pertaining to § 432(e)(9) of the Code apply also for purposes of the corresponding provisions of section 305(e)(9) of ERISA. Furthermore, the Secretary's approval of a proposed suspension would apply for purposes of section 305(e)(9) of ERISA, as well for purposes of § 432(e)(9) of the Code.

- Section 8.02 has been revised to add a requirement to provide the date on which the Treasury Department indicated that the application is a candidate for resubmission review, if applicable.
- Appendix A has been revised to include minor clarifications to the Model Notice of Application for Approval of a Proposed Reduction of Benefits.
- Appendix C (formerly Appendix B) has been revised to include minor clarifications to the power of attorney and declaration of representative form.
- Appendix D (formerly Appendix C) has been updated to make clarifications to the application checklist and to reflect the other changes made to this revenue procedure.

SECTION 2. APPLICATION PROCEDURES

This section prescribes procedures for applying for approval of a proposed suspension of benefits, including information that must be included in the application. A plan sponsor may be required to provide additional information with respect to any application after it is submitted. For example, the plan sponsor may be required to provide individual participant data that would permit the Secretary to confirm that the sample and actuarial calculations provided in the application, such as those provided for purposes of section 4 of this revenue procedure, are accurate and applied in a consistent manner.

.01 Who may submit an application. An application for approval of a proposed benefit suspension under § 432(e)(9) must be submitted by the plan sponsor as defined in § 432(j)(9) (generally, the joint board of trustees of the plan) or by an authorized representative of the plan sponsor. The application must be signed and dated by an authorized trustee who is a current member of the board of trustees or by an authorized representative of the plan sponsor who is described in section 7.01(13) of Rev. Proc. 2017–1, 2017–1 I.R.B. 1.²

.02 Terms of proposed benefit suspension. The application must include a description of the proposed benefit suspen-

sion. The description must include the following information:

(1) The effective date of the proposed suspension.

(2) If the proposed suspension will expire by its own terms, the expiration date.

(3) If the proposed suspension does not provide for different treatment of participants and beneficiaries (other than as a result of application of the individual limitations of § 432(e)(9)(D)(i), (ii) and (iii) (the “individual limitations”)), a statement to that effect.

(4) If the proposed suspension provides for different treatment of participants and beneficiaries (other than as a result of application of the individual limitations), the categories or groups of individuals for which the proposed suspension provides for different treatment (other than as a result of application of the individual limitations) and how those categories or groups are defined. The description must describe the differences in treatment, including the formula used to calculate the amount of the proposed benefit suspension for individuals in each category or group. Although any benefit suspension must take into account the individual limitations on a benefit suspension, for ease of presentation and understanding, the amount of the proposed benefit suspension described in this section 2.02 for an individual must be calculated as if the individual limitations did not apply to that individual. (Note that the application of those limitations must be described pursuant to section 4.01 of this revenue procedure, below.)

.03 Penalties of perjury. The following statement signed by an authorized trustee on behalf of the board of trustees that the application is submitted under penalties of perjury: “Under penalties of perjury, I declare that I have examined this application, including the accompanying documents, and, to the best of my knowledge and belief, the request contains all the relevant facts relating to the request, and such facts are true, correct, and complete.”

.04 Public disclosure. A statement signed by an authorized trustee on behalf of the board of trustees acknowledging that, pursuant to § 432(e)(9)(G)(ii), the application for approval of the proposed

suspension of benefits, and the application’s supporting material, will be publicly disclosed through publication on the Treasury Department website.

.05 Where to submit an application. An application must be submitted to:

www.treasury.gov/mpira

.06 Signature. Any signature required by this revenue procedure must be submitted electronically in Portable Document Format as part of the application. A stamped signature is not permitted.

.07 Duty to correct. If, after submission of an application for a suspension of benefits, an error in that application is identified by the plan sponsor, then the plan sponsor must provide prompt notice to the Treasury Department. In such a case (or if the Treasury Department identifies an error in the application), the Treasury Department may request additional materials in order to correct the error in the application.

.08 Resubmission review. If the application for a suspension is submitted under the resubmission review process pursuant to § 1.432(e)(9)–1(g)(3), see section 8 of this revenue procedure for special procedures that apply.

SECTION 3. DEMONSTRATION THAT PLAN IS ELIGIBLE FOR SUSPENSION

The application must include the following information providing support for the plan sponsor’s method of satisfying the benefit suspension criteria under § 432(e)(9), including the plan’s eligibility for the suspension:

.01 Plan actuary’s certification of critical and declining status. The plan actuary’s certification required under § 432(b)(3)(A) that the plan is in critical and declining status as defined in § 432(b)(6) for the plan year in which the application is submitted. Documentation supporting the actuarial certification of status must be included with the certification, including a plan-year-by-plan-year projection of the available resources as defined in § 418E(b)(3) and the benefits that are due under the plan, demonstrating that the plan is projected to become insolvent during the period described in § 432(b)(6) that applies to the plan. The plan-year-by-plan-year projec-

²Section 7.01(13) of Rev. Proc. 2017–1 provides that the following parties may be authorized representatives if appropriately accredited or authorized: attorney, certified public accountant, enrolled agent, enrolled actuary, and enrolled retirement plan agent.

tion must separately identify the market value of assets as of the beginning and end of each plan year in the relevant period and the following cash-flow items for each of those years:

(1) Contributions.

(2) Withdrawal liability payments, separately identifying those payments that are attributable to prior withdrawals and those payments that are attributable to assumed future withdrawals.

(3) Benefit payments, separately identifying benefit payments with respect to current retirees and beneficiaries, terminated vested participants who are not currently receiving benefits, currently active participants, and future new entrants.

(4) Administrative expenses.

(5) Net investment returns.

.02 Plan actuary's certification that the plan is projected to avoid insolvency. The plan actuary's certification to the plan sponsor under § 432(e)(9)(C)(i) that the plan is projected to avoid insolvency within the meaning of § 418E, taking into account the proposed benefit suspension (and, if applicable, a proposed partition of the plan) and assuming that the proposed suspension continues until it expires by its own terms or, if no such expiration date is set, indefinitely. Documentation supporting the actuarial certification under § 432(e)(9)(C)(i) must be included with the certification, including a plan-year-by-plan-year projection of the available resources within the meaning of § 418E(b)(3) and the benefits that are due under the plan demonstrating the avoidance of insolvency of the plan over the extended period described in § 1.432(e)(9)-1(d)(5)(ii)(C). The plan-year-by-plan-year projection must separately identify the market value of assets as of the beginning and end of the initial period (as defined below) and of each subsequent plan year in the extended period and the following cash-flow items for the initial period and each of those plan years:

(1) Contributions.

(2) Withdrawal liability payments, separately identifying those payments that are attributable to prior withdrawals and those

payments that are attributable to assumed future withdrawals.

(3) Benefit payments, separately identifying benefit payments with respect to current retirees and beneficiaries, terminated vested participants who are not currently receiving benefits, currently active participants, and future new entrants.

(4) Administrative expenses.

(5) Net investment returns.

For this purpose, the initial period begins on the first day of the calendar quarter in which the application is submitted and ends with the last day of the plan year that includes that first day.

.03 Plan sponsor's determination of projected insolvency. The plan sponsor's determination under § 432(e)(9)(C)(ii) that the plan would not be projected to avoid insolvency if no suspension of benefits were applied under the plan, even though all reasonable measures to avoid insolvency have been taken. The determination must include the documentation set forth in section 5 of this revenue procedure.

SECTION 4. DEMONSTRATION THAT THE PROPOSED SUSPENSION SATISFIES THE STATUTORY REQUIREMENTS

The application must include the following information to demonstrate that certain statutory limitations and notice requirements are satisfied with respect to the proposed suspension of benefits:

.01 Demonstration that limitations on individual suspensions are satisfied. A demonstration of how the proposed suspension satisfies the individual limitations.³ The demonstration must include:

(1) A sample calculation applying the guarantee-based limitation under § 432(e)(9)(D)(i) of the Code for an individual currently receiving benefits, a contingent beneficiary of an individual currently receiving benefits, and a future retiree. Each sample calculation must identify how the monthly benefit that would be guaranteed under section 4022A of ERISA is calculated (assuming, for this purpose, that no portion of the individu-

al's benefit under the plan is subject to permitted forfeiture under § 411(a) of the Code, due, for example, to a failure to vest in accordance with the vesting schedule specified under the plan). The calculation must identify the extent, if any, to which the monthly guaranteed benefit calculated under section 4022A of ERISA is reduced on account of any of the following limitations or exclusions:

(a) The section 4022A(a) exclusion of certain forfeitable benefits (for example, increased benefits that have not become part of the accrued benefit).

(b) The section 4022A(b)(1)(A) exclusion of certain benefits and benefit increases in effect for less than 60 months.

(c) The limitations contained in the section 4022A(c)(2) definition of the accrual rate used for calculating the monthly guaranteed benefit.⁴

(d) The section 4022A(d) limitation that the guaranteed benefit will not exceed the benefit calculated under the plan as reduced under § 411(a)(3)(E) of the Code.

(e) The section 4022A(e) exclusion, pursuant to section 4022(b)(6), of benefits that would not be guaranteed if paid under a single-employer plan (i.e., benefits paid from a plan that does not satisfy the requirements of § 401(a) or § 404(a)(2) of the Code).

(2) If the plan provides for benefits based on disability (as defined under the plan):

(a) A description of each benefit based on disability, as defined under the plan, that is paid to an individual under the plan (including disability benefits that are not available to newly disabled participants), and

(b) For each type of benefit based on disability, a sample calculation applying the disability-based limitation under § 432(e)(9)(D)(iii) of the Code for an individual currently receiving benefits, a contingent beneficiary of an individual currently receiving benefits, and a future retiree. The sample calculation should show how the plan determines the extent to which any benefit paid with respect to a

³The sample calculations submitted pursuant to this section 4.01 must not include personally identifiable information with respect to any individual, such as a name or Social Security number.

⁴Under the limitations contained in this definition, the accrual rate is determined based on a monthly benefit eligible for the PBGC guarantee that is no greater than the monthly benefit payable under the plan at normal retirement age in the form of a single life annuity (so that, for example, the benefit used to determine the accrual rate does not reflect an actuarial increase related to delayed retirement or increased initial payments that are the result of benefit payments in the form of a social security level income option). In addition, the accrual rate is determined without regard to any reduction under § 411(a)(3)(E) of the Code. In order to determine the accrual rate, the monthly benefit is divided by the participant's years of credited service (which cannot exceed 1 year for any year of participation).

participant who commenced (or will commence) benefits as a result of disability is, or is not, treated as a benefit based on disability. If some but not all of an individual's benefit is not described in the plan as a disability benefit (for example, if a plan provides a retirement benefit at normal retirement age that is greater than a disability benefit paid before normal retirement age), then the calculation must show the extent to which the retirement benefit is, or is not, a benefit based on disability.

(3) Sample calculations applying the age-based limitation under § 432(e)(9)(D)(ii). The sample calculations must show how the proposed suspension satisfies the age-based limitation taking into account the guarantee-based limitation. If some but not all of an individual's benefit is not described in the plan as a disability benefit, then the sample calculations must also show how the proposed suspension satisfies the age-based limitation taking into account both the guarantee-based limitation and the disability-based limitation. Separate sample calculations must be provided for individuals in each category or group identified in accordance with section 2.02(4) of this revenue procedure that contains an individual who is over age 75. For each such category or group, sample calculations must be provided for the following individuals:

(a) A retiree or beneficiary who has commenced benefits as of the effective date of the proposed suspension and who is between age 75 and age 79 on the last day of the month that contains the proposed effective date of the suspension.

(b) A beneficiary of a retiree described in section 4.01(3)(a) of this revenue procedure.

(c) An individual who has not commenced benefits as of the effective date of the proposed suspension.

.02 *Demonstration that the proposed suspension is reasonably estimated to enable the plan to avoid insolvency.* A demonstration that, in accordance with § 432(e)(9)(D)(iv), the proposed benefit suspension (considered, if applicable, in combination with a proposed partition of the plan) is reasonably estimated to enable the plan to avoid insolvency. The demonstration must include:

(1) An illustration, prepared on a deterministic basis, showing that:

(a) For each plan year during the extended period described in § 1.432(e)(9)–1(d)(5)(ii)(C), the plan's solvency ratio – the ratio of the plan's available resources (as defined in § 418E(b)(3)) to the scheduled benefit payments under the plan for the plan year – is projected on a deterministic basis to be at least 1.0.

(b) If the plan's projected funded percentage at the end of the extended period is less than or equal to 100 percent, then neither the plan's solvency ratio nor its available resources are projected to decrease in any of the last five plan years of the extended period.

(2) An illustration, using stochastic projections that reflect variance in investment return, that the probability the plan will avoid insolvency throughout the extended period as a result of the proposed suspension is greater than 50 percent. (The plan sponsor of a plan that is not required to appoint a retiree representative under § 432(e)(9)(B)(v)(I) is not required to provide this illustration, unless the plan sponsor chooses to use stochastic projections to demonstrate that the plan will avoid insolvency.)

(3) Information on the actuarial assumptions used for the illustrations, as described in section 6.03 of this revenue procedure.

.03 *Demonstration that the proposed suspension is reasonably estimated to not materially exceed the level necessary to avoid insolvency.* In the case of a plan that is not applying for a partition of the plan in combination with a suspension, a demonstration that, in accordance with § 432(e)(9)(D)(iv), the proposed benefit suspension is reasonably estimated to not materially exceed the level necessary to enable the plan to avoid insolvency. For this purpose, the assumptions used must be the same as those used for purposes of 4.02 of this revenue procedure. The demonstration must include an illustration, prepared on a deterministic basis, of the plan's available resources and solvency ratio as described in section 4.02(1) of this revenue procedure (and an illustration of the probability that the plan will avoid insolvency prepared using stochastic projections, as described in section 4.02(2) of this revenue procedure if those stochastic

projections were used for the plan) showing that the proposed suspension would not reasonably be estimated to enable the plan to avoid insolvency if the dollar amount of the proposed suspension for each participant and beneficiary were reduced (but not below zero) by the greater of—

(1) Five percent of the reduction in the periodic payment proposed for that participant or beneficiary; or

(2) Two percent of the participant's or beneficiary's periodic payment determined without regard to the reduction proposed in the application.

.04 *Demonstration that the proposed benefit suspension is distributed equitably.* A demonstration that, in accordance with § 432(e)(9)(D)(vi), the proposed benefit suspension is distributed in an equitable manner across the participant and beneficiary population.

(1) For the plan in the aggregate, the application must include the following:

(a) A statement of the number of participants, beneficiaries, and alternate payees; the average monthly benefit before the suspension; the average monthly benefit after the suspension (determined taking into account the individual limitations); and the aggregate present value of the reduction in benefits for all individuals.

(b) A demonstration of the distribution of the benefit suspension. This demonstration may be expressed as a count of individuals whose benefits are not reduced, and a count of individuals whose benefits are reduced by a percentage that falls within a series of ranges that do not exceed 10 percent. For example, the distribution could show a count of the individuals who have no reduction, a reduction of 10 percent or less, a reduction of 20 percent or less but more than 10 percent, etc.

(2) Except in the case of an application in connection with a proposed partition of the plan, if, as described in section 2.02(4) of this revenue procedure, the proposed suspension provides for different treatment for different categories or groups (other than as a result of application of the individual limitations), the application must include the following:

(a) The information described in section 4.04(1)(a) and (b) of this revenue

procedure for each such category or group.

(b) With respect to the demonstration that the proposed benefit suspension is distributed in an equitable manner across the participant and beneficiary population, the application must identify the factors (for example, those listed in section § 432(e)(9)(D)(vi)(I) through (XI)) that were taken into account in designing the proposed suspension.

(c) If none of the factors listed in § 432(e)(9)(D)(vi)(I) through (XI) were taken into account in designing the proposed suspension, then the application must explain why none of them were taken into account.

(d) For each factor identified under section 4.04(2)(b) of this revenue procedure that is not one of the factors listed in § 432(e)(9)(D)(vi)(I) through (XI), an explanation of why the factor is relevant.

(e) An explanation of how the differences in treatment under the proposed suspension among the categories or groups identified result from a reasonable application of the relevant factors.

.05 Notice. A description of the plan sponsor's method for satisfying the notice requirements under § 432(e)(9)(F) of the Code, including the following information:

(1) A copy of each type of actual notice⁵ that has been or will be given to participants, beneficiaries, employers that have an obligation to contribute within the meaning of section 4212(a) of ERISA, and each employee organization representing participants under the plan. If individuals' notices differ from each other in any way (other than for individualized information relating to the estimate of the effect of the proposed suspension on the individual's benefit), then a copy of each type of notice that has been given or will be given to an individual must be provided. For example, a copy of each of the different notices that have been or are being provided to individuals described in paragraphs (a) through (d) of the model notice in Appendix A must be provided, even if the plan sponsor uses the model notice in Appendix A. Similarly, if there is a different notice for individuals who have retired on account of disability, a

copy of the actual notice used for that group of individuals must be provided.

(2) A description of the efforts that are being made to contact participants, beneficiaries and alternate payees.

(3) A description of the steps the plan sponsor has taken to ensure that any electronically delivered notices are reasonably accessible to the recipients.

(4) A list of:

(a) Each employer that has an obligation to contribute within the meaning of section 4212(a) of ERISA, and

(b) Each employee organization representing participants under the plan.

SECTION 5. PLAN SPONSOR DETERMINATION RELATING TO REASONABLE MEASURES TAKEN TO AVOID INSOLVENCY

With respect to the plan sponsor's determination required under section 3.03 of this revenue procedure that the plan is projected to become insolvent unless benefits are suspended, the application must include the following information:

.01 Measures taken to avoid insolvency. A detailed description of measures taken to avoid insolvency over the past 10 plan years immediately preceding the plan year in which the application is submitted.

.02 Plan factors. In accordance with § 432(e)(9)(C)(ii), the following specific information with respect to the plan:

(1) For the 10 plan years immediately preceding the plan year in which the application is submitted:

(a) Contribution levels.

(b) Levels of benefit accruals, including any prior reductions in the rate of benefit accruals.

(c) Prior reductions, if any, of adjustable benefits under § 432(e)(8).

(d) Any prior suspension of benefits under § 432(e)(9).

(e) Measures undertaken by the plan sponsor to retain or attract contributing employers.

(2) The impact on plan solvency of the subsidies and ancillary benefits, if any, available to active participants.

(3) Compensation levels of active participants relative to employees in the participants' industry generally.

(4) Competitive and other economic factors facing contributing employers.

.03 How plan factors were taken into account. For each of the factors listed under section 5.02 of this revenue procedure and the factors described in § 432(e)(9)(C)(ii)(VIII) (the impact of benefit and contribution levels on retaining active participants and bargaining groups under the plan) and § 432(e)(9)(C)(ii)(IX) (the impact of past and anticipated contribution increases under the plan on employer attrition and retention levels), the application must describe how that factor was taken into account (or why that factor was not taken into account) in the plan sponsor's determination that all reasonable measures have been taken to avoid insolvency.

.04 Other factors considered. If the plan sponsor took into account any other factors in its determination that all reasonable measures have been taken to avoid insolvency, then the application must discuss why those factors were relevant and how they were taken into account.

SECTION 6. OTHER REQUIRED INFORMATION

The application must also include the following information:

.01 Ballot. A proposed ballot intended to satisfy the requirements of § 432(e)(9)(H)(iii). However, the proposed ballot should not include the information described in § 1.432(e)(9)-1(h)(3)(i)(E), (L) or (M) (regarding the statement in opposition to the proposed benefit suspension, the individualized estimate that was or will be provided as part of the notice, and the voting procedures (including the deadline for voting)).

.02 Partition. Whether the plan sponsor is requesting approval from the Pension Benefit Guaranty Corporation (PBGC) of a proposed partition of the plan under section 4233 of ERISA. If the plan sponsor is requesting approval of a proposed partition, then the application for the proposed benefit suspension must include the proposed effective date of the partition and a plan-year-by-plan-year projection of the amount of the reduction in benefit payments (that is, the guaranteed amounts covered by financial assis-

⁵The copy of the notice(s) attached to the application must not include personally identifiable information with respect to any individual, such as a name or social security number.

tance under the successor plan for each year) attributable to the partition.

.03 Actuarial assumptions used for projections. The application must include:

(1) A description of each of the assumptions used in the projections required under sections 3.01, 3.02, 4.02(1), 4.02(2), and 4.03 of this revenue procedure,

(2) Supporting evidence for the selection of those assumptions, and

(3) If different assumptions are used for different purposes within an application, an explanation of any differences among the assumptions used for various purposes.

A template for providing this information is included in Appendix B.

.04 Ten-year experience for certain critical assumptions. With respect to each of the 10 plan years immediately preceding the plan year in which the application is submitted, a disclosure that separately identifies:

- (1) Total contributions.
- (2) Total contribution base units.
- (3) Average contribution rates.
- (4) Withdrawal liability payments.
- (5) Rate of return on plan assets.

.05 Demonstration of sensitivity of projections. The application must include deterministic projections of the sensitivity of the plan's solvency ratio throughout the extended period to certain key assumptions. For this purpose, the application must include the following separate projections calculated using the same assumptions as those used under section 4.02(1) of this revenue procedure, except that:

(1) The assumed rate of return is reduced by 1 percentage point.

(2) The assumed rate of return is reduced by 2 percentage points.

(3) Future contribution base units increase or decrease at a rate equal to the average annual rate of increase or decrease that the plan experienced over the period of years described in section 6.04 of this revenue procedure.

(4) Future contribution base units increase or decrease at a rate equal to the rate described in section 6.04(3) of this

revenue procedure reduced by 1 percentage point.

The projections described in (3) and (4) may be made without reflecting any adjustments to the projected benefit payments that result from the alternative assumptions regarding future contribution base units.

.06 Projection of funded percentage. The plan sponsor must include an illustration, prepared on a deterministic basis, of the projected value of plan assets, the accrued liability of the plan (calculated using the unit credit funding method), and the funded percentage for each year in the extended period.

.07 Plan sponsor certifications relating to plan amendments. The plan sponsor must certify that if it receives final authorization to implement the suspension as described in § 432(e)(9)(H)(vi) and chooses to implement the authorized suspension, then, in addition to the plan amendment implementing the suspension, the following plan amendments will be timely adopted and not modified at any time thereafter before the suspension of benefits expires:

(1) A plan amendment providing that in accordance with § 432(e)(9)(C)(ii) the benefit suspension will cease as of the first day of the first plan year following the plan year in which the plan sponsor fails to maintain a written record of its determination that both:

(a) All reasonable measures to avoid insolvency continue to be taken during the period of the benefit suspension.

(b) The plan would not be projected to avoid insolvency if no suspension of benefits were applied under the plan.

(2) A plan amendment providing that any future benefit improvements must satisfy the requirements of § 432(e)(9)(E).

.08 Whether a plan is described in § 432(e)(9)(D)(vii). Whether the plan is a plan described in § 432(e)(9)(D)(vii) and, if so, how the provisions of § 432(e)(9)(D)(vii) are reflected in the proposed benefit suspension.

.09 Narrative statement. The plan sponsor must include a narrative statement of the reasons the plan is in critical and declining status. The narrative statement may also in-

clude any other information that would be relevant to the application.

SECTION 7. IDENTIFICATION AND BACKGROUND INFORMATION ON THE PLAN

The application must include the following identification and background information:

.01 Plan sponsor. Name, contact information (for example, address, telephone number, email address, and fax number) and employer identification number (EIN) of the plan sponsor.

.02 Plan identification. The plan's name, EIN (if different from the plan sponsor's EIN), and plan number.

.03 Retiree representative. Name and contact information of the plan's retiree representative (if any) described in § 432(e)(9)(B)(v).

.04 Plan's enrolled actuary. Name, enrollment number, and contact information of the plan's enrolled actuary within the meaning of § 7701(a)(35).

.05 Power of Attorney. A designation of power of attorney for each authorized representative who will represent the plan sponsor in connection with the application. See Appendix C.

.06 Plan documents. With respect to the plan document, the most recent plan document, including all amendments adopted since the last restatement⁶ as well as the following documents related to that plan document:

(1) The most recent summary plan description as defined under section 102 of ERISA and any subsequent summaries of material modification.

(2) The most recent determination letter issued to the plan.

.07 Collective bargaining and side agreements. Excerpts from collective bargaining agreements and side agreements (such as participation agreements or reciprocity agreements) pursuant to which the plan is maintained. The plan sponsor should not submit an entire collective bargaining or side agreement. The required excerpts are:

(1) Language from any portion of a collective bargaining agreement that is

⁶Submission of the plan document and amendments to the Treasury Department as part of the application for approval of a proposed suspension under this revenue procedure will not be treated as a request to the IRS for a favorable determination on the qualified status of the plan under § 401 or the exempt status of the related trust under § 501(a). For procedures governing an application to the IRS for a favorable determination under §§ 401 and 501(a), see Rev. Proc. 2017-4, 2017-1 I.R.B. 146, and Rev. Proc. 2016-37, 2016-29 I.R.B. 136, as modified.

relevant to the plan or the proposed suspension.

(2) Language from any portion of a side agreement that is relevant to the plan or the proposed suspension.

.08 *Annual return*. Excerpts from the most recently filed Form 5500, Annual Return/Report of Employee Benefit Plan. The required excerpts are:

(1) Pages 1 and 2 of the Form 5500, without attachments or schedules.

(2) The Schedule MB, including attachments.

(3) The Schedule R, including attachments.

(4) The accountant's report under section 103(a)(3) of ERISA.

.09 *Rehabilitation plan*. The rehabilitation plan described in § 432(e)(3) as most recently updated. If the rehabilitation plan includes more than one contribution or benefit schedule, then the application must specify the extent to which each schedule applies (either pursuant to collective bargaining or, with respect to the designated default schedule, as imposed on an employer), expressed as a percentage of the total contributions for the most recent year for which the information is available.

.10 *Valuation reports*. The two most recent actuarial valuation reports for the plan.

.11 *Completed checklist*. A completed checklist of information required to be included in the application. See Appendix D. The completed checklist must be signed and dated by an authorized trustee who is a current member of the board of trustees.

SECTION 8. RESUBMISSION REVIEW

If the Treasury Department has indicated that an application for a proposed suspension is a candidate for resubmission review pursuant to § 1.432(e)(9)–1(g)(3), and the application is being submitted for resubmission review, then the application must include:

.01 All of the information required under this revenue procedure for an original application, except that, with respect to information that has not changed, the application should cross-reference that information in the prior application rather than provide the information again.

.02 A statement that the application is being submitted for resubmission review and the date on which the Treasury Department indicated that the application is a candidate for resubmission review.

SECTION 9. EFFECT ON OTHER REVENUE PROCEDURES

Rev. Proc. 2016–27 is modified and superseded.

SECTION 10. PAPERWORK REDUCTION ACT

The collections of information contained in this revenue procedure have been approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507 (c)) under control number 1545-2260.

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.

The collections of information in this revenue procedure appear in Appendix C (sample Power of Attorney form) and Appendix D (checklist for completeness of the application). Burden estimates with respect to information described in sections 2, 3, 4, 5, 6 and 7 of this revenue procedure are reported in the preamble to the notice of proposed rulemaking (REG–102648–15) published on June 19, 2015, in the Federal Register (80 FR 35262) pursuant to which § 1.432(e)(9)–1 was issued.

We estimate the total number of respondents to be 10.

We estimate it will take 2 hours to comply. The estimated total annual and/or recordkeeping burden is 20 hours.

Estimates of the annualized cost to respondents for the hour burdens shown are not available at this time.

CONTACT INFORMATION

For general information regarding this revenue procedure, please contact the Treasury Department MPRA guidance information line at (202) 622-1559 (not a toll-free number). For information regarding a specific application for benefit suspension, please contact the Treasury Department at (202) 622-1534 (not a toll-free number).

APPENDIX A

MODEL NOTICE OF APPLICATION FOR APPROVAL OF A PROPOSED REDUCTION OF BENEFITS

[This is a model notice that can be used to satisfy the requirements of § 432(e)(9)(F) and the related regulations. The notice, including any inserts and additional material, must be written in a manner so as to be understood by the average plan participant.]

[If the plan sponsor applies for a partition of the Plan under section 4322 of ERISA, then this notice can be combined with the notice required under section 4322 assuming all other requirements, such as the timing of providing each notice, are satisfied.]

NOTICE OF A PROPOSED REDUCTION OF YOUR PENSION BENEFITS

On *[insert date]*, the Board of Trustees of the *[insert Plan name]* (“Plan”) *[insert submitted/will submit]* an application to the U.S. Treasury Department for approval to reduce benefits under the Plan. This type of benefit reduction is allowed by the Federal law called the Multiemployer Pension Reform Act of 2014.

You are getting this notice because you have a pension benefit under the Plan. **The end of this notice describes the proposed reduction of your monthly payments.**⁷ This notice will also answer the following questions for you—

1. Why is the Board of Trustees proposing to reduce benefits?
2. What will happen if the Plan runs out of money?
3. How did the Board of Trustees decide whose benefits to reduce and by how much?
4. What are the proposed reductions in benefits?
5. What comes next?

1. Why is the Board of Trustees proposing to reduce benefits?

The Plan’s actuary estimated that, unless benefits are reduced, the Plan will not have enough money to pay benefits in the year *[insert year]*. This estimate is based on how much money the actuary expects the Plan to receive and to pay out each year. The Plan’s actuary estimated that, with the reduction of benefits that the Board of Trustees has proposed, the plan should not run out of money.

2. What will happen if the Plan runs out of money?

If the Plan does not have enough money to pay benefits, then only the amount guaranteed by the Pension Benefit Guaranty Corporation (“PBGC”) will be paid. You can find the amount of your benefit that is guaranteed by PBGC at the end of this notice.

3. How did the Board of Trustees decide whose benefits to reduce and by how much?

Under Federal law, the Board of Trustees must apply the following rules to the proposed reduction—

- The total reduction in everybody’s benefits must be estimated to be large enough to keep the plan from running out of money but not larger than needed to do that.
- Your monthly benefit and the benefit of your beneficiary cannot be reduced below 110% of the amount guaranteed by PBGC.
- Disability benefits (as defined under the Plan) cannot be reduced.
- The benefits of people who are at least 80 years old on *[insert date that is the last day of the month during which the suspension is proposed to take effect]* and their beneficiaries cannot be reduced.
- The benefits of people who are at least 75 years old on *[insert date that is the last day of the month during which the suspension is proposed to take effect]* and their beneficiaries are partially protected, and the closer the person is to age 80 the less the benefits can be reduced.
- The reduction of benefits must be spread fairly among the people who have a pension benefit under the plan.

In deciding whether the proposed reduction is spread fairly, the Board of Trustees took into account the following: *[List the factors the Board of Trustees took into account in designing the proposed suspension of benefits. This list may include (but is not limited to) factors found in § 432(e)(9)(D)(vi).]*

4. What are the proposed reductions in benefits?

The Board of Trustees proposes the following reduction of benefits: *[Describe the proposed suspension of benefits and its effect. Describe each category or group of individuals for which the proposed suspension provides for different treatment (other than as a result of application of the individual limitations) and how those categories or groups are defined; describe the formula used to determine how the amount of the proposed suspension is determined for individuals in each category or group; specify whether the*

⁷A version of this notice that does not include the estimate of the effect on your benefit is being sent to unions that represent Plan participants and to all contributing employers.

proposed suspension will remain in effect indefinitely or will expire by its own terms (and if so, when it will expire); describe any proposed phase-in of the suspension; and describe the effect of the proposed suspension on the plan's projected insolvency.]

5. What comes next?

Approval or denial of the application by the Treasury Department

The Treasury Department will review the application to see whether it meets all of the legal requirements under Federal law. If the application meets all of those requirements, the Treasury Department is required to approve the application. If the application does not meet the legal requirements, the Treasury Department will deny the application. The Treasury Department will have until *[insert date 225 days after the complete application is submitted]* to make a decision.

You can get information from the Treasury Department

More information about the proposed benefit reductions and a copy of the application will be available at www.treasury.gov/mpra.

The application will be available on that website within 30 days after the Treasury Department receives it. The application includes more information about the proposed reduction, including details about: 1) the Plan actuary's certification that the Plan will run out of money (that is, that the plan is in "critical and declining status"); 2) how the proposed reduction would satisfy the requirement that it be large enough so that the Plan is estimated not to run out of money, while not being larger than needed; and 3) the sensitivity of these estimates to the assumptions used.

The application describes the steps the Board of Trustees has already taken to keep the Plan from running out of money and why the Board of Trustees believes that a benefit reduction is the only remaining option to keep the plan from running out of money. In addition, the application explains why the Board of Trustees believes that the proposed reduction is spread fairly among the people who have a pension benefit under the plan.

The Treasury Department website will also provide updated information on the application, such as whether the application has been withdrawn.

For further information and assistance you can also write to the Treasury Department at the following address:

Department of the Treasury
Attn: MPRA Office, Room 1204
1500 Pennsylvania Avenue, NW
Washington, DC 20220

You can comment on the application to reduce benefits

You will be able to submit a comment on the application by going to www.treasury.gov/mpra. Comments may also be mailed to the Treasury Department, at the address listed above. All interested parties can make comments, and the comments will be publicly available.

Retiree Representative

If a plan has 10,000 or more participants, the Board of Trustees must select a retiree representative to advocate for the interests of retirees, beneficiaries, and deferred vested participants as part of this process. A plan is required to pay the reasonable expenses of the retiree representative.

[If the selection of the retiree representative was required under § 432(e)(9)(B)(v)(I), insert the following]

On *[insert date]*, the Board of Trustees selected *[insert name]* to be the retiree representative. *[He/She]* is a retiree currently receiving benefits under the Plan and *[is also/is not]* a member of the Board of Trustees. Participants and beneficiaries may contact *[insert name of retiree representative]* at *[insert phone number, address, and e-mail address]*.

[If the Board of Trustees has selected a retiree representative under § 432(e)(9)(B)(v)(I), even though it was not required, insert the following]

Even though the Plan has fewer than 10,000 participants, the Board of Trustees selected *[insert name]* to be the retiree representative on *[insert date]*. *[He/She]* is a retiree currently receiving benefits under the Plan and *[is also/is not]* a member of the Board of Trustees. Participants and beneficiaries may contact *[insert name of retiree representative]* at *[insert phone number, address, and e-mail address]*.

[If the Board of Trustees has not selected a retiree representative, insert the following]

The Board of Trustees is not required to select a retiree representative, because the Plan has fewer than 10,000 participants. The Board of Trustees has not chosen to select a retiree representative.

Vote on the proposed benefit reduction

If the application for the proposed reduction of benefits is approved by the Treasury Department, then you will have the opportunity to vote on the proposed reduction. Unless a majority of all participants and beneficiaries of the Plan vote to reject the reduction, the Treasury Department must allow the reduction of benefits to take effect. This means that not voting counts the same as a vote to approve the reduction.

[If the Board of Trustees believes that PBGC will or may determine that the Plan is a systemically important plan (a plan with a present value of projected PBGC financial assistance payments that exceeds \$1 billion, as indexed for inflation), insert the following two paragraphs]

Even if a majority votes to reject the proposed reduction of benefits, Federal law requires the Treasury Department to allow the proposed benefit reduction (or a modified version) to take effect if the cost to PBGC to provide guaranteed benefits is particularly large. This rule applies if the value of payments from PBGC if the plan runs out of money is expected to be more than *[insert threshold most recently published under § 432(e)(9)(H)(v)(III)(bb)]*. Before the Treasury Department permits a reduction in this circumstance, PBGC's Participant and Plan Sponsor Advocate may recommend possible modifications to the proposed reduction.

You may contact PBGC's Participant and Plan Sponsor Advocate regarding such a modification by mail at Pension Benefit Guaranty Corporation, Attn: Participant and Plan Sponsor Advocate, 1200 K St., NW, Washington DC 20005; by telephone at (202) 326-4448; or by e-mail at advocate@PBGC.gov.

Your right to see Plan documents

You may want to review Plan documents to help you understand your rights and the proposed reduction to your benefits. The Plan administrator must respond to your request for the following documents within 30 days:

- The Plan document (including any amendments adopted to reflect an authorized reduction of benefits), trust agreement, and other documents governing the Plan (such as collective bargaining agreements).
- The Plan's most recent summary plan description (SPD or plan brochure) and any summary of material modifications.
- The Plan's Form 5500 annual reports, including the accountant's report and audited financial statements, filed with the U.S. Department of Labor during the last six years.
- The annual funding notices furnished by the Plan during the last six years.
- Actuarial reports, including reports prepared in anticipation of the benefit reduction, furnished to the Plan within the last six years.
- The Plan's current rehabilitation plan, including contribution schedules, and, if the proposed benefit reduction goes into effect, annual plan-sponsor determinations that all reasonable measures to avoid running out of money continue to be taken and that the Plan would run out of money if there were no benefit reductions.
- Any quarterly, semi-annual, or annual financial reports prepared for the Plan by an investment manager, fiduciary, or other advisor and furnished to the Plan within the last six years.

The Plan administrator may charge you the cost per page to the Plan for the cheapest way of copying documents, but cannot charge more than 25 cents per page. The Plan's Form 5500 Annual Return/Report of Employee Benefit Plan is also available free of charge at www.dol.gov/ebsa/5500main.html. Some of the documents also may be available for examination, without charge, at the Plan administrator's office, your worksite or union hall.

Your right to challenge incorrect calculations

If you think the Plan miscalculated the reduction to your benefits, then you have the right to submit a claim to the Plan to have the calculation corrected. The Plan's SPD tells you how to submit a claim. The SPD also describes your right to have a court review the Plan's final decision on your claim.

If you believe the information used to calculate your estimate at the end of this notice is wrong, please contact the Plan office at *[insert phone number, address, and e-mail address]*.

[The following may be on a separate page at the end of the notice.]

HOW YOUR MONTHLY PAYMENTS WILL BE AFFECTED

[Provide this estimate to the affected individual]

This estimate of the effect of the proposed reduction of benefits has been prepared for:

[Affected Individual's Name]
[Address]
[Town, State, Zip]

[Choose (a), (b), (c) or (d), as appropriate for an affected individual. Affected individuals include a participant (including a retiree), a beneficiary of a deceased participant, or an alternate payee. If (a), (b) or (c) is chosen, then insert a narrative description of the effect of the suspension if it is not possible to estimate its effect quantitatively (on an annual or monthly basis), such as in the case of a suspension that affects the payment of any future cost of living adjustment.]

[(a) For an affected individual who is in pay status and who has a proposed suspension]

Your current monthly benefit is [insert current monthly benefit]. Under the proposed reduction your monthly benefit will be reduced to [insert monthly benefit reflecting proposed suspension] beginning on [insert effective date of the proposed suspension].

[(b) For an affected individual who has a proposed suspension, is not yet in pay status, and is below the participant's normal retirement age]

If you start receiving your benefit on [insert participant's normal retirement date] in the form of a [insert normal form of benefit], your monthly benefit without the proposed reduction would be [insert monthly benefits earned as of proposed effective date of suspension]. Under the proposed reduction your monthly benefit in the same form would be reduced to [insert monthly benefit reflecting proposed suspension].⁸

[(c) For an affected individual who has a proposed suspension, is not yet in pay status, and is above the participant's normal retirement age]

Your benefit without the proposed reduction as of [insert date] in the form of a [insert normal form of benefit] is [insert monthly benefit as of proposed effective date of suspension]. Under the proposed reduction your monthly benefit in the same form will be reduced to [insert monthly benefit reflecting proposed suspension].⁹

[(d) For an affected individual whose benefits are not proposed to be suspended]

Your monthly benefit would not change under the proposed reduction.

[If the proposed suspension is permanent, insert the following for all affected individuals who have a benefit suspension]
The proposed reduction is permanent.

[If the proposed suspension is temporary, insert the following for all affected individuals who have a benefit suspension]
The proposed reduction in your payments will last until [insert date]. Under the proposed reduction, after that date your monthly benefit will increase to the unreduced amount.

[The following text is for all individuals.]

This is an estimate of the effect of the proposed reduction on your benefit under the Plan. It is not a final benefit calculation. This estimate was prepared assuming that the proposed benefit reduction starts on [insert proposed effective date]. [Include the following sentence only for individuals whose benefits are proposed to be suspended.] If the benefit reduction starts later, the effect of the proposed reduction on your benefit might be different.

This estimate is based on the following information from Plan records:

- You have [insert total years and months of credited service or total years and months of credited service as of the service calculation date, as applicable] of credited service under the Plan.
- You will be [insert age in years and months] as of [insert last day of the month of that includes the effective date of proposed suspension].
- The portion of your benefit that is based on disability is [insert amount].

[Add additional bullets for other data that is used to estimate the effect of proposed suspension on the individual's benefit.]

PBGC Guaranteed Benefits

If the Plan does not have enough money to pay benefits, your monthly benefit would be no larger than the amount guaranteed by PBGC. The amount of your monthly benefit guaranteed by PBGC is estimated to be [insert dollar amount].

⁸These numbers are just estimates. The actual amount you receive will depend on things like how long you work and when you begin receiving payments. For more information, see [insert cross-reference].

⁹These amounts will be different if you take your benefit in a different form. For example, if you elect [insert other form of benefit available under the plan], your reduced monthly benefit will be [insert monthly benefit reflecting proposed suspension].

APPENDIX B

INFORMATION ON ACTUARIAL ASSUMPTIONS AND METHODS

This Appendix B details the information on actuarial assumptions and methods that, pursuant to section 6.03 of this revenue procedure, must be described in an application for approval of a proposed benefit suspension. Part 1 of this Appendix B identifies specific actuarial assumptions that must be described. Any other assumptions used in the cash flow projections included in the application (such as the take-up rate among multiple benefit/contribution schedules within the rehabilitation plan and the assumed age of contingent annuitants for future retirees) must also be described. Part 2 of this Appendix B specifies the supporting information that must be provided with respect to certain of the actuarial assumptions. Part 3 of this Appendix B describes an explanation that must be provided for certain specific differences in certain assumptions.

Part 1 - Actuarial assumptions and methods used for projections.

Applicants must provide the following information regarding the actuarial assumptions listed below. If an assumption varies based on a factor that is relevant for projecting cash flows, such as gender or benefit schedule, provide a separate specification of that assumption for each category of participants for which the assumption is different. If an assumption varies over time, specify the time frame applicable to such assumption. If an assumption differs on account of the suspension, provide such assumption both disregarding the suspension and taking the suspension into account.

Investment returns

- Net investment return for deterministic projections.
- Assumptions used for stochastic projections (if applicable). Provide the expected geometric returns, arithmetic returns, and standard deviation of returns for each asset class in which the plan is invested (or is expected to be invested), including the probability distribution of returns (e.g., normal or log-normal) along with any correlations used in the projections, including correlations among asset returns (and serial correlations, if any).

Mortality assumptions

- The base mortality rates and the calendar year for which those base mortality rates apply.
- If a standard table is used, provide the name of the standard table.
- If an adjustment to a standard table is used, describe the adjustment.
- The mortality improvement scale.

Other demographic assumptions

- Complete decrement tables for each demographic assumption.
- If a standard table is used, provide the name of the table.

Assumptions regarding form and commencement age of benefits

- Assumptions regarding the probability that future retirees will elect each optional form of benefit.
- Assumptions regarding the probability of benefit commencement by age for participants who have terminated with deferred benefits or who are assumed to terminate with deferred benefits in the future.
- Assumptions regarding the probability of benefit commencement by age for participants who have become disabled or who are assumed to become disabled in the future.

Assumptions regarding missing or incomplete data

- Assumption regarding terminated vested participants beyond normal retirement age who, because they have not commenced receiving benefit payments, could be considered to be missing.
- Assumptions to fill in other missing data.

New entrant profile

- A description of the new entrant profile, including the weights applicable to each assumed age of entry.

Contribution rates

- A description of the assumed contribution rates (expressed in contribution base units) for each year during the projection period.

Contribution base units

- A description of the assumed contribution base units for each year during the projection period.
- Assumption regarding number of contribution base units associated with each active participant.

Withdrawal liability payments

- A description of the assumed rate of future employer withdrawal liability payments, including:
 - Any adjustment to payments currently scheduled for already withdrawn employers to reflect the probability of non-payment of those amounts prior to the end of the payment period (for example, due to bankruptcy of the employer).
 - Assumptions for withdrawal liability payments related to future employer withdrawals, if any.

Administrative expenses

- The assumed expenses charged to the plan other than investment-related expenses.

Projection methodology

- A description of any approximation or data grouping techniques that were used.
- A description of any changes to the cash flow projections that would normally be provided by the actuarial software, including both changes to the programming that affect the results generated by the software and modifications to the results generated by the software.

Part 2 - Supporting documentation for selection of certain assumptions.

Applicants must provide the following supporting documentation for the selection of certain assumptions. In addition, if any of those assumptions were selected based on other relevant data, applicants must provide that data.

Investment Returns

- Provide the components of the target portfolio used in the projections, expressed in terms of the asset classes used for setting the plan's investment policy.
- Allocate the components of the target portfolio among the asset classes listed below. If the target portfolio includes an asset class not included in the list, identify that asset class and its portfolio weight, and include that asset class in the asset class listed below that it most closely resembles in terms of the expected net return, standard deviation, and correlations.
 - The asset classes are:
 - US Equity—Large Cap
 - US Equity—Small/Mid Cap
 - Non-US Equity—Developed
 - Non-US Equity—Emerging
 - US Corporate Bonds—Core
 - US Corporate Bonds—Long Duration
 - US Corporate Bonds—High Yield
 - Non-US Debt—Developed
 - Non-US Debt—Emerging
 - US Treasuries (Cash Equivalents)
 - TIPS (Inflation-Protected)
 - Real Estate
 - Hedge Funds
 - Commodities
 - Infrastructure
 - Private Equity
- If the mix of assets for the target portfolio differs from the current mix of assets, identify the extent of the difference and explain the reason for the difference.
- If the mix of assets is expected to vary over time, explain how and why the mix of assets is expected to vary.
- If the net investment return assumptions used for the deterministic projections are based on the expected returns for the various asset classes, provide:
 - The expected geometric and arithmetic return, net of fees, for each asset class;
 - The standard deviation of returns for each asset class;
 - The correlations for the returns among the asset classes; and
 - To the extent that the net investment return assumptions for the asset classes vary over time but the investment return assumptions used for the deterministic projections do not, a description of how the investment return assumptions used for the deterministic

projections take into account the assumed amount of plan assets (which reflect prior negative or positive assumed cash flows) over time.

- Provide the inflation rate or rates inherent in the net investment returns.
- Provide the investment-related expense inherent in the net investment return for the target portfolio, expressed as a percentage of that portfolio.

Demographic experience

- Provide any study of the plan's demographic experience performed over the last ten years.
- Provide any liability gain or loss analysis performed over the last ten years. If the gain or loss analysis is by source, provide the results by source.
- Provide the percentage of the plan population that is married.
- Provide the distribution of each optional form of benefit selected at retirement for the last five years.
- Provide the retirement rates by age for benefit commencements during the last 5 years, separately for active and terminated vested participants.

Mortality assumptions

- Identify the experience study that underlies the mortality rates along with information and analysis as to why that mortality experience is representative of the expected mortality experience for the participants in the plan. For this purpose:
 - If the mortality rates are based on a published experience study, provide a citation to the study. If the mortality rates are based on an unpublished experience study, provide a copy of the study.
 - If a plan's participants consist primarily of blue-collar participants, the experience study used in developing the blue-collar mortality rates in the RP-2014 Mortality Tables Report issued by the Society of Actuaries (available at <https://www.soa.org/Research/Experience-Study/pension/research-2014-rp.aspx>) may be treated as representative of the expected mortality experience for the plan.
 - For all other plans, the mortality experience used in developing the total data set mortality rates in the RP-2014 Mortality Tables Report may be treated as representative of the expected mortality experience for the participants in the plan.
- Describe the process that was used to construct the mortality rates based on that experience study data and the rationale for selecting that process.
 - If either the blue-collar mortality rates or the total data set mortality rates in the RP-2014 Mortality Tables Report are used, this process can be described by cross-reference to the RP-2014 Mortality Tables Report.
 - If the mortality table constructed from the experience study differs from the published mortality table constructed from the experience study, provide information and analysis as to the process used to construct the mortality table and why the mortality table used is more appropriate for the plan than the published mortality table. For example, if the mortality table was determined by applying the MP-2016 mortality improvement rates to the experience study data (rather than the MP-2014 mortality improvement rates), explain why that was done.
- If a plan uses an adjustment to a published mortality table, identify that adjustment, and provide information and analysis for the conclusion that the plan has sufficient mortality experience such that the results of an experience study (or gain and loss analysis) for the plan are fully or partially credible. For example, for each of the last three to five completed plan years, provide, for non-disabled retirees only, the amount-weighted mortality rates at each age from 50 to 110. These amount-weighted mortality rates are determined using a numerator equal to the total pension amounts (annualized at the beginning of the year) for those at each attained age who died during the year and a denominator equal to the total pension amounts (annualized at the beginning of the year) paid at each attained age.
- If a plan does not apply the mortality improvement scale from either of the two most recently published Society of Actuaries Mortality Improvement Reports to the mortality rates determined using the experience study, then provide information and analysis for the conclusions that:
 - The mortality improvement experience for the plan participants did not match mortality improvement experience in the United States for the years since the central date of the experience study period through the year of the most recent actuarial valuation, as smoothed and projected using the techniques described in either of those reports;
 - The mortality improvement scale applied for those past years is based on a study of mortality improvement with respect to a population that is both representative of the expected mortality experience for the plan and large enough to have credible results; and
 - The expectation for future mortality improvement for the plan participants is not the same as the expectation for future mortality improvement in the United States, as projected using the techniques described in either of those reports.

New entrant profile

- Provide information and analysis used in the selection of the new entrant profile, including:

- A distribution of ages of all new entrants (whether active or terminated) for each of last five years in accordance with the chart below.

<i>Age Range</i>	<i>Percentage of New Entrants</i>
○ Below 20	
○ 20 – 24	
○ 25 – 29	
○ 30 – 34	
○ 35 – 39	
○ 40 – 44	
○ 45 – 49	
○ 50 – 54	
○ 55 – 59	
○ 60 and over	

- A description of the extent to which a material proportion of the new entrants over the last five years have had prior vesting service or benefit service.

Contribution base units and employer withdrawals

- For each of the last 10 years (or for each year starting with the 2009 plan year, if fewer), provide a table of employers that contributed 5% or more of the annual contributions to the plan that includes, for each such employer:
 - the number of contribution base units;
 - the average contribution rate; and
 - the total contribution.
- Explain the historical trends experienced by the plan with respect to contribution base units and contribution rates.
- Explain the rationale for the assumptions for contribution base units (including an explanation of the consistency between these assumptions and the assumed rate of future employer withdrawals).
- Explain the rationale for the assumptions for contribution rates.
- Describe the plan's experience with employer withdrawals that occurred during the last 5 years, including an indication of the proportion of required withdrawal liability payments that have been made in full and the proportion of required withdrawal liability payments that have not been made in full (for example, due to employer bankruptcies).

Take-up rate with respect to selection of benefit/contribution schedules

- Describe the plan's experience for take-up of each benefit/contribution schedule made available to bargaining units under the rehabilitation plan.

Projection methodology

- Provide information and analysis to support any approximation techniques that were used.
- Provide information and analysis to support any changes to the cash flow projections that would normally be generated by the actuarial software, including both changes to the programming that affect the results generated by the software and modifications to the results generated by the software.

Part 3 - Additional disclosures relating to use of different assumptions

Applicants must explain any differences in the actuarial assumptions used for the various illustrations and projections under this revenue procedure. For example:

- *Deterministic projections.* If any actuarial assumptions used for the deterministic projections under section 4.02(1) of this revenue procedure differ from those used under section 3.01 of this revenue procedure, provide the information and analysis that supports the selection of the different assumptions.
- *Stochastic projections.* If any actuarial assumptions used for stochastic projections described in section 4.02(2) of this revenue procedure differ from those used for deterministic projections described in section 4.02(1) of this revenue procedure, provide the information and analysis that supports the selection of the different assumptions.

APPENDIX C

POWER OF ATTORNEY AND DECLARATION OF REPRESENTATIVE BEFORE THE DEPARTMENT OF THE TREASURY

Applicant information: [Include name of plan sponsor, name of plan, address, plan number, employer identification number, name of contact, title of contact, telephone number, email address, and fax number]

Applicant hereby appoints the following representative(s) as attorney(s)-in-fact to represent the taxpayer before the Department of the Treasury and perform acts related to the attached application dated _____ for suspension of benefits under § 432(e)(9) of the Internal Revenue Code of 1986, as amended.

Representative information: [Include name, address, employer identification number, telephone number, email address, and fax number]

Send copies of notices and communications to representative: [Answer yes or no]

With the exception of the acts described below, I authorize my representative(s) to receive and inspect information, including confidential tax information, and to perform acts that I can perform with respect to the attached application dated _____ for suspension of benefits under § 432(e)(9). For example, my representative(s) shall have the authority to sign any agreements, consents, or similar documents.

Specific acts not authorized: [If the representative is not authorized to perform any act described above, describe the act that the representative is not authorized to perform.]

Signature of Applicant and Date

This power of attorney must be signed and dated by an authorized trustee who is a current member of the board of trustees.

Declaration of Representative

Under penalties of perjury, by my signature below I declare that:

- I am not currently suspended or disbarred from practice before the Internal Revenue Service;
- I am authorized to represent the Applicant for the matter(s) specified in this Power of Attorney and Declaration of Representative; and
- I am one of the following:
 - a. Attorney—a member in good standing of the bar of the highest court of the jurisdiction shown below.
 - b. Certified Public Accountant—duly qualified to practice as a certified public accountant in the jurisdiction shown below.
 - c. Enrolled Agent.
 - d. Officer—a bona fide officer of the Applicant.
 - e. Full-Time Employee—a full-time employee of the Applicant.
 - f. Enrolled Actuary—enrolled as an actuary by the Joint Board for the Enrollment of Actuaries under 29 U.S.C. 1242 (the authority to practice before the Internal Revenue Service is limited by section 10.3(d) of Circular 230).
 - g. Enrolled Retirement Plan Agent.

Required information for Representative: [Include the appropriate designation of a through g above. In addition, an officer or full-time employee of the Applicant must include the title or position with the Applicant, and other Representatives must include the licensing jurisdiction if applicable, and the bar, license, certification, registration, or enrollment number as applicable.]

Signature of Representative and date:

APPENDIX D

CHECKLIST - IS THE SUBMISSION COMPLETE?

Instructions. The application must include a completed checklist placed on top of the application. This will help ensure that the application is complete. Answer each question in the checklist by circling Y for yes, N for no or N/A for not applicable, as appropriate, in the blank next to the item. Also insert in the appropriate blank next to each item the page number or numbers where the item appears in the application.

APPLICATION FOR APPROVAL OF BENEFIT SUSPENSION FOR [INSERT NAME OF PLAN]

<i>Response</i>	<i>Item number</i>	<i>Description of item</i>	<i>Page number in application</i>
Yes No N/A	1.	Does the application include an original signature of the plan sponsor or an authorized representative of the plan sponsor? See section 2.01 of this revenue procedure.	
Yes No N/A	2.	Does the application include a description of the proposed benefit suspension - calculated as if no other limitations apply - that includes: <ul style="list-style-type: none"> • the suspension's effective date (and its expiration date, if applicable), • whether the suspension provides for different treatment of participants and beneficiaries, • a description of the different categories or groups of individuals affected, and • how the suspension affects these individuals differently? See section 2.02 of this revenue procedure.	
Yes No N/A	3.	Does the application include a penalties-of-perjury statement signed by an authorized trustee on behalf of the board of trustees? See Section 2.03 of this revenue procedure.	
Yes No N/A	4.	Does the application include a statement, signed by an authorized trustee on behalf of the board of trustees, acknowledging that the application and the application's supporting material will be publicly disclosed on the Treasury Department's website? See section 2.04 of this revenue procedure.	
Yes No N/A	5.	Does the application include the plan actuary's certification of critical and declining status and the supporting illustrations, including: <ul style="list-style-type: none"> • the plan-year-by-plan-year projections demonstrating projected insolvency during the relevant period, and • separately identifying the available resources (and the market value of assets and changes in cash flow) during each of those years? See section 3.01 of this revenue procedure.	
Yes No N/A	6.	Does the application include the plan actuary's certification that, taking into account the proposed suspension and, if applicable, a proposed partition, the plan is projected to avoid insolvency if the suspension takes effect, and the supporting illustrations, including: <ul style="list-style-type: none"> • the plan-year-by-plan-year projections demonstrating projected solvency during the relevant period, • separately identifying the available resources (and the market value of assets and changes in cash flow) during each of those years? See section 3.02 of this revenue procedure.	
Yes No N/A	7.	Does the application include the plan sponsor's determination of projected insolvency that includes the documentation set forth in section 5 of the revenue procedure? See section 3.03 of this revenue procedure.	

<i>Response</i>	<i>Item number</i>	<i>Description of item</i>	<i>Page number in application</i>
Yes No N/A	8	<p>Does the application include a demonstration that the limitations on individual suspensions are satisfied, including a description of each benefit based on disability, as defined under the plan, that is paid to an individual under the plan (without regard to whether the disability benefits are available to newly disabled participants) and calculations regarding:</p> <ul style="list-style-type: none"> • the guarantee-based limitation, • the disability-based limitation, • the age-based limitation, taking into account the guarantee-based limitation, and • if applicable, the age-based limitation taking into account both the guarantee-based limitation and the disability-based limitation? <p>See section 4.01 of this revenue procedure.</p>	
Yes No N/A	9.	<p>Does the application include a demonstration that the proposed suspension is reasonably estimated to achieve the level necessary to avoid insolvency for the extended period, including illustrations regarding the plan's solvency ratio and available resources? See section 4.02(1) of this revenue procedure.</p>	
Yes No N/A	10.	<p>Does the application include an illustration that the proposed suspension is reasonably estimated to achieve the level necessary to avoid insolvency for the extended period utilizing stochastic projections? (This illustration is optional if the plan is not required to appoint a retiree representative under § 432(e)(9)(B)(v)(I).) See section 4.02(2) of this revenue procedure.</p>	
Yes No N/A	11.	<p>Does the application include a demonstration that the proposed suspension is not projected to materially exceed the level necessary to avoid insolvency, including:</p> <ul style="list-style-type: none"> • the plan-year-by-plan-year projections demonstrating projected insolvency during the relevant period, and • a separate identification of the available resources (and the market value of assets and changes in cash flow) during each of those years? <p>See section 4.03 of this revenue procedure.</p>	
Yes No N/A	12.	<p>Does the application include a demonstration that the proposed suspension is equitably distributed, including:</p> <ul style="list-style-type: none"> • information on the effect of the suspension on the plan in the aggregate, • information on the effect of the suspension for different categories or groups, • a list of the factors taken into account, • an explanation of why none of the factors listed in § 432(e)(9)(D)(vi) were taken into account (if applicable), • for each factor taken into account that is not one of the factors listed in § 432(e)(9)(D)(vi), an explanation why the factor is relevant, and • an explanation of how any difference in treatment among categories or groups of individuals results from a reasonable application of the relevant factors? <p>See section 4.04 of this revenue procedure.</p>	
Yes No N/A	13.	<p>Does the application include a copy of the notices (excluding personally identifiable information) that meet the requirements under § 432(e)(9)(F)? See section 4.05(1) of this revenue procedure.</p>	

<i>Response</i>	<i>Item number</i>	<i>Description of item</i>	<i>Page number in application</i>
Yes No N/A	14.	Does the application include a description of the efforts that are being taken to contact participants, beneficiaries in pay status, and alternate payees? See section 4.05(2) of this revenue procedure.	
Yes No N/A	15.	Does the application describe the steps the plan sponsor has taken to ensure that notices delivered electronically are reasonably accessible to the recipients? See section 4.05(3) of this revenue procedure.	
Yes No N/A	16.	Does the application include a list of each employer who has an obligation to contribute under the plan and each employee organization representing participants under the plan? See section 4.05(4) of this revenue procedure.	
Yes No N/A	17.	Does the application include information on past and current measures taken to avoid insolvency? See section 5.01 of this revenue procedure.	
Yes No N/A	18.	Does the application include information regarding the plan factors described in § 432(e)(9)(C)(ii), for the past 10 plan years immediately preceding the plan year in which the application is submitted? See section 5.02 of this revenue procedure.	
Yes No N/A	19.	Does the application describe how the plan sponsor took into account – or did not take into account – the factors listed in section 5.02 of this revenue procedure in the determination that all reasonable measures were taken to avoid insolvency? See section 5.03 of this revenue procedure.	
Yes No N/A	20.	Does the application describe how the plan sponsor took into account - or did not take into account - in the determination that all reasonable measures have been taken to avoid insolvency, the impact of: <ul style="list-style-type: none"> • benefit and contribution levels on retaining active participants and bargaining groups under the plan, and • past and anticipated contribution increases under the plan on employer attrition and retention levels? See section 5.03 of this revenue procedure.	
Yes No N/A	21.	Does the application include a discussion of any other factors the plan sponsor took into account including how and why those factors were taken into account? See section 5.04 of this revenue procedure.	
Yes No N/A	22.	Does the application include a copy of the proposed ballot, excluding the information regarding the statement in opposition, the individualized estimate, and the voting procedures? See section 6.01 of this revenue procedure.	
Yes No N/A	23.	Does the application indicate whether the plan sponsor is requesting approval from PBGC of a proposed partition under section 4233 of ERISA? See section 6.02 of this revenue procedure.	
Yes No N/A	24.	If the answer to item 23 is yes, does the application specify the effective date of the proposed partition and include a plan-year-by-plan-year projection of the amount of the reduction in benefit payments attributable to the partition? See section 6.02 of this revenue procedure.	

<i>Response</i>	<i>Item number</i>	<i>Description of item</i>	<i>Page number in application</i>
Yes No N/A	25.	<p>Does the application include:</p> <ul style="list-style-type: none"> • a description of each of the assumptions used in the projections required under sections 3.01, 3.02, 4.02(1), 4.02(2), and 4.03 of this revenue procedure, • supporting evidence for the selection of those assumptions, and • an explanation of any differences among the assumptions used for various purposes? <p>See section 6.03 and Appendix B of this revenue procedure.</p>	
Yes No N/A	26.	<p>Does the application describe the plan's experience with certain critical assumptions, including a disclosure for each of the 10 plan years immediately preceding the application that separately identifies:</p> <ul style="list-style-type: none"> • the total contributions, • the total contribution base units, • the average contribution rates, • the withdrawal liability payments, and • the rate of return on plan assets? <p>See section 6.04 of this revenue procedure.</p>	
Yes No N/A	27.	<p>Does the application include deterministic projections of the sensitivity of the plan's solvency ratio throughout the extended period by taking into account the more conservative assumptions of investment experience and future contribution base units than assumed elsewhere in the application? See section 6.05 of this revenue procedure.</p>	
Yes No N/A	28.	<p>Does the plan include deterministic projections for each year in the extended period of:</p> <ul style="list-style-type: none"> • the value of plan assets, • the plan's accrued liability, and • the plan's funded percentage? <p>See section 6.06 of this revenue procedure.</p>	
Yes No N/A	29.	<p>Does the application include the plan sponsor's representation that, if it receives the Treasury Department's final authorization to suspend and then chooses to implement the suspension, it will also amend the plan:</p> <ul style="list-style-type: none"> • to provide that the suspension will cease upon the plan sponsor's failure to maintain a written record of its annual determination that (i) all reasonable measures continue to be taken to avoid insolvency and (ii) the plan would not be projected to avoid insolvency without a suspension, • to require that any future benefit improvements must satisfy § 432(e)(9)(E), and • to specify that the plan sponsor will not modify these amendments, notwithstanding any other provision of the plan document? <p>See section 6.07 of this revenue procedure.</p>	
Yes No N/A	30.	<p>Does the application indicate whether the plan is a plan described in § 432(e)(9)(D)(vii) and, if it is, how that is reflected in the proposed benefit suspension? See section 6.08.</p>	
Yes No N/A	31.	<p>Does the application include a narrative statement of the reasons the plan is in critical and declining status? See section 6.09.</p>	

<i>Response</i>	<i>Item number</i>	<i>Description of item</i>	<i>Page number in application</i>
Yes No N/A	32.	Does the application include the required plan sponsor identification and contact information? See section 7.01 of this revenue procedure.	
Yes No N/A	33.	Does the application include the required plan identification information? See section 7.02 of this revenue procedure.	
Yes No N/A	34.	Does the application include the required retiree representative information (if applicable)? See section 7.03 of this revenue procedure.	
Yes No N/A	35.	Does the application include the required enrolled actuary information? See section 7.04 of this revenue procedure.	
Yes No N/A	36.	Does the application include a designation of power of attorney for each authorized representative who will represent the plan sponsor in connection with the application? See section 7.05 and Appendix C of this revenue procedure.	
Yes No N/A	37.	Does the application include: <ul style="list-style-type: none"> • the required plan documents • any recent amendments • the summary plan description (SPD) • any summary of material modifications, and • the most recent determination letter? See section 7.06 of this revenue procedure.	
Yes No N/A	38.	Does the application include the required excerpts from the relevant collective bargaining agreements and side agreements? See section 7.07 of this revenue procedure.	
Yes No N/A	39.	Does the application include the required excerpts from the most recently filed Form 5500? See section 7.08 of this revenue procedure.	
Yes No N/A	40.	Does the application include the most recently updated rehabilitation plan? See section 7.09 of this revenue procedure.	
Yes No N/A	41.	Does the application include the two most recent actuarial valuation reports? See section 7.10 of this revenue procedure.	
Yes No N/A	42.	Does the application include this checklist, completed and placed on top of the application? See section 7.11 of this revenue procedure and this Appendix D.	
Yes No N/A	43.	If the application is being submitted for resubmission review, does the application include: <ul style="list-style-type: none"> • cross-references to information in the prior application with respect to information that has not changed from the prior application, • a statement that the application is being submitted for resubmission review, and • the date on which the Treasury Department indicated that the application is a candidate for resubmission review? See section 8 of this revenue procedure.	

Signature

Date

Typed or printed name of person signing checklist

Part IV. Items of General Interest

Partial Withdrawal of Notice of Proposed Rulemaking Transactions Involving the Transfer of No Net Value

REG-139633-08

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Partial withdrawal of notice of proposed rulemaking.

SUMMARY: This document withdraws the remaining part of a notice of proposed rulemaking containing proposed regulations that would have required an exchange or distribution of net value for certain corporate formations and reorganizations to qualify for nonrecognition treatment under the Internal Revenue Code (Code). Other parts of the notice of proposed rulemaking were previously adopted as final regulations. The proposed regulations being withdrawn also addressed the treatment of certain distributions not qualifying for tax-free treatment under section 332 of the Code. The proposed regulations being withdrawn would have affected corporations and their shareholders.

DATES: As of July 13, 2017, the proposed revisions to § 1.332-2(b) and (e); the proposed addition of *Example 2* to § 1.332-2(e); the proposed additions of § 1.351-1(a)(1)(iii) and (a)(1)(iv); the proposed addition of *Example 4* to § 1.351-1(a)(2); the proposed amendments to § 1.368-1(a) and (b); the proposed addition of § 1.368-1(f); and the proposed revision to § 1.368-2(d)(1) in the notice of proposed rulemaking (REG-163314-03) that was published in the **Federal Register** (70 FR 11903) on March 10, 2005 are withdrawn.

FOR FURTHER INFORMATION CONTACT: Jean Broderick at (202) 317-6848 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

On March 10, 2005, the Department of the Treasury (the Treasury Department) and the IRS published a notice of proposed rulemaking (REG-163314-03) in the **Federal Register** (70 FR 11903) containing proposed regulations under sections 332, 351, and 368 (2005 Proposed Regulations). The 2005 Proposed Regulations generally would have provided that the non-recognition rules in subchapter C of chapter 1 of subtitle 1 of the Code do not apply unless there is an exchange (or, in the case of section 332, a distribution) of net value (the net value requirement). The 2005 Proposed Regulations also provided that section 332 would apply only if the recipient corporation receives some payment for each class of stock it owns in the liquidating corporation. Finally, the 2005 Proposed Regulations provided guidance on the circumstances in which (and the extent to which) creditors of a corporation are treated as proprietors of the corporation in determining whether continuity of interest is preserved in a potential reorganization (Creditor Continuity of Interest).

On December 12, 2008, the Treasury Department and the IRS adopted the Creditor Continuity of Interest provisions of the 2005 Proposed Regulations as final regulations (TD 9434) published in the **Federal Register** (73 FR 75566). Minor portions of the 2005 Proposed Regulations that reflected statutory changes to sections 332 and 351 were adopted as final regulations as part of a Treasury decision adopting final regulations under sections 334(b)(1)(B) and 362(e)(1) (TD 9759), published in the **Federal Register** (81 FR 17066) on March 28, 2016. The Treasury Department and the IRS have decided to withdraw the remainder of the 2005 Proposed Regulations.

The Treasury Department and the IRS are of the view that current law is sufficient to ensure that the reorganization provisions and section 351 are used to accomplish readjustments of continuing

interests in property held in modified corporate form. With respect to section 332, the holdings of *H.K. Porter Co. v. Commissioner*, 87 T.C. 689 (1986), *Spaulding Bakeries Inc. v. Commissioner*, 27 T.C. 684 (1957), *aff'd*, 252 F.2d 293 (2d Cir., 1958), *H.G. Hill Stores, Inc. v. Commissioner*, 44 B.T.A. 1182 (1941), Rev. Rul. 2003-125, 2003-2 C.B. 1243, Rev. Rul. 68-602, 1968-2 C.B. 135, Rev. Rul. 68-359, 1968-2 C.B. 161, and Rev. Rul. 59-296, 1959-2 C.B. 87, continue to reflect the position of the Treasury Department and the IRS.

Drafting Information

The principal author of this withdrawal notice is Jean Broderick of the Office of Associate Chief Counsel (Corporate). However, other personnel from the Treasury Department and the IRS participated in its development.

* * * * *

Partial Withdrawal of Proposed Rulemaking

Accordingly, under the authority of 26 U.S.C. 7805, the Treasury Department and the IRS withdraw the proposed revisions to § 1.332-2(b) and (e); the proposed addition of *Example 2* to § 1.332-2(e); the proposed additions of § 1.351-1(a)(1)(iii) and (a)(1)(iv); the proposed addition of *Example 4* to § 1.351-1(a)(2); the proposed amendments to § 1.368-1(a) and (b); the proposed addition of § 1.368-1(f); and the proposed revision to § 1.368-2(d)(1) in the notice of proposed rulemaking (REG-163314-03) that was published in the **Federal Register** (70 FR 11903) on March 10, 2005.

Kirsten B. Wielobob
*Deputy Commissioner of Services
and Enforcement.*

(Filed by the Office of the Federal register on June 12, 2017, 8:45 a.m., and published in the issue of the Federal Register for June 13, 2017, 82 F.R. 32281.)

Definition of Terms

Revenue rulings and revenue procedures (hereinafter referred to as “rulings”) that have an effect on previous rulings use the following defined terms to describe the effect:

Amplified describes a situation where no change is being made in a prior published position, but the prior position is being extended to apply to a variation of the fact situation set forth therein. Thus, if an earlier ruling held that a principle applied to A, and the new ruling holds that the same principle also applies to B, the earlier ruling is amplified. (Compare with *modified*, below).

Clarified is used in those instances where the language in a prior ruling is being made clear because the language has caused, or may cause, some confusion. It is not used where a position in a prior ruling is being changed.

Distinguished describes a situation where a ruling mentions a previously published ruling and points out an essential difference between them.

Modified is used where the substance of a previously published position is being changed. Thus, if a prior ruling held that a principle applied to A but not to B, and the new ruling holds that it applies to both A

and B, the prior ruling is modified because it corrects a published position. (Compare with *amplified* and *clarified*, above).

Obsoleted describes a previously published ruling that is not considered determinative with respect to future transactions. This term is most commonly used in a ruling that lists previously published rulings that are obsoleted because of changes in laws or regulations. A ruling may also be obsoleted because the substance has been included in regulations subsequently adopted.

Revoked describes situations where the position in the previously published ruling is not correct and the correct position is being stated in a new ruling.

Superseded describes a situation where the new ruling does nothing more than restate the substance and situation of a previously published ruling (or rulings). Thus, the term is used to republish under the 1986 Code and regulations the same position published under the 1939 Code and regulations. The term is also used when it is desired to republish in a single ruling a series of situations, names, etc., that were previously published over a period of time in separate rulings. If the new ruling does more than restate the sub-

stance of a prior ruling, a combination of terms is used. For example, *modified* and *superseded* describes a situation where the substance of a previously published ruling is being changed in part and is continued without change in part and it is desired to restate the valid portion of the previously published ruling in a new ruling that is self contained. In this case, the previously published ruling is first modified and then, as modified, is superseded.

Supplemented is used in situations in which a list, such as a list of the names of countries, is published in a ruling and that list is expanded by adding further names in subsequent rulings. After the original ruling has been supplemented several times, a new ruling may be published that includes the list in the original ruling and the additions, and supersedes all prior rulings in the series.

Suspended is used in rare situations to show that the previous published rulings will not be applied pending some future action such as the issuance of new or amended regulations, the outcome of cases in litigation, or the outcome of a Service study.

Abbreviations

The following abbreviations in current use and formerly used will appear in material published in the Bulletin.

A—Individual.
Acq.—Acquiescence.
B—Individual.
BE—Beneficiary.
BK—Bank.
B.T.A.—Board of Tax Appeals.
C—Individual.
C.B.—Cumulative Bulletin.
CFR—Code of Federal Regulations.
CI—City.
COOP—Cooperative.
Ct.D.—Court Decision.
CY—County.
D—Decedent.
DC—Dummy Corporation.
DE—Donee.
Del. Order—Delegation Order.
DISC—Domestic International Sales Corporation.
DR—Donor.
E—Estate.
EE—Employee.
E.O.—Executive Order.
ER—Employer.

ERISA—Employee Retirement Income Security Act.
EX—Executor.
F—Fiduciary.
FC—Foreign Country.
FICA—Federal Insurance Contributions Act.
FISC—Foreign International Sales Company.
FPH—Foreign Personal Holding Company.
F.R.—Federal Register.
FUTA—Federal Unemployment Tax Act.
FX—Foreign corporation.
G.C.M.—Chief Counsel’s Memorandum.
GE—Grantee.
GP—General Partner.
GR—Grantor.
IC—Insurance Company.
I.R.B.—Internal Revenue Bulletin.
LE—Lessee.
LP—Limited Partner.
LR—Lessor.
M—Minor.
Nonacq.—Nonacquiescence.
O—Organization.
P—Parent Corporation.
PHC—Personal Holding Company.
PO—Possession of the U.S.
PR—Partner.
PRS—Partnership.

PTE—Prohibited Transaction Exemption.
Pub. L.—Public Law.
REIT—Real Estate Investment Trust.
Rev. Proc.—Revenue Procedure.
Rev. Rul.—Revenue Ruling.
S—Subsidiary.
S.P.R.—Statement of Procedural Rules.
Stat.—Statutes at Large.
T—Target Corporation.
T.C.—Tax Court.
T.D.—Treasury Decision.
TFE—Transferee.
TFR—Transferor.
T.I.R.—Technical Information Release.
TP—Taxpayer.
TR—Trust.
TT—Trustee.
U.S.C.—United States Code.
X—Corporation.
Y—Corporation.
Z—Corporation.

Numerical Finding List¹

Bulletin 2017–27 through 2017–31

Action on Decision:

2017-5, 2017-27 I.R.B. *1*

Announcements:

2017-05, 2017-27 I.R.B. *5*

2017-08, 2017-28 I.R.B. *9*

Notices:

2017-37, 2017-29 I.R.B. *89*

2017-38, 2017-30 I.R.B. *147*

2017-39, 2017-31 I.R.B. *150*

Proposed Regulations:

REG-139633-08, 2017-31 I.R.B. *175*

REG-136118-15, 2017-28 I.R.B. *9*

Revenue Procedures:

2017-41, 2017-29 I.R.B. *92*

2017-42, 2017-29 I.R.B. *124*

2017-43, 2017-31 I.R.B. *153*

Revenue Rulings:

2017-14, 2017-27 I.R.B. *2*

Treasury Decisions:

9819, 2017-29 I.R.B. *85*

¹A cumulative list of all revenue rulings, revenue procedures, Treasury decisions, etc., published in Internal Revenue Bulletins 2017–01 through 2017–26 is in Internal Revenue Bulletin 2017–26, dated June 27, 2017.

Finding List of Current Actions on Previously Published Items¹

Bulletin 2017–27 through 2017–31

Revenue Procedures:

2016-27

Modified by

Rev. Proc. 2017-43, 2017-31 I.R.B. 153

2016-27

Superseded by

Rev. Proc. 2017-43, 2017-31 I.R.B. 153

¹A cumulative list of all revenue rulings, revenue procedures, Treasury decisions, etc., published in Internal Revenue Bulletins 2017–01 through 2017–26 is in Internal Revenue Bulletin 2017–26, dated June 27, 2017.

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The Introduction at the beginning of this issue describes the purpose and content of this publication. The weekly Internal Revenue Bulletins are available at *www.irs.gov/irb/*.

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