

Part III --- Administrative, Procedural, and Miscellaneous

26 CFR 601.201: Rulings and determination letters.
(Also Part I, § 412.)

Rev. Proc. 2000-41

Section 1. Purpose

The purpose of this revenue procedure is to set forth the procedure by which a plan administrator or plan sponsor may obtain approval of the Secretary of the Treasury for a change in funding method as provided by § 412(c)(5)(A) of the Internal Revenue Code, as amended (the "Code"), and § 302(c)(5)(A) of the Employee Retirement Income Security Act of 1974, as amended ("ERISA").

Section 2. Background

.01 Section 3(31) of ERISA lists some acceptable actuarial cost methods.

.02 Section 412(c)(5)(A) of the Code and § 302(c)(5)(A) of ERISA state that if the funding method of a plan is changed, the new funding method shall become effective only if the change is approved by the Secretary.

.03 Rev. Proc. 78-37, 1978-2 C.B. 540, provides the procedure by which a plan administrator or plan sponsor may obtain approval of the Secretary of the Treasury for a change in funding method.

.04 Rev. Proc. 2000-40, 2000-42 I.R.B. ____, provides approval to change the funding method used to determine the minimum funding requirement for defined benefit plans to any one of the methods described therein.

.05 Rev. Proc. 2000-4, 2000-1 I.R.B. 115, sets forth the current general procedures of the Service relating to the issuance of rulings, determination letters, and opinion letters on employee plans and exempt organization matters. These general procedures are updated annually. Sections 9.02(11) and (12) of Rev. Proc. 2000-4 set forth the requirements for designating an authorized representative.

.06 Rev. Proc. 2000-8, 2000-1 I.R.B. 230, sets forth the current procedures relating to the payment of user fees for requests to the Service for rulings, opinion letters, determination letters, and similar requests. The user fee procedures are updated annually.

Section 3. Scope and Definition

.01 This revenue procedure applies to any defined benefit plan that is subject to § 412 of the Code or § 302 of ERISA.

.02 Any change in a plan's current method of computing the minimum funding requirement under § 412 of the Code or § 302 of ERISA is a change in funding method (see § 1.412(c)(1)-1(b) of the Income Tax Regulations). The following are examples of a change in funding method:

Example 1 – The minimum funding requirement is computed using the entry age normal method. Changing the method to the unit credit method is a change in funding method.

Example 2 – The minimum funding requirement is computed using the aggregate method under which the normal cost is level as a percentage of compensation. Changing the method to the aggregate method under which the normal cost is level as a dollar amount is a change in funding method.

Example 3 – The method of valuing liabilities is unchanged, but the method of valuing assets is changed from one method to another method. This is a change in funding method.

Example 4 – The valuation date for the plan is the date that is the first day of the plan year. Changing the valuation date to the date that is the last day of the plan year is a change in funding method.

Example 5 – The valuation date for the plan is the date that is the first day of the plan year. The plan year is changed, and the valuation date is changed to the date that is the first day of the new plan year. This is a change in funding method.

Example 6 – The plan's enrolled actuary uses Vendor A's software to determine the plan's minimum funding requirement. If the enrolled actuary changes to Vendor B's software and the results of each specific computation are not the same after the change in valuation software, this is a change in funding method.

Example 7 – The method for determining the cost of ancillary benefits is changed from one method to another method. This is a change in funding method.

.03 This revenue procedure applies to any change in funding method for any plan year after the first plan year in which a plan is subject to § 412 of the Code or § 302 of ERISA. A funding method adopted for a newly established plan is not a change in funding method. A plan established as a result of a spin-off within the meaning of § 1.414(l)-1(b)(4), other than a plan established as a result of a de minimis spin-off, is not a newly established plan for this purpose.

.04 Approval will be given to a change in funding method only if the proposed method is acceptable and the transition to the proposed method is acceptable. In addition, a change in funding method that has a significant effect on a plan's minimum funding requirement or full funding limitation in the year of change may be reviewed to assess the appropriateness of the change in light of that effect.

Section 4. Application

.01 A plan administrator, plan sponsor, or the authorized representative of either who desires to obtain approval for a change in funding method should make a written request (no form is prescribed for requesting approval) to:

Internal Revenue Service
Commissioner, TE/GE
Attention: T:EP:RA
P.O. Box 27063, McPherson Station
Washington, DC 20038

.02 (1) The request should be made no later than the close of the plan year for which the change is to be effective. However, requests made after the close of the plan year, but no later than 2½ months after the close of the plan year, will generally be considered, at the discretion of the Service, if a statement is attached to the request detailing an adequate reason for the delay. Requests made after 2½ months after the close of the plan year generally will not be considered. However, if a request for approval of a change in funding method involves a plan merger, the request should be made no later than 4 months before the filing deadline for Schedule B (Actuarial Information) of Form 5500 (of the merged plan) for the plan year in which the merger took place.

(2) If a change to an element of a funding method was recently approved and a subsequent modification of the same element is requested, the subsequent modification generally will not be considered. For example, if a plan was using a 5-year smoothing asset valuation method prior to 1999 and the plan sponsor received approval to set the actuarial value of assets at market value for 1999 (with a phase-in of gains and/or losses in subsequent years), a request in 2001 to set the actuarial value of assets to market value for 2001 (with a phase-in of gains and/or losses in subsequent years) will not be considered.

.03 The request must satisfy all the requirements of Rev. Proc. 2000-4. Attention is called to section 9 of Rev. Proc. 2000-4 concerning signatures, authorized representatives, a power of attorney and declaration of representative, and a penalties of perjury statement. However, a statement of proposed deletions pursuant to § 6110(c) of the Code is not required to be furnished. All signatures should be accompanied by the typed name and title (if applicable) of the signer.

.04 The following information shall accompany the request:

- (1) The employer identification number, the plan name and number, and the name and address of the plan administrator or plan sponsor.
- (2) A copy of the actuarial valuation report for the plan year preceding the year of change, and, if available, a draft of the actuarial valuation report for the year of change. For requests involving mergers, a copy of each of the valuation reports for all the merging plans for the plan year preceding the change and, if available, a draft of the actuarial valuation report for the year of change, should be included.
- (3) A copy of the Schedule B (Actuarial Information) of Form 5500, including attachments thereto, that has been filed for the plan year preceding the year of change. For requests involving mergers, a copy of the most recent Schedule B that has been filed for a plan year preceding the year of change should be included for each of the merging plans.
- (4) A statement of the plan year first affected by the proposed change.
- (5) A description of the current funding method and the proposed funding method. The method can be described by reference to a method contained in Rev. Proc. 2000-40. For example, the level percent of compensation individual entry age normal method may be described by reference to section 3.08 of Rev. Proc. 2000-40.

The method can also be described by indicating a particular variation of a method described in Rev. Proc. 2000-40. The description of a method should be such that it would allow two independent actuaries to arrive at the same valuation results using the same method and assumptions for a given plan. If applicable, the description should indicate whether the method involves the use of a certain rule in the first year of the change and a different rule in subsequent years. For example, an asset valuation method change may restart at market value in the year of change, and may phase-in gains and losses in subsequent years. Additionally, if the method is an asset valuation method not described in Rev. Proc. 2000-40, a numerical illustration demonstrating the calculation of the actuarial value of assets under the current method and the proposed method should be included. If the change in funding method involves a plan merger, a description of the funding method that was used by each of the merging plans before the merger and the proposed funding method that is used by the merged plan should be included.

- (6) A brief statement of the reason for the proposed change and a statement why automatic approval under Rev. Proc. 2000-40 cannot be used to make the change.
- (7) A statement of whether a change in funding method was previously requested.
- (8) A statement of other changes being made for the year of change, such as a change in plan year or change in actuarial assumptions.
- (9) Technical Information
 - (A) A worksheet should be prepared by the enrolled actuary for the plan. The worksheet should contain the information described below determined as of the valuation date in the year of the change in funding method. The information below should be shown (1) prior to any change in plan provisions, assumptions, or funding methods that apply in the year of change, and (2) after the change in funding method and other changes that occur in the year of change:
 - (i) A list of the amortization bases maintained (including, for each base, the type of base, outstanding balance, amortization period, and amortization amount). Note that the bases maintained prior to and after implementing all current year changes will differ by the inclusion of the new base(s). The calculation of the new base(s) should also be shown.

If bases are combined and offset in the year of change, in addition to the resulting single base, show information on each of the bases involved.
 - (ii) The unfunded liability of the plan. For immediate gain methods, show the actuarial value of assets prior to any adjustments.
 - (iii) The basic funding formula (or equation of balance). If the equation of balance is not satisfied, explain the effect on the operation of the funding method in the year of change.

In the case of a plan change involving a merger, the above information should be provided for all merging plans as of the date of the merger. If the plan change involves a spin-off, the above information should be provided for the original plan immediately prior to the spin-off date and for the plans immediately after the spin-off date.

- (B) The calculation of the § 412 full funding limitation for the plan year prior to the plan year of change, and for the plan year of change. In the case of a plan merger, the calculation of the § 412 full funding limitation should be given for all merging plans immediately prior to the merger and for the merged plan after the merger.

- (10) A statement of whether a waiver of the minimum funding standard is currently in effect and whether a request for a waiver is currently pending or is expected to be submitted in the near future.

A checklist has been provided in Appendix A for the convenience of the taxpayer submitting the request. In certain cases some of the material described above may be inappropriate or burdensome to furnish. In such cases, the request for approval should include a statement indicating why such material is not being furnished.

.05 The Service may request additional information as needed.

.06 If a conference has been requested, a conference will be granted only in accordance with section 12 of Rev. Proc. 2000-4. Furthermore, if the Service proposes an adverse holding, the taxpayer will be offered a conference in accordance with section 12.02 of Rev. Proc. 2000-4.

.07 If the request for the change in funding method is approved, the instructions under line 5 of Schedule B (Actuarial Information) of Form 5500 should be followed in reporting the change. Currently, this requires entering the date of the ruling letter on line 5k of Schedule B.

Section 5. Class Rulings

.01 In a case where approval is desired for a change in funding method that is identical for a group of plans in excess of 40 receiving actuarial services from the same insurance company or consulting firm, a "class ruling" may be requested approving the change for all consenting taxpayers in the class. A class generally consists of the group of plans (1) receiving actuarial services from the same insurance company or consulting firm, or whose actuarial valuations are produced using the software of the same vendor, and (2) for which the element of the funding method that is proposed to be changed was the same. An element of a funding method is defined for purposes of this revenue procedure as (1) an asset valuation method, (2) a valuation date, or (3) the funding method without regard to the asset valuation method or the valuation date.

.02 The class ruling may be requested by an enrolled actuary on behalf of an insurance company or consulting firm that provides actuarial services to the plans. An enrolled actuary on behalf of a software vendor may also request a class ruling; such ruling would apply to all plans whose actuarial valuations are produced using that vendor's software (both before and after the change in funding method).

.03 The enrolled actuary making the request should state the period for which the class ruling is proposed to be effective. The ruling will apply to plan years beginning within the stated period. The stated period cannot begin prior to 12 months before the month in which the request is made. Generally, the period cannot be longer than 36 months.

.04 In lieu of the plan-specific information otherwise required under section 4, the request for a class ruling shall contain the following information:

- (1) The name and enrollment number of the actuary making the request.
- (2) The name and address of the insurance company, consulting firm, or software vendor described in subsection 5.02.
- (3) A statement indicating that the applicant believes that the class ruling will be applied to at least 40 plans and an estimate of the number of plans that is expected to change the funding method in accordance with the class ruling.
- (4) The information described in subsections 4.04(5), 4.04(6), and 4.04(9), except that the numerical results requested in 4.04(9) should be a numerical illustrative example rather than actual numerical results.

.05 If the change in funding method is approved, a "class ruling letter" will be issued to the insurance company, consulting firm, or software vendor requesting the ruling. However, it is not incumbent upon the plan administrator or plan sponsor of any plan to agree to the change in funding method. If the change in funding method covered by the class ruling letter is desired, the instructions under line 5 of Schedule B (Actuarial Information) and line 7 of Schedule R (Retirement Plan Information) of Form 5500 should be followed in reporting the change. Currently, this requires entering the date of the class ruling letter on line 5k of Schedule B and reporting the plan sponsor's agreement to the change in funding method on line 7 of Schedule R.

.06 If a request for a class ruling is approved, at least 30 of the plans covered by the ruling must make the change in funding method in order for the ruling to become effective.

.07 The Service may, in its discretion, limit the period for which a class ruling will be effective, impose conditions on the use of the class ruling, or decline to issue a class ruling.

Section 6. Effect on other Documents

.01 Rev. Proc. 2000-4 is modified to the extent that this revenue procedure provides special procedures for issuing rulings with respect to a change in funding method.

.02 Rev. Proc. 78-37 is superseded.

Section 7. Effective Date

This revenue procedure is effective for requests for changes in funding method made on or after December 1, 2000.

Section 8. Paperwork Reduction Act

The collection of information contained in this revenue procedure has been reviewed and approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act (44 U.S.C. § 3507) under control number 1545-1704.

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 control number.

The collection of information in this revenue procedure is in sections 4 and 5. This information is required to evaluate and process the request for a change in funding method. The collection of information is required to obtain approval for a change in funding method. The likely respondents are businesses or other for-profit institutions, nonprofit institutions, and small businesses and organizations.

The estimated total annual reporting burden is 5,400 hours.

The estimated annual burden per respondent varies from 12 to 24 hours, depending on individual circumstances, with an estimated average burden of 18 hours. The estimated number of respondents and/or recordkeepers is 300.

The estimated annual frequency of responses is one.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. § 6103.

Drafting Information

The principal author of this revenue procedure is John C. Heil of Employee Plans Actuarial Group 2, TE/GE Rulings and Agreements. For further information regarding this revenue procedure, please contact the Employee Plans Actuarial Group taxpayer assistance telephone service between the hour of 2:30 p.m. and 3:30 p.m., Eastern Time, Monday through Thursday on (202) 622-6076 (not a toll-free number). Mr. Heil's telephone number is (202) 622-7383 (prior to October 28, 2000), or (202) 283-9694 (after October 28, 2000), also not toll-free numbers.

Appendix A

CHANGE IN FUNDING METHOD REQUEST CHECKLIST IS YOUR SUBMISSION COMPLETE?

Instructions

The Service will be able to respond more quickly to your change in funding method request if it is carefully prepared and complete. To ensure your request is in order, use this checklist. Answer each question in the checklist by inserting Y for yes, N for no, or N/A for not applicable, as appropriate, in the blank next to the item. **Sign and date the checklist (as taxpayer or authorized representative) and place it on top of your request.**

You must submit a completed copy of this checklist with your request. If a completed checklist is not submitted with your request, substantive consideration of your submission will be deferred until a completed checklist is received. However, this checklist need not be submitted if the request involves a class ruling described in section 5 of this revenue procedure.

- _____ 1. If you want to designate an authorized representative or a third party contact, have you included a properly executed Form 2848 (Power of Attorney and Declaration of Representative) or Third Party Contact Authorization Form?
- _____ 2. Have you satisfied all the requirements of Rev. Proc. 2000-4 or its successors (especially concerning signatures and penalties of perjury statement)? (See sections 2.05 & 4.03)
- _____ 3. Have you included the user fee required under Rev. Proc. 2000-8 or its successors? (See section 2.06)
- _____ 4. Have you included the employer identification number, the plan name and number, and the name and address of the plan administrator or plan sponsor? (See section 4.04(1))
- _____ 5. Have you included a copy of the actuarial valuation report for the plan year preceding the year of change, and, if available, a draft of the actuarial valuation report for the year of change? (See section 4.04(2))

- _____ 6. Have you included a copy of the last Schedule B (Actuarial Information) of Form 5500, including attachments thereto (for requests involving mergers, a copy of the last Schedule B for each of the merging plans)? (See section 4.04(3))
- _____ 7. Have you included a statement of the plan year first affected by the proposed change? (See section 4.04(4))
- _____ 8. Have you included a complete description of the current and proposed funding methods, including asset valuation methods? (See section 4.04(5))
- _____ 9. Have you included a brief statement of the reason for the proposed change and a statement why automatic approval under Rev. Proc. 2000-40 cannot be used to make the change? (See section 4.04(6))
- _____ 10. Have you included a statement whether a change in funding method was previously requested? (See section 4.04(7))
- _____ 11. Have you included a statement of other changes being made for the year of change, such as a change in plan year or change in actuarial assumptions? (See section 4.04(8))
- _____ 12. Have you included a worksheet prepared by the enrolled actuary for the plan, showing a "before and after" list of the amortization bases, the unfunded liability of the plan, and the basic funding formula (or equation of balance) using the proposed method? Have you included the calculation of the full funding limitation for the plan year prior to the plan year of change and for the plan year of change? (See section 4.04(9))
- _____ 13. Have you included a statement of whether a waiver of the minimum funding standard is currently in effect and whether a request for a waiver is currently pending or is expected to be submitted in the near future? (See section 4.04(10))

Signature

Date

Title or Authority

Typed or printed name of person signing checklist