



Compliance Advisory

January 2011

IRS issues revised multiemployer plan amortization extension procedures

On December 8, 2010, the IRS issued revised guidance for sponsors of multiemployer plans that want to obtain approval of an amortization period extension under the rules as revised by the Pension Protection Act of 2006 (PPA). The revised submission and notification rules apply to all amortization period extension requests submitted on or after January 1, 2011.

The revised guidance provided in [Revenue Procedure 2010-52](#):

- Modifies the list of affected parties to whom notification must be made by adding the Pension Benefit Guaranty Corporation (PBGC) and removing contributing employers;
- Extends the period for submission of an application; and
- Modifies the treatment of automatic extension applications for purposes of certifying a plan's status.

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 15th day of the third calendar month following 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 requires all applications to include the:

- Plan name;
- Plan sponsor's identification number; and
- Plan number.

In addition, applications must include:

- A statement that the required Notice has been provided to affected parties;
- A description of the method of delivery used to satisfy the Notice requirement; and
- A copy of the Notice.

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);

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- Whether a prior application for an amortization extension (automatic or alternative) was or was not approved, including if approved, the length of the extension and, if denied, the reason for the denial and an explanation of why the reason for the denial no longer applies; 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;
- Information about 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;
- Various facts about the pension plan, such as the plan effective and adoption dates; 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 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

The IRS has also developed a checklist, found in Appendix B of the [revenue procedure](#), for use when submitting a request for an alternative extension.

Notification requirements

The applicant must provide a copy of the Notice provided to each:

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

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 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.

Modification of an existing extension

If a plan has already received an amortization extension for less than ten years for an unfunded liability, the plan sponsor may apply for an alternative extension to modify the existing one to a total of ten. If the original extension was for less than five years, an automatic extension cannot be requested to make such a modification.

Interim effect of application

The revenue procedure also clarifies that the deadline for certifying a multiemployer's plan status is not affected by a pending application to the IRS. If the plan has submitted an application for an automatic extension and the IRS has not ruled on the application, the plan's enrolled actuary must treat the application as approved.

Next steps

Plan sponsors should read the guidance contained in this publication to determine the impact on their plans. They should consult with the plan's enrolled actuary to make any application for an amortization extension.



Compliance Advisory by Prudential Retirement

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