

IRS issues multiemployer plan amortization extension procedures

On November 12, 2008, the IRS issued [Revenue Procedure 2008-67](#) to provide guidance for sponsors of multiemployer plans that want to obtain IRS approval of an amortization period extension under the rules as revised by the Pension Protection Act of 2006 (PPA). Under PPA, an amortization extension can be used to keep a plan out of “endangered” status but cannot be used to keep a plan out of “critical” status. The submission and notification rules described in this revenue procedure apply to all amortization period extensions requested for plan years beginning after December 31, 2007.

Background

Prior to the enactment of PPA, multiemployer defined benefit plans could apply for automatic extensions of the funding amortization period for a period of up to 10 years. Under PPA, the total extension period is still limited to 10 years. However, an [automatic extension](#) may not exceed five years. Plan sponsors may apply for [alternative extensions](#) for up to 10 years minus the length of any automatic extension approved. A plan sponsor may request both types of extensions in a single application. The IRS may approve the automatic extension without approving the alternative extension.

Deadline for requesting an extension

All extension requests must be submitted by the last day of the first plan year for which the extension is to be effective.

General procedures

The IRS has not yet developed a form to capture the information that plan sponsors must provide when requesting an amortization period extension. Instead, this revenue procedure provides a detailed list of information that must be provided and a checklist to help plan sponsors determine if their submissions are complete. This checklist must be signed by the applicant or authorized representative, dated, and placed on top of the request. The IRS also provides a Model Notice to be provided to affected parties.

Application for automatic extension

The application for an automatic extension of an amortization period must include:

- The unfunded liability for the extension being requested;
- The length of the amortization period extension being requested (up to a maximum of five years);
- Whether a prior application for an amortization extension (automatic or alternative) was submitted and whether the plan is in endangered or critical status in the first plan year for which the extension is requested; and
- A certification by the plan’s actuary.

Upon receipt of the application with the required information and verification that the criteria mentioned above have been made, the IRS will issue a statement granting approval for the requested extension.

Application for alternative extension

An applicant must provide evidence that an alternative extension would provide adequate protection for participants and their beneficiaries, and that the failure to permit the extension would result in substantial risk to the continuation of the plan or a substantial cutback of pension benefit levels.

As a result, the application for an alternative extension must include:

- General facts concerning the participating employers, such as:
 - The history of the contributing employers and the industry covered by the plan;
 - The ownership of the principal employers and any recent or contemplated changes (e.g., acquisitions, mergers, discontinuances of operations) that might have a bearing on the employers' organizations or general financial condition;
 - Any recently withdrawn principal employers, their withdrawal liability amounts and applicable dates; and
 - A general description of the financial state of the industry in which employees covered by the plan are employed.
- The financial condition of the principal employers, i.e., those employers who are directly represented on the applicant board of trustees or made or are required to make 5% or more of the total required contributions under the collective bargaining agreements relating to the plan for which the extension is requested;
- Information concerning the extension of the amortization period, including:
 - The amount of the unfunded liability for which the extension is requested;
 - The reasons why an extension is needed;
 - The length of the extension requested (up to a maximum of 10 years, less any automatic extension);
 - Information about the actions taken to reduce the plan's unfunded liability before the extension request was made;
 - Projections of the funding standard account, actuarial value of plan assets, market value assets, current liabilities and funding ratios; and
 - The plan year for which the extension is requested.
- Various facts about the pension plan, as well as:
 - A copy of the current plan document and the most recent summary plan description;
 - A copy of the recent determination letter issued to the plan;
 - A brief description of all plan amendments adopted during the year for which the extension is requested and the previous four years that affect plan costs, including the approximate effect of each amendment on those costs;
 - The most recent actuarial report, plus any available actuarial reports for the preceding two plan years;
 - A description of how the plan is funded;
 - Detailed information about contributions;
 - A copy of the most recently completed Form 5500;
 - A copy of each ruling letter that waived the minimum funding standard during the last 15 plan years;
 - A copy of the certification of whether or not the plan is in critical or endangered status; and
 - A copy of any funding improvement or rehabilitation plan to which the plan is currently subject; and
- Other information, such as a description of the nature of any matters pertaining to the plan which are currently pending or are intended to be submitted to IRS, DOL, or PBGC and details of any existing arbitration, litigation, or court procedure that involves the plan.

Submission requirements

The plan sponsor (i.e., the board of trustees of the plan) or an authorized representative must submit the unfunded liability amortization extension request. The request must be signed by an:

- Authorized trustee who is a current member of the board of trustees;
- Authorized representative; or
- Enrolled actuary.

An authorized representative must submit a [Form 2848, Power of Attorney and Declaration of Representative](#), with the request. The request must also include a declaration of truthfulness in addition to any documents required to be submitted as part of a request for a ruling or determination letter. The appropriate user fee must accompany the request and the application must be submitted to:

Employee Plans
Internal Revenue Service
Commissioner, TE/GE
Attention: SE:T:EP:RA
P.O. Box 27063
McPherson Station
Washington, D.C. 20038

Notification requirements

The applicant must provide a copy of a written notification to each:

- Employee organization representing employees covered by the plan;
- Contributing employer; and
- Plan participant, beneficiary, and alternate payee,

that an application for an extension of the amortization period has been submitted to the IRS. The original notice must have the signature of an authorized trustee who is a current member of the board of trustees and must be in substantially the form set forth in the Model Notice found in Appendix A of the [revenue procedure](#). The applicant only needs to supply the information required by the Model Notice, but may provide additional information if required by a collective bargaining agreement. The IRS has also developed a checklist, found in Appendix B of the revenue procedure, when submitting a request for an alternative extension.

The notice must be hand-delivered or mailed to the last known address of each employee organization, participant, beneficiary, and alternate payee within 14 days prior to the date of the application. Alternatively, the notice may be delivered electronically, in accordance with IRS electronic delivery rules. However, a bulletin board posting will not satisfy the notice requirement.



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