



# A user's guide to implementing ARPA's DB funding relief

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With year-end contribution and filing deadlines looming, defined benefit (DB) pension plan sponsors should take a close look at their strategies for reflecting the minimum funding relief offered by the American Rescue Plan Act (ARPA) ([Pub. L. No. 117-2](#)). Now that IRS has issued ARPA guidance in [Notice 2021-48](#), plan sponsors need to carefully consider their implementation options. Besides providing details on the relief elections, the notice gives sponsors abundant flexibility to manage credit balances and prior-year contributions. The notice also offers guidance on a few issues related to using ARPA interest rates for other purposes. This GRIST provides a comprehensive overview of the notice's implementation guidance, explains how and when to make elections, and lists action steps for plan sponsors.

## ARPA's two-pronged funding relief

ARPA gives DB plans relief in two ways: The law provides continued interest rate relief beyond 2020 and permanently lengthens the amortization period for funding shortfalls.

### Interest rate stabilization

ARPA's interest rate relief extends and updates the stabilization rules originally provided by the Moving Ahead for Progress in the 21st Century (MAP-21) Act ([Pub. L. No. 112-141](#)). MAP-21 set a 10% corridor around each funding segment rate for 2010 and would have widened the corridor over five years until it reached 30% in 2015. Later legislation pushed the full phaseout date to 2023 but didn't make any other changes to the stabilization rules.

ARPA shrinks the corridor from 10% to 5% and keeps it there through 2025, after which a new five-year phaseout begins, reaching 30% in 2030. The act also adds a new 5% floor that applies to each of the 25-year average funding segment interest rates to provide protection from low interest rates.

The interest rate relief applies retroactively to 2020, but plan sponsors can choose to disregard it for the 2020 or 2021 plan year (either or both; separate elections apply). Sponsors have flexibility to disregard the relief for all

purposes or only for determining whether benefit restrictions apply under Internal Revenue Code (IRC) Section 436.

## 15-year shortfall amortization

When the Pension Protection Act (PPA) of 2006 overhauled DB plans' minimum funding rules, it introduced a single seven-year period for amortizing all funding shortfalls. Many plan sponsors found the relatively short amortization period too burdensome in a period when falling interest rates could lead to large loss amortizations every year. ARPA responds to requests from sponsor and industry groups by permanently lengthening the amortization period from seven to 15 years. The first year a sponsor applies this relief is a fresh start that eliminates all previously existing shortfall bases and amortizes the total outstanding balance over 15 years.

The amortization relief applies to the first plan year starting in 2022, but sponsors may elect to apply the changes retroactively for plan years starting in 2019, 2020 or 2021.

## Election flexibility raised implementation questions

ARPA gives plan sponsors significant flexibility to reflect the funding changes. Sponsors can choose from a dizzying number of combinations, though the optimal choice for many plans is straightforward: For well-funded plans, defer all changes to 2021 or 2022 to avoid the cost of reworking valuation results and government filings. For less well-funded plans, reflect the changes as early as possible to get the greatest reduction in contributions. But for plan sponsors electing the relief retroactively, the reductions in minimum funding requirements as far back as the 2019 plan year raise many questions — particularly with respect to using excess prior-year contributions and managing the plan's credit balances. Before IRS issued Notice 2021-48, sponsors wondered:

- **Can sponsors redesignate contributions to different plan years?** How much flexibility do sponsors whose 2019 and 2020 plan-year contributions exceeded the revised minimums have to redesignate those amounts to earlier or later plan years?
- **Can sponsors create prefunding balance for the 2020 plan year?** Can sponsors electing ARPA's amortization relief back to 2019 use excess contributions to create prefunding balance, even if the ordinary deadline for those elections has passed? If so, can sponsors make those elections retroactively and use those amounts to satisfy pre-ARPA requirements (for instance, to retroactively eliminate a missed quarterly contribution or year-end contribution)?
- **Can sponsors revoke elections to use credit balance?** Can plan sponsors revoke elections to apply credit balance to minimum funding requirements, thus restoring the balance for future use?
- **Can sponsors revoke elections to waive credit balance?** Can plan sponsors revoke voluntary and involuntary credit balance waivers in light of the revised funded status after reflecting ARPA elections?
- **Can sponsors reflect changes to the adjusted funding target attainment percentage (AFTAP) only prospectively?** Can plan sponsors only rely on revised AFTAP certifications prospectively and leave prior benefit administration undisturbed for the earlier part of the year? Or must sponsors reflect revised AFTAPs for an entire year, which might require corrective distributions for previously limited benefits?

## Notice 2021-48 answers most questions

Notice [2021-48](#) addresses most of these questions, while providing detailed guidance on when and how to make ARPA elections and how to reflect these elections for government reporting (e.g., Form 5500 Schedule SB). The notice also covers a few miscellaneous issues about the use of ARPA interest rates for other purposes, such as actuarial asset value calculations, discounting of contributions delayed under the relief offered by the Coronavirus Aid, Relief and Economic Stimulus (CARES) Act ([Pub. L. No. 116-136](#)), and interest-crediting rates for some cash balance plans.

## Minimum funding elections

Sponsors have two choices for making elections to reflect 15-year amortization and interest rate relief: written elections and deemed elections (made by filing a Schedule SB reflecting the sponsor's decisions). Deemed elections are available for all years for 15-year amortization elections but only for 2020 plan-year interest rate elections.

### Written elections

Plan sponsors must provide written notice to the enrolled actuary and plan administrator by the last day of the plan year beginning in 2021 or, if later, Dec. 31, 2021 (for short plan years). The notice must include the following information:

- The plan's name and plan number
- The plan sponsor's name, mailing address and employer identification number
- The plan year to which the election relates:
  - For 15-year amortization, the first plan year for which the election will apply
  - For ARPA interest rates, the plan year for which the rates are deferred and whether the election applies for all purposes or only for benefit restriction purposes
    - Separate elections for 2020 and 2021 are apparently required, though they presumably can be combined on a single form.

### Deemed elections

In many cases, sponsors can avoid making formal written elections by simply filing Schedule SB reflecting their decisions.

- **15-year amortization.** By filing a Schedule SB for a plan year beginning in 2019, 2020 or 2021 reflecting 15-year amortization of shortfall bases (in the attachment to line 32), a sponsor can make a deemed election to reflect the relief beginning with the first year of the 15-year period. That initial year may be earlier than the year for which the Schedule SB is filed. For instance, filing a 2020 Schedule SB reflecting 15-year amortization starting in 2019 will be considered a deemed election for 2019; sponsors don't need to refile the 2019 Schedule SB.

- **ARPA interest rates.** Filing Schedule SB for the 2020 plan year without reflecting ARPA rates is considered a deemed election to defer the interest rate relief. This deemed election applies for both minimum funding and Section 436 benefit restriction purposes. Sponsors that want to make the election solely for benefit restriction purposes will need to make a written election to that effect. This option is apparently not available for the 2021 plan year, so sponsors will need to make a written election by the last day of the 2021 plan year (or Dec. 31, 2021, if later) if they want to defer the interest rate changes to 2022. However, since ARPA was enacted early in 2021 — before completion of most 2021 valuations — most sponsors probably will decide to use ARPA rates for 2021, avoiding the need for an election.

## Revoking elections

Sponsors can revoke deemed elections to defer ARPA rates for 2020 made on a Schedule SB filed by Oct. 15, 2021. To revoke the deemed election, the sponsor must file an amended 2020 Schedule SB reflecting the ARPA rates by Dec. 31, 2021. Sponsors revoking a deemed election can make a written election to apply the pre-ARPA rates only for benefit restriction purposes, if desired. The notice is silent on whether sponsors may revoke written elections by the applicable deadline.

## Contribution and credit balance management

Plan sponsors have significant — but not unlimited — flexibility to adjust their credit balances to reflect revised prior-year valuation results. Sponsors can create prefunding balance with contributions exceeding the reduced minimum required contributions, revoke many credit balance elections (both voluntary and mandatory), and redesignate previously made contributions to a later plan year.

### Creating prefunding balance

Sponsors that make excess contributions for a plan year can use them to create prefunding balance to cover required contributions in later years. Sponsors ordinarily must make this election by the end of the contribution “grace period” — generally, 8-1/2 months after the plan year-end (Sept. 15 for calendar-year plans). For example, a calendar-year plan sponsor had until Sept. 15, 2019, to create prefunding balance using excess contributions for the 2018 plan year. The CARES Act extended the grace period for 2019 plan years, and [Notice 2020-82](#) gave sponsors until Jan. 4, 2021, to create prefunding balance using excess 2019 contributions. However, those elections didn't reflect the reduced contribution requirements due to ARPA since it had not yet become law.

Notice 2021-48 lets plan sponsors create prefunding balance for the 2020 and 2021 plan years using excess 2019 and 2020 contributions, respectively, but the ordinary timing restrictions in Treas. Reg. § [1.430\(f\)-1\(f\)](#) continue to apply. These restrictions prevent a plan sponsor from using credit balance to retroactively satisfy a funding requirement that arose before the balance was created. In other words, a sponsor can't create credit balance in August 2021 and then use it to satisfy an April 15, 2021, missed quarterly contribution.

The amount of new prefunding balance sponsors may create is limited to the increase in excess contributions due to ARPA. This means sponsors that made excess contributions based on the pre-ARPA results but didn't create prefunding balance can't now change the treatment of those amounts.

*Example.* A plan's minimum required contribution for 2019 was \$10 million. The sponsor made contributions of \$15 million, but didn't elect to create any prefunding balance when filing the 2019 Schedule SB. The sponsor elects to apply ARPA's 15-year shortfall amortization in 2019, which reduces the 2019 minimum required contribution by \$2 million. The sponsor can elect to create prefunding balance with the \$2 million attributable to

reflecting ARPA in 2019, but can't create prefunding balance with the other \$5 million in excess contributions made for the plan year.

The deadline for these special elections to create prefunding balance is Dec. 31, 2021. The deadline applies to any plan year for which the normal deadline (8-1/2 months after plan year-end) falls before that date — that is, 2019 plan years and some short 2020 or 2021 plan years. Of course, plans still have time under the ordinary rules to create prefunding balance for the 2021 plan year using excess contributions based on revised 2020 valuation results. The deadline extension applies to any (short) plan years for which the ordinary deadline will fall before Dec. 31, 2021.

**What if sponsors thought they could use prefunding balance but didn't have any?** Some plan sponsors may have assumed that forthcoming guidance would permit retroactively using newly created prefunding balance to satisfy earlier quarterly funding requirements, such as the April 15 and July 15, 2021, payments for a calendar-year plan. However, sponsors have to make a specific election to create prefunding balance before applying it to the quarterly payment — in that case, the balance existed before it was applied. But if a sponsor did not create the prefunding balance on or before the quarterly due date, the quarterlies apparently were not satisfied in time. An election to use credit balance is invalid if the credit balance doesn't exist. Sponsors in this position will need to make an election to create prefunding balance and then apply it to the (late) quarterly payment. Interest penalties will apply from the quarterly due date to the date of the new election, and sponsors may have to file a missed quarterly contribution report with the Pension Benefit Guaranty Corp. (PBGC) if cumulative missed contributions exceed \$1 million (PBGC waives reporting for smaller missed quarterlies that arise solely due to late credit balance elections).

## Revoking credit balance elections

Elections to apply credit balance toward minimum funding requirements are revocable only in limited circumstances. Plan sponsors may revoke an election if it exceeds the minimum funding requirement (but not if the sponsor simply changed its mind and made extra cash contributions). Normally, plan sponsors may revoke elections to use credit balance only through the end of the plan year to which the election relates — that is, plan sponsors would have had to revoke a 2019 calendar-year plan election by Dec. 31, 2019. Notice 2021-48 lets sponsors revoke these elections for 2019 or 2020 plan years to the extent of the reduction in the minimum funding requirement from reflecting ARPA.

Voluntarily elections to reduce a plan's credit balance to meet a particular funded percentage (e.g., 80% to avoid Section 436 benefit restrictions on accelerated payments) must also be made by the end of the plan year to which they apply. These elections normally cannot be revoked. Plans are subject to automatic waivers at the end of the contribution grace period if those waivers would eliminate a benefit restriction that would otherwise apply.

Notice 2021-48 gives a sponsor until Dec. 31, 2021, to revoke these use elections or voluntary or deemed waivers for the 2020 or 2021 plan year if the sponsor elects ARPA's shortfall or interest rate relief for that plan year. Revocations must be made in writing to the plan's enrolled actuary and plan administrator.

*Example.* A plan's minimum contribution was \$10 million for 2019. The sponsor applied \$9 million of prefunding balance to the contribution and later made \$6 million in cash contributions. Prior to the ARPA changes, the plan had no excess use of credit balance to revoke. The sponsor created the maximum \$5 million (adjusted for interest) of prefunding balance as of the beginning of 2020 due to excess 2019 contributions, for a net reduction in prefunding balance of approximately \$4 million (the difference between the \$9 million used and the \$5 million newly created).

The sponsor elects to apply ARPA's 15-year shortfall amortization in 2019, which reduces the 2019 minimum required contribution by \$2 million. The sponsor can elect to revoke \$2 million of the prefunding balance election — the amount of the reduction in the minimum required contribution. Alternatively, the sponsor could elect to create up to \$1 million in prefunding balance (adjusted for interest) as of Jan. 1, 2020 — the increase in excess contributions from \$5 million pre-ARPA to the full \$6 million post-ARPA — and revoke prefunding balance up to the remainder of the \$2 million reduction in the minimum required contribution. In either case, the sponsor's prefunding balance is reduced by approximately \$2 million (-\$9 million used + \$2 million revoked + \$5 million newly created, or -\$9 million used + \$1 million revoked + \$6 million newly created).

If the sponsor had not originally elected to create the maximum prefunding balance prior to ARPA (\$5 million plus interest), then the sponsor apparently could elect both to revoke \$2 million of the prefunding balance election (equal to the reduction in the 2019 minimum required contribution) and create an additional \$1 million (plus interest) of prefunding balance as of the beginning of 2020 (the increase in excess contributions). These elections would restore \$3 million of prefunding balance, even though the 2019 minimum required contribution decreased by only \$2 million. Whether IRS intended this result is unclear, but the notice nonetheless seems to permit the dual elections.

## Redesignating contributions to following year

Section 430 minimum funding rules generally permit contributions to be attributed to the current plan year or the prior plan year if the contribution is made before the end of that year's grace period. A contribution is attributed to a particular plan year by including the contribution on the Schedule SB filed for that year. After reporting a contribution on a Schedule SB, sponsors are generally prohibited from filing an amended Schedule SB to redesignate the contribution to a different plan year. (This restriction mainly aims to prevent sponsors from shifting contributions around solely to reduce PBGC premiums.)

Depending on a plan's circumstances, redesignating a contribution for an earlier plan year (potentially giving a legitimate claim for a PBGC premium refund) or a later year (perhaps to cover a previously missed quarterly contribution) might be the most advantageous strategy. Some plan sponsor and other groups had pushed for employers to have this flexibility, but the notice grants only limited latitude: Sponsors may reattribute a contribution (or a portion of a contribution) originally designated for the 2019 or 2020 plan year only to the immediately following plan year and only in certain situations.

A contribution may be redesignated only if it meets both of the following conditions:

- The contribution originally could have been designated for the next plan year. That is, the sponsor made the contribution on or after the start of the plan year and before the end of the contribution grace period, and the redesignation would not give rise to an unpaid minimum required contribution for the earlier plan year.
- The sponsor made the original designation on a Schedule SB filed by Oct. 15, 2021.

The CARES Act extended the deadline for any contribution otherwise due in the 2020 calendar year to Jan. 1, 2021 (and [Notice 2020-61](#) said contributions made as late as Jan. 4, 2021, would be deemed timely). So a 2019 plan-year contribution made by Jan. 4, 2021, may be redesignated for the 2020 plan year. Most plans haven't yet filed their 2020 Schedules SB, but a sponsor that files by Oct. 15, 2021, may redesignate a contribution reported on that form to 2021. This option would allow shifting a Jan. 4, 2021, contribution originally designated for a 2019 calendar-year plan to the 2021 plan year in two steps.



The notice cautions sponsors that any election to redesignate a contribution for a later plan year may have implications for PBGC variable-rate premiums (VRPs). For instance, if a sponsor redesignates a 2019 plan-year contribution to 2020, then that contribution won't count in the 2020 asset value and the sponsor may owe additional PBGC VRPs for 2020.

*Example.* A plan sponsor's minimum required contribution for 2020 was \$20 million before the ARPA changes. The sponsor took advantage of the CARES Act's grace-period extension to pay all four 2020 quarterlies totaling \$18 million on Jan. 4, 2021. By Oct. 15, 2021, the sponsor files a 2020 Schedule SB reflecting 15-year amortization starting in 2019 and ARPA interest rates for 2020, which reduces the 2020 minimum required contribution to \$15 million. The sponsor reports all \$18 million for 2020. In November, the sponsor realizes that it inadvertently missed the July 15, 2021, quarterly payment of \$2 million. Because the sponsor has \$3 million in excess contributions for 2020 (\$18 million contributed toward the revised minimum requirement of \$15 million), the sponsor may file an amended 2020 Schedule SB reporting a \$16 million contribution and can attribute the remaining \$2 million to 2021, thus retroactively eliminating the missed July 15 quarterly payment.

## Redesignating contributions to an earlier plan year

Although Notice 2021-48 does not allow contributions already reported on a Schedule SB to be redesignated for an *earlier* plan year, this type of redesignation is possible for contributions not yet reported on a Schedule SB. For example, a contribution originally intended for the 2020 plan year, but not yet reported on the 2020 Schedule SB — because that form has not yet been filed — could instead be reported on an amended 2019 Schedule SB. This strategy might be useful for contributions made during the 2019 plan-year grace period (extended to Jan. 4, 2021, for calendar-year plans) and no longer needed to satisfy the 2020 minimum required contribution.

This approach has some limitations. The deadline for creating prefunding balance for the 2020 plan year using excess 2019 contributions has passed for most plans (with the exception of certain elections specifically permitted by Notice 2021-48, as explained in the previous section). Therefore, additional contributions attributed to 2019 can't be used to create more prefunding balance. In addition, contributions for 2019 made after the original due date but by the extended CARES Act due date that are added to the 2019 Schedule SB can't be used to further reduce the 2020 PBGC VRP. (The deadline for claiming these extended grace-period contributions for PBGC purposes has passed.) However, sponsors could refile the 2020 PBGC premium filing to reflect additional 2019 plan-year contributions not originally reported but later included on a revised Schedule SB, as long as those contributions were made by the original due date (Sept. 15, 2020, for a calendar-year plan). Of course, plans that took advantage of the CARES Act's full deadline extension may not have any contributions meeting those criteria.

Similarly, contributions made during the contribution grace period for the 2020 plan year that were originally intended to apply to 2021 may no longer be needed for 2021. Sponsors may instead attribute those contributions to the 2020 plan year (and reflect them for the 2021 PBGC VRP).

## AFTAP changes

By default, ARPA interest rates apply retroactively to 2020 for all purposes, unless a plan sponsor elects to defer them to 2021 or 2022. The sponsor can elect to defer them for all purposes or only for benefit restriction purposes. Plan sponsors choosing to reflect ARPA rates for 2020 or 2021 for benefit restriction purposes will need revised AFTAP certifications to support any changes in the levels of restrictions. If a plan sponsor makes the change for a plan year that doesn't yet have a certified AFTAP, this should not cause any problems — the first certification for the plan year will reflect the sponsor's ARPA elections.

In contrast, if the sponsor chooses to reflect ARPA rates retroactively for a plan year that already has a certified AFTAP, the AFTAP will increase. This may change the level of benefit restrictions that apply, depending on when the change is reflected and whether the sponsor made any contributions to avoid benefit restrictions. In some cases, the plan may need to retroactively adjust benefits.

## Guidance permits retroactive or prospective recognition

A revised AFTAP that changes the plan's level of benefit restrictions ordinarily is a "material change" that could lead to a qualification failure, unless the change is deemed immaterial under certain conditions in the regulations. Notice 2021-48 provides additional rules for treating a 2020 or 2021 AFTAP change due to ARPA elections as immaterial and lets the sponsor reflect the change retroactively or prospectively.

An AFTAP change due to ARPA elections is deemed immaterial if:

- The original 2020 or 2021 AFTAP didn't reflect ARPA.
- A revised AFTAP is issued by Dec. 31, 2021, reflecting any changes in the plan's funding target, assets and credit balances due to ARPA elections.
- The plan is operated in accordance with the revised AFTAP either prospectively or retroactively.
  - **Prospective application.** Plan operations do not change until issuance of the revised certification. In the case of a revised 2020 AFTAP issued after plan year-end, prospective application will only affect benefit restrictions during the presumption period until the 2021 AFTAP is certified.
  - **Retroactive application.** Plan operations must be conformed retroactively to the date of the original certified AFTAP for the plan year. A revised 2020 AFTAP would apply for the portion of the 2020 plan year after the first certification, as well as for any portion of the 2021 plan year during which the presumption rules apply. If any benefit restrictions are lifted as a result of the revised AFTAP, the plan must retroactively correct benefit payments to participants.

**Correcting plan payments.** Plan sponsors retroactively applying a revised AFTAP must make corrective payments to participants, following procedures in the [Employee Plans Compliance Resolution System](#) (EPCRS). Notice 2021-48 specifies that plans may use self-correction procedures for these payments, even if the plan otherwise wouldn't qualify for self-correction. The corrective payments include payments not made due to prior limitations on accelerated payments, as well as unpredictable contingent-event benefits that would have been paid if the revised AFTAP had been in effect. Retroactive corrections also apply to previously restricted plan amendments and benefit accruals that weren't permitted before but are now.

**Effect on plans relying on CARES Act's AFTAP relief.** The CARES Act permitted plan sponsors to rely on the AFTAP for the last plan year ending before 2020 for any plan year that included a portion of the 2020 calendar year. Notice 2021-48 reminds sponsors that they may revoke the CARES Act election on receipt of a certified 2020 AFTAP, including an AFTAP reflecting ARPA elections.



## Limitations on sponsor elections

Despite having wide latitude to manage contributions, credit balances and AFTAPs, sponsors may not take any action that would trigger benefit restrictions that wouldn't otherwise apply. The notice lists several examples of impermissible elections:

- Revoking a credit balance waiver made to avoid benefit restrictions for the period before the original certified AFTAP was issued for a plan year
- Redesignating a Section 436 contribution — a contribution specifically intended to avoid application of a benefit restriction — made before the AFTAP was certified for the year
- Adding contributions to the prefunding balance if the resulting increase would cause the plan's AFTAP to fall below 80% (because the prefunding balance is subtracted from assets when determining the AFTAP)

All other elections seem to be fair game, but sponsors and their consultants should carefully analyze any such actions to avoid any unintended consequences, such as higher PBGC premiums.

## Government reporting

The notice includes an entire section on reflecting ARPA elections on the 2019 Schedule SB and a smaller section for 2020. IRS apparently tried to minimize disruptions to the normal filing process as much as possible (maybe for the benefit of agency staff as much as plan sponsors).

A sponsor that has already filed the 2019 Schedule SB (as all but some late calendar-year plans have) generally doesn't need to file a revised form to reflect elections to apply shortfall relief in the 2019 plan year or changes in credit balance elections, as long as the sponsor isn't redesignating any contributions to or from the 2019 plan year. Instead, those changes can be reflected on the 2020 Schedule SB as if they had been reported on the 2019 SB.

Few sponsors have filed a Schedule SB for the 2020 plan year — the extended due date for calendar-year plan filings is Oct. 15, 2021. Sponsors that haven't yet filed can simply report ARPA elections affecting the 2020 plan year on the 2020 Schedule SB. If a sponsor has already filed a 2020 Schedule SB in a manner inconsistent with the notice's guidance or makes an election that changes information reported on the previously filed Schedule SB, the sponsor may — but apparently doesn't have to — file an amended 2020 form. The 2021 Schedule SB should reflect any ARPA elections, regardless of whether the sponsor files a revised 2020 Schedule SB.

**Revised forms required for redesignating contributions.** The notice is silent on how a sponsor can redesignate a contribution previously reported on a Schedule SB to a later year. However, a reasonable approach — and the one IRS would likely prefer — would be to file an amended SB for the affected years. For most sponsors, this will mean refiling the 2019 SB for contributions redesignated to 2020, since the 2020 Schedule SB probably hasn't been filed yet.

**Reduction of excise tax on unpaid minimum contributions.** When a plan sponsor misses paying a minimum required contribution for a plan year, the unpaid amount is reported on that plan year's Schedule SB and is subject to an excise tax under IRC Section 4971. The ARPA relief may mean that some sponsors will see their missed contributions reduced or even eliminated. Sponsors that already paid the excise tax may request a refund by filing an amended IRS [Form 5330](#). Sponsors that haven't yet paid the excise tax but have filed a 2019 Schedule SB

showing an unpaid minimum contribution may receive an IRS notice saying that the tax is due. Those sponsors can simply reply to IRS explaining that the missed contribution will be eliminated (and provide supporting evidence).

## Other interest rate guidance

In some cases, retroactive use of the higher ARPA interest rates would have negative consequences for plan sponsors. The notice confirms several approaches that avoid such issues:

- Plans not electing to defer ARPA's interest rate stabilization should use the third ARPA segment rate for determining the assumed rate of return when calculating a plan's actuarial asset value for an applicable year.
- The ARPA interest rates don't apply for determining 2019 plan-year discounted contributions delayed as late as Jan. 4, 2021, under the CARES Act relief. This avoids a potential unpaid 2019 plan-year minimum contribution for plans that took advantage of the extended due date. But the notice doesn't provide any relief for delayed CARES Act contributions made for the 2020 plan year, so some contributions might now be insufficient for plans that elect the interest rate relief. This issue will primarily affect quarterly contributions for the 2020 plan year, as the final contribution for 2020 is not yet due (except in the case of short plan years). Plans electing relief for 2020 will likely have reduced quarterly requirements for the year, further mitigating this concern.
- Cash balance plans that credit interest using funding segment rates can make a "reasonable interpretation" of plan terms if the sponsor chooses to reflect ARPA interest rates for funding purposes for plan years before 2022. The notice says that a reasonable interpretation would be that the ARPA rates apply starting on March 11, 2021, the date of ARPA's enactment.

## A few unanswered questions

Notice 2021-48 was comprehensive but some lingering questions remain:

- Some sponsors might have taken actions prior to Notice 2021-48 that, based on the guidance in the notice, result in late quarterly contributions. For instance, a sponsor might not have made a specific election to create prefunding balance, assuming that a standing quarterly election would automatically adjust to reflect a later election to create prefunding balance retroactively. PBGC ordinarily waives reporting when a missed quarterly contribution (of less than \$1 million) is due to a failure to make a timely credit balance election. Will PBGC be similarly lenient now?
- Are standing elections to use prefunding balance self-correcting? Treas. Reg. § [1.430\(f\)-1\(f\)\(1\)\(ii\)](#) permits plan sponsors to make standing elections to use credit balance to meet minimum required contributions or to create the maximum prefunding balance. These elections take effect on the last day of the contribution grace period for a plan year. After the Highway and Transportation Funding Act (HATFA) of 2014 provided similarly retroactive funding relief, IRS said informally that these standing elections are self-correcting — that is, a standing election to use the prefunding balance would retroactively adjust. So a sponsor didn't need to revoke any portion of that election to reflect the drop in the minimum required contribution due to HATFA. However, IRS never formalized that guidance, and Notice 2021-48 is silent on the matter. Although sponsors might reasonably assume that IRS would maintain its previous stance, the safest course of action would be to make formal elections now to reverse previous use elections or to create additional prefunding balance.
- Can a plan sponsor redesignate a 2019 plan-year contribution for 2021? As explained earlier in [Redesignating contributions to following year](#), the notice allows redesignating a contribution only to the plan year immediately

after the year to which the contribution was originally attributed. But the notice seems to permit sponsors to use a two-step process to shift the contribution from 2019 to 2020 and then from 2020 to 2021. This would require filing a 2020 Schedule SB by Oct. 15, 2021, and then filing an amended 2020 Schedule SB by Dec. 31, 2021.

## Action steps

Plan sponsors that want to take advantage of ARPA's shortfall and interest rate relief have a little time to analyze options and choose the best path. Elections generally are not due until Dec. 31, 2021, though many sponsors will want to have their elections in place by the time they file the 2020 Schedule SB in October (for calendar-year plans). Sponsors should:

- Work with their actuaries and consultants to determine the optimal combination of relief elections for the 2019, 2020, and 2021 plan years to meet funding and strategic goals
- Prepare written elections to elect relief (or instruct their actuaries to prepare Schedule SBs to make deemed elections)
- Request updated AFTAP certifications from the plan's enrolled actuary to ensure that AFTAP changes are deemed immaterial, if necessary
- If electing to reflect ARPA interest rates before the 2022 plan year, work with legal counsel and the plan administrator to determine how to reflect those interest rates for benefit restriction purposes, including making any necessary corrections to plan operations if applying the rates retroactively
- Decide how to implement the ARPA rates for cash balance plans using the third segment rate for interest crediting, if electing those rates for years before 2022

## Related resources

### Non-Mercer resources

- [Notice 2021-48](#) (IRS, July 30, 2021)
- [Pub. L. No. 117-2](#), the American Rescue Plan Act of 2021 (Congress, March 11, 2021)
- [Notice 2020-82](#) (IRS, Nov. 16, 2020)
- [Notice 2020-61](#) (IRS, Aug. 6, 2020)
- [Pub. L. No. 116-136](#), the Coronavirus Aid, Relief and Economic Security Act (Congress, March 27, 2020)

### Mercer Law & Policy resources

- [Pension funding relief, union plan reforms in aid bill near enactment](#) (March 10, 2021)

- [IRS bends on CARES Act funding deadline; PBGC follows suit](#) (Nov. 18, 2020)
- [CARES Act DB funding and AFTAP guidance provides little relief](#) (Aug. 11, 2020)

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