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IRS gives guidance on SECURE Act community newspaper DB relief

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New [guidance](#) from IRS explains how defined benefit (DB) plan sponsors can use the special community newspaper funding rules in the Setting Up Every Community for Secure Retirement Enhancement (SECURE) Act (Pub. L. No. 116-94). Notice 2020-60 specifies how sponsors make the election, clarifies the application to members of the sponsor's controlled group and provides details on the funding calculations for a year when an election is in effect. Sponsors can elect to apply the relaxed funding rules retroactively to plan years ending after Dec. 31, 2017, but must make those elections by Dec. 31, 2020. [Note: The American Rescue Plan Act of 2021 has modified the eligibility requirements for this relief. For details, see [Rescue plan modifies funding relief for community newspaper plans](#), April 2, 2021.]

Eligibility conditions

The SECURE Act adds Section [430\(m\)](#) to the Internal Revenue Code (IRC), providing relaxed funding requirements for DB plans sponsored by a "community newspaper" — one that primarily serves a metropolitan area with a population of 100,000 or more. In broad terms, a DB plan is a "community newspaper plan" if the sponsor publishes community newspapers in a single state and is privately held and controlled by a small group (for example, a single family, trust or charitable organization).

The sponsor of a community newspaper plan may elect the relief if no participant has received an increase in accrued benefits because of service or compensation after Dec. 31, 2017. The plan apparently doesn't need to have been frozen. For instance, underfunded plans with no accruals due to benefit restrictions under IRC Section [436](#) seem to qualify. The relief also appears to allow accruals to resume while a relief election is in effect, without disqualifying the plan from continuing to rely on the new rules.

Because the notice is silent on this issue, however, sponsors in this situation may want to consult with legal counsel.

Relaxed funding rules

Plans using the relief get favorable interest rates to fund existing benefits and a longer amortization period for funding shortfalls, though new benefits must be funded at low Treasury rates. Under the new rules, sponsors will:

- Eliminate any previously existing shortfall amortization bases and installments
- Calculate new shortfall amortization bases and installments using an 8% interest rate and a 30-year amortization period instead of the current segment rates and seven-year amortization period
- Disregard the at-risk rules that increase contributions for poorly funded plans
- Calculate the funding target and normal cost for any new benefit accruals using a US Treasury yield curve

Yield curve

The notice specifies that new benefit accruals are valued using the [spot rate yield curve for Treasury nominal coupon issues](#) (TNC yield curve). The applicable yield curve depends on a plan's valuation date:

- **First day of the month:** the daily TNC yield curve for the last business day of the previous month
- **Last day of the month:** the daily TNC yield curve for the last business day of that month
- **Any other day:** The monthly average of the daily TNC yield curves for that month

No effect on PBGC premiums

An election to use the relaxed funding rules doesn't extend to the determination of a plan's PBGC premium. The SECURE Act specifies that premiums are calculated disregarding the effect of a relief election, and the PBGC [2020 premium payment instructions](#) make clear that plans relying on the relief must calculate their variable-rate premiums in the same manner and using the same discount rate as all other plans.

Making elections

To use the relief, sponsors make a written election to the plan's enrolled actuary, plan administrator and all members of the sponsor's controlled group. The appendix to the notice includes a model election form, but sponsors drafting their own election must include:

- The first plan year for which the election applies
- A certification that the sponsor satisfies the ownership and control standards of Section 430(m)
- A list of the sponsor's controlled group members, including each member's employer identification number (EIN) and whether the member sponsors a DB plan

Sponsors must make the election before filing Form 5500 Schedule SB for that plan year by the 15th day of the 10th month after plan year-end. For instance, a sponsor of a calendar-year plan has until Oct. 15, 2021, to make an election to use the relief starting with the 2020 plan year. As discussed [below](#), a special rule applies for retroactive elections.

Once made, the election remains in effect until formally revoked by the plan sponsor. To revoke the election, the sponsor must request an IRS private letter ruling, using procedures laid out in [Rev. Proc. 2020-4](#) (updated annually).

Election applies to all plans in controlled group

The statute lets a sponsor make an election for an eligible plan and any plan sponsored by any member of the same controlled group, even if those plans wouldn't otherwise qualify. This language arguably means that a sponsor can choose — but isn't required — to apply the new rules to any other plan. However, the IRS notice takes the position that if a sponsor makes the election for a plan, the election applies to all DB plans within the sponsor's controlled group.

Retroactive elections

Section 430(m) elections may be made retroactively for any plan year ending after Dec. 31, 2017, but sponsors generally may not retroactively change a plan's valuation assumptions once they have been reported on Schedule SB. To accommodate retroactive elections, the notice permits a retroactive change in the interest rate assumption — but apparently not any other actuarial assumptions — as long as the election is made by Dec. 31, 2020. The sponsor then must file an amended Schedule SB reflecting the election for each affected plan year by the time the next Schedule SB is filed.

A retroactive election to use the relief may reduce the minimum contribution for a prior year, meaning that some previously contributed amounts and elections to use the credit balance are now unnecessary.

Accordingly, the notice extends to Dec. 31, 2020, the deadline for plan sponsors making retroactive elections to increase the plan's prefunding balance or revoke elections to use credit balance. Although the notice doesn't specifically address standing credit balance elections, IRS may view those amounts as having been fixed when the elections originally took effect for applicable prior plan years. Absent any guidance, sponsors will probably want to include excess standing election amounts when making revocations.

Effect on benefit restrictions

The more favorable interest rates under 430(m) will also apply for determining the adjusted funding target attainment percentage (AFTAP) used to determine the application of Section 436 benefit restrictions. Making a retroactive 430(m) election could have a significant effect on a plan's AFTAP, potentially changing the level of restrictions. Such a change could disqualify a plan if the change is material. But the notice provides that an AFTAP change due to a retroactive 430(m) election is deemed immaterial, as long as the plan's enrolled actuary recertifies the AFTAP as soon as administratively practicable after the election. In this case, any changes to benefit restrictions would apply only prospectively from the date of the election.

Related resources

Non-Mercer resources

- [Notice 2020-60](#) (IRS, Aug. 13, 2020)
- [Pub. L. No. 116-94](#), the SECURE Act (Congress, Dec. 20, 2019)
- [Treasury coupon issues](#) (US Department of the Treasury)

Mercer Law & Policy resources

- [SECURE Act helps struggling community newspaper DB plans](#) (May 26, 2020)

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