Part III. Administrative, Procedural and Miscellaneous

Funding Relief for Single-Employer Pension Plans under PRA 2010

Notice 2011-3

I. PURPOSE

This notice provides guidance on the special rules relating to funding relief for single-employer defined benefit pension plans (including multiple employer defined benefit pension plans) under the Preservation of Access to Care for Medicare Beneficiaries and Pension Relief Act of 2010 (PRA 2010), Pub. L. No.111-192.

II. BACKGROUND

Section 430 of the Internal Revenue Code (Code) specifies the minimum funding requirements that apply to single-employer defined benefit pension plans pursuant to § 412. For purposes of calculating the minimum required contribution, § 430 generally requires a plan to establish a shortfall amortization base with respect to a plan year for which the value of a plan's assets is less than the amount of the plan's funding target. Section 430(c)(2) generally provides for amortization of a shortfall amortization base over 7 years.

Section 201(b)(1) of PRA 2010 adds § 430(c)(2)(D) which permits a plan sponsor to elect, in lieu of the otherwise applicable amortization schedule, to amortize the shortfall amortization base established for certain plan years under one of two alternative amortization schedules: the 2 plus 7-year amortization schedule, or the 15-year amortization schedule. The 2 plus 7-year amortization schedule is described in § 430(c)(2)(D)(ii) and the 15-year amortization schedule is described in § 430(c)(2)(D)(iii). Section 201(b)(2) of PRA 2010 amends § 430 by adding § 430(c)(7), which provides for an acceleration of the required installments under an alternative amortization schedule in the case of certain compensatory payments, dividends, and stock redemptions.

Under § 430(c)(2)(D)(v), an election to use an alternative amortization schedule may generally be made only with respect to one or two eligible plan years, and, under § 430(c)(2)(D)(iv)(II), if the plan sponsor makes the election for two plan years, the same amortization schedule must be used for both plan years. An eligible plan year is a plan year that begins in 2008, 2009, 2010, or 2011, but only if the due date for the minimum required contribution to the plan for such plan year under § 430(j)(1) occurs on or after June 25, 2010 (the date of enactment of PRA 2010). Section 430(c)(2)(D)(iv)(III) provides that any such

election may be revoked only with the consent of the Secretary, after consultation with the Pension Benefit Guaranty Corporation.

Pursuant to § 430(c)(2)(D)(vi), a plan sponsor that makes an election under § 430(c)(2)(D) for a plan year is required to provide notice of the election to participants and beneficiaries of the plan. Under § 430(c)(2)(D)(vi)(II), the plan sponsor must also inform the Pension Benefit Guaranty Corporation of such election in such form and manner as the Director of the Pension Benefit Guaranty Corporation may prescribe.

Sections 104, 105, and 106 of the Pension Protection Act of 2006 (PPA '06), Pub. L. No. 109-280, provide that the effective dates for the minimum funding rules under § 430 and funding-based benefit restrictions under § 436 are delayed for certain plans. For plans described in section 104 or 105 of PPA '06, these provisions do not generally apply for plan years beginning before January 1, 2017, and January 1, 2014, respectively. For plans described in section 106 of PPA '06, the provisions of §§ 430 and 436 of the Code do not apply for plan years beginning before January 1, 2011.

Section 202(a) of PRA 2010 amends Title I of PPA '06 to allow a plan sponsor of a plan described in section 104 or 105 of PPA '06 to elect, for any two eligible plan years (using the same definition as applies under § 430), one of two alternative amortization schedules with respect to a portion of the plan's unfunded new liability. The schedules, set forth in sections 107(b) and 107(c) of PPA '06, as amended by PRA 2010, are generally similar to the 2 plus 7-year amortization schedule and the 15-year amortization schedule.

Section 202(a) of PRA 2010 also provides for the election of one of the alternative amortization schedules for plans described in section 106 of PPA '06. Such plans are subject to the minimum funding rules of § 430 of the Code for plan years beginning on or after January 1, 2011, and the election to use an alternative amortization schedule under section 202(a) of PRA 2010 is available for these plans only for one eligible year beginning in 2008, 2009, or 2010. Sponsors of these plans may also make an election under section 201(b)(1) of PRA 2010 to use an alternative amortization schedule to amortize the shortfall amortization base for a plan year beginning in 2011.

Section 202(b) of PRA 2010 amends section 104 of PPA '06 to provide a delayed effective date for application of the minimum funding requirements of § 430 and the funding-based benefit restrictions under § 436 to certain plans maintained by eligible charities. Under this provision, eligible charity plans (certain plans maintained by employers described in § 501(c)(3)) generally will not be subject to the rules of §§ 430 and 436 for plan years beginning before January 1, 2017. However, plan sponsors may elect to have the provisions of §§ 430 and 436 apply for plan years beginning after December 31, 2007, and on or before December 31, 2008.

Section 303(c)(2) of the Employee Retirement Income Security Act of 1974, as amended (ERISA), is parallel to § 430(c)(2) of the Code, and section 201(a)(1) of PRA 2010 amends section 303(c)(2) of ERISA in a manner parallel to the amendments made to § 430(c)(2) of the Code by section 201(b)(1) of PRA 2010. Section 201(a)(2) of PRA 2010 adds section 303(c)(7) of ERISA, which is parallel to new § 430(c)(7). Under section 101 of Reorganization Plan No. 4 of 1978 (43 FR 47713), the Secretary of the Treasury has interpretive jurisdiction over the subject matter of this notice for purposes of ERISA as well as the Code. Thus, this notice applies for both purposes.

Notice 2010-55 (2010-33 I.R.B. 253) states that the Service expects to issue future guidance on the special funding rules under PRA 2010 for single-employer plans. Notice 2010-55 also states that, in the case of a plan year that ends before the guidance is issued, the plan sponsor will be permitted to elect to use an alternative amortization schedule under PRA 2010 without regard to whether the Form 5500 (and Schedule SB) has been filed for that plan year. This notice constitutes the guidance anticipated in Notice 2010-55.

III. QUESTIONS AND ANSWERS

The questions and answers in this notice relate to the following topics:

G - General rules
I - Installment acceleration amounts
C - Excess compensation amounts
S - Excess shareholder payment amounts
M - Mergers and acquisitions
E - Elections to use an alternative amortization schedule
N - Notification to participants, beneficiaries, and the PBGC
CP - Eligible charity plans
R - Reporting requirements
T - Transition rules

G. GENERAL RULES

Q G-1: For which plan years can the sponsor of a single-employer defined benefit pension plan elect to use an alternative amortization schedule under § 430(c)(2)(D), as added by section 201 of PRA 2010?

A G-1: (a) In general, an alternative amortization schedule under § 430(c)(2)(D) may be elected for one or two of the plan years beginning in 2008, 2009, 2010, or 2011, as long as the deadline for the minimum required contribution for the plan year occurs on or after June 25, 2010. Pursuant to § 430(j)(1), this deadline is 8½ months after the end of the plan year. Therefore, in general, plan years

ending on or after October 10, 2009, and beginning before January 1, 2012 (eligible plan years) are eligible for this relief.

(b) However, for plans described in section 106 of PPA ’06, the election to use an alternative amortization schedule under § 430(c)(2)(D) can only be made for a plan year beginning in 2011, which is the first year for which these plans are covered by § 430. See section 202 of PRA 2010 for similar rules pertaining to funding relief for plans described in sections 104 through 106 of PPA ’06 with respect to plan years to which § 430 does not apply.

Q G-2: What rules generally apply to the alternative amortization schedules?

A G-2: (a) In lieu of the otherwise applicable amortization schedule for a shortfall amortization base established for a plan year that is an eligible plan year as defined in Q&A G-1 of this notice, a plan sponsor may elect to apply either of two alternative amortization schedules to the shortfall amortization base: the 2 plus 7-year amortization schedule described in Q&A G-3 of this notice, or the 15-year amortization schedule described in Q&A G-4 of this notice. A plan year for which such an election is made is known as an election year under § 430(c)(2)(D)(i). If an election is made to use an alternative amortization schedule for two eligible plan years, the same schedule must be elected for both years.

(b) In certain circumstances, the amortization installments under an alternative amortization schedule must be increased, as described in section III.I of this notice relating to installment acceleration amounts.

(c) See Q&A R-5 of this notice for a description of how to report the shortfall amortization installments in years affected by an election to use an alternative amortization schedule.

Q G-3: How are the installment amounts for a shortfall amortization base calculated under the 2 plus 7-year amortization schedule?

A G-3: (a) If an election is made to apply the 2 plus 7-year amortization schedule to a shortfall amortization base, the installment for each of the first two years is determined by multiplying the amount of the shortfall amortization base established for the election year by the effective interest rate for the plan for the election year. The installment for each of the remaining 7 years is the level amount calculated so that the present value of the 9 installments as of the valuation date for the election year equals the amount of the shortfall amortization base established for the election year.

(b) The present value of the 9 installments is determined using the segment rates or rates from the full yield curve used to determine the target normal cost (or the funding target, if the target normal cost is zero) for the election year. See

§ 1.430(h)(2)-1(e) of the Income Tax Regulations for a description of the interest rates that may be used for this purpose, and § 1.430(h)(2)-1(f)(2) for rules regarding the use of segment rates to determine the amount of shortfall amortization installments.

Example G-1: (a) Assume that the sponsor of a plan with a calendar year plan year and a January 1 valuation date elects to amortize the shortfall amortization base of $1,000,000 established for the 2010 plan year using the 2 plus 7-year amortization schedule. The first and second segment rates used to determine the target normal cost for the 2010 plan year are 4.81% and 6.69%, respectively, and the effective interest rate for the plan for the 2010 plan year is 6.00%.

(b) Each of the shortfall amortization installments for the 2010 and 2011 plan years is $60,000, determined by multiplying the amount of the shortfall amortization base by the effective interest rate for the plan for the 2010 plan year ($1,000,000 x 6% = $60,000). After taking into account these installments, the remaining shortfall amortization base is equal to the amount of the shortfall amortization base, minus the first two installments adjusted to the January 1, 2010 valuation date using the first segment rate of 4.81%, or $882,754 ($1,000,000 - $60,000 - ($60,000 ÷ 1.0481)). The shortfall amortization installment for each of the next 7 plan years (2012 through 2018) is $168,458, determined as the level amount necessary to amortize the remaining balance of $882,754 using the first segment rate of 4.81% for the shortfall amortization installments for 2012 through 2014, and the second segment rate of 6.69% for the shortfall amortization installments for 2015 through 2018. The total present value of all 9 payments is $1,000,000, calculated using the first segment rate of 4.81% for installments due for plan years 2010 through 2014 and the second segment rate of 6.69% for plan years 2015 through 2018.

Q G-4: How are the installment amounts for a shortfall amortization base calculated under the 15-year amortization schedule?

A G-4: If an election is made to apply the 15-year amortization schedule to a shortfall amortization base, the installment amount for each plan year (i.e., the election year and the subsequent 14 plan years) is the level amount needed to amortize the shortfall amortization base established for the election year over a period of 15 years. A shortfall amortization base for which relief is elected is amortized using the segment rates or rates from the full yield curve used to determine the target normal cost (or the funding target, if the target normal cost is zero) for the election year. See § 1.430(h)(2)-1(e) for a description of the interest rates that may be used for this purpose, and § 1.430(h)(2)-1(f)(2) for rules regarding the use of segment rates to determine the amount of shortfall amortization installments.

Example G-2: The facts are the same as in *Example G-1*, except that the plan sponsor elects to use the 15-year amortization schedule. The shortfall

amortization installment due for each of the 15 plan years from 2010 through 2024 is $99,394. The shortfall amortization installment is determined using the first segment rate of 4.81% for the installments due for plan years 2010 through 2014 and the second segment rate of 6.69% for the installments due for plan years 2015 through 2024.

Q G-5: How does the calculation of shortfall amortization installments change if the valuation date is not the first day of the plan year?

A G-5: (a) The shortfall amortization installments are calculated using the same principles as the installments under the corresponding amortization schedule for plans with valuation dates on the first day of the plan year. For example, the amortization installments for the first two years of the 2 plus 7-year amortization schedule are equal to the product of the shortfall amortization base and the plan's effective interest rate for the election year, without further adjustment for interest.

(b) Each installment, regardless of whether the 2 plus 7-year or the 15-year amortization schedule is used, is assumed to be paid on the valuation date when determining the amount of the shortfall amortization installments.

Q G-6: How is an election to use an alternative amortization schedule applied to a multiple employer plan?

A G-6: (a) In the case of a multiple employer plan to which § 413(c)(4)(A) applies, the rules of § 430 and this notice are applied separately for each employer under the plan, as if each employer maintained a separate plan. Accordingly, the rules of this section apply to each plan sponsor separately, and a plan sponsor may independently elect to use an alternative amortization schedule for up to two eligible years with respect to the portion of the plan attributable to that sponsor. Other sponsors of the multiple employer plan may elect to use a different alternative amortization schedule for different eligible plan years, or may decide not to use an alternative amortization schedule.

(b) In the case of a multiple employer plan to which § 413(c)(4)(A) does not apply, the rules of § 430 are applied as if all participants in the plan were employed by a single employer. Therefore, if an election is made to use an alternative amortization schedule, such election applies to the entire plan and the rules of this notice apply to the entire plan.

Q G-7: Will an election to use an alternative amortization schedule for a plan affect the plan sponsor's ability to obtain a funding waiver for that plan?

A G-7: Each request for a funding waiver is reviewed based on the facts and circumstances applying to that individual plan. See section 2.03 of Rev. Proc. 2004-15 (2004-1 C.B. 490). One relevant factor is whether the combination of a

funding waiver and an election to use an alternative amortization schedule would reduce the minimum required contributions to a point where the granting of the waiver would be adverse to the interest of plan participants in the aggregate. To ensure that the granting of the waiver is not adverse to the interest of participants in the aggregate, the Service may impose additional requirements relating to any election of an alternative amortization schedule as a condition for granting a funding waiver.

I. INSTALLMENT ACCELERATION AMOUNTS

Section 430(c)(7)(A) provides that if there is an installment acceleration amount with respect to a plan for any plan year in the restriction period with respect to a plan year for which an alternative amortization schedule is elected, then the shortfall amortization installment otherwise determined under § 430(c)(2)(D) is increased by the installment acceleration amount, subject to the limitation under § 430(c)(7)(B). Section § 430(c)(7)(F)(ii) defines the restriction period as the 3-plan-year period (in the case of a plan using the 2 plus 7-year amortization schedule) or the 5-plan-year period (in the case of a plan using the 15-year amortization schedule) beginning with the later of the election year or the first plan year beginning after December 31, 2009. Installment acceleration amounts for a plan year which exceed the limitation are carried over to the following plan year if that year is within the period described in § 430(c)(7)(C)(iii)(III). See Q&A I-6 of this notice.

Section 430(c)(7)(C) defines an installment acceleration amount with respect to a plan year within the restriction period. In general, the installment acceleration amount is equal to the sum of the aggregate amount of excess employee compensation determined under § 430(c)(7)(D) (referred to in this notice as the excess compensation amount) and the aggregate amount of dividends and redemptions determined under § 430(c)(7)(E) (referred to in this notice as the excess shareholder payment amount).

Under § 430(c)(7)(C)(ii), the installment acceleration amount applied to a shortfall amortization installment for any plan year (referred to in this notice as the acceleration adjustment) is limited to the excess (if any) of the sum of the shortfall amortization installments for the plan year and all preceding plan years in the amortization period, determined without regard to the election of an alternative amortization schedule, over the sum of the shortfall amortization installments for such plan year and all such preceding plan years, determined after application of the alternative amortization schedule. Section 430(c)(7)(B)(ii) further provides that if an acceleration adjustment applies, subsequent shortfall amortization installments are reduced (beginning with the last payment due) so that the present value of the adjusted amortization schedule is equal to the present value of the remaining unamortized shortfall amortization base. Thus, the effect of an installment acceleration adjustment is to accelerate, rather than increase, the installments otherwise required.

Q I-1: What are the general rules for installment acceleration amounts?

A I-1: (a) For any plan year that is within the restriction period described in Q&A I-2, an installment acceleration amount is calculated for a shortfall amortization base for which an alternative amortization schedule has been elected. The installment acceleration amount for a plan year is determined as the sum of the excess compensation amount as described in section III.C of this notice and the excess shareholder payment amount as described in section III.S of this notice.

(b) The amount added to the shortfall amortization installment for a plan year is based on the installment acceleration amount but is limited as described in Q&A I-4 of this notice. If the limitation described in Q&A I-4 of this notice is exceeded, the excess amounts are carried over to subsequent plan years in accordance with Q&A I-5 and Q&A I-6 of this notice. No amounts are added to the shortfall amortization installments on account of installment acceleration amounts after the period described in Q&A I-6.

(c) For any year in which an amount is added under paragraph (b) of this Q&A I-1, the remaining shortfall amortization installments for the affected shortfall amortization base are reduced as described in Q&A I-3, so that the present value of the future shortfall amortization installments is the same after reflecting the acceleration adjustment as determined disregarding the increase for the installment acceleration amount.

(d) If an alternative amortization schedule has been elected for more than one plan in the plan sponsor's controlled group (within the meaning of § 412(d)(3)), the installment acceleration amount is allocated among all plans (i) for which the plan sponsor has elected to use an alternative amortization schedule and (ii) for which the current plan year falls within the restriction period with respect to the election year. The rules related to the allocation of the installment acceleration amount are described in Q&A I-7 and Q&A I-8 of this notice. See Q&A I-9 and Q&A I-10 of this notice for additional considerations if the plan sponsor has elected to use an alternative amortization schedule for more than one election year for one or more plans in the controlled group.

(e) Quarterly installments required under § 430(j)(3) are determined without regard to any increase due to an installment acceleration amount, whether the required annual payment for a plan year is based on 90% of the minimum required contribution for that plan year under § 430(j)(3)(D)(ii)(I) or 100% of the minimum required contribution for the prior plan year under § 430(j)(3)(D)(ii)(II).

Q I-2: What is the restriction period with respect to an election year?

A I-2: (a) If the plan sponsor elects to use the 2 plus 7-year amortization schedule for a plan year, the restriction period with respect to that election year is

the 3-year period beginning with the later of the election year or the first plan year beginning after December 31, 2009. If the plan sponsor elects to use the 15-year amortization schedule for a plan year, the restriction period with respect to that election year is the 5-year period beginning with the later of the election year or the first plan year beginning after December 31, 2009.

(b) For example, if the sponsor of a calendar-year plan elects to use the 2 plus 7-year amortization schedule for the shortfall amortization base established for the plan year beginning in 2009 (the 2009 election year), the restriction period would be the 3-year period beginning January 1, 2010, and ending December 31, 2012. If instead, the plan sponsor elects to use the 15-year amortization schedule with a 2010 election year, the restriction period would be the 5-year period beginning January 1, 2010, and ending December 31, 2014.

Q I-3: How does the acceleration adjustment affect shortfall amortization installments for future years?

A I-3: Installment acceleration amounts are intended to accelerate the timing of shortfall amortization installments, not increase the total amount of installments associated with a shortfall amortization base. When an acceleration adjustment is added to the amortization installment for a shortfall amortization base for a plan year, the subsequent shortfall amortization installments are reduced to the extent necessary so that the present value of the remaining shortfall amortization installments for that base (including the installment for the current year) is the same as the present value of the remaining shortfall amortization installments for that base before the increase for the acceleration adjustment. Under § 430(c)(7)(B)(ii), these reductions are applied in reverse order, beginning with the last shortfall amortization installment due for the shortfall amortization base. For this purpose, the present value of the remaining payments is determined using the segment rates or the full yield curve used to determine the target normal cost (or the funding target, if the target normal cost is zero) for the year for which the acceleration adjustment is added to the shortfall amortization installment.

Example I-1. (a) The facts are the same as in *Example G-1*, except that an acceleration adjustment of $214,000 is added to the shortfall amortization installment for the 2012 plan year for the shortfall amortization base for which the alternative amortization schedule was elected. Assume for purposes of this example that the first and second segment rates used to calculate the target normal cost for the 2012 plan year are 5.50% and 6.25%, respectively, and that there were no installment acceleration amounts for any previous plan years.

(b) The shortfall amortization installment for the 2012 plan year, increased to reflect the acceleration adjustment, is $382,458. This is equal to the otherwise-applicable shortfall amortization installment of $168,458 under the

2 plus 7-year amortization schedule, plus the acceleration adjustment of $214,000.

(c) Prior to applying the acceleration adjustment, seven shortfall amortization installments of $168,458 each remain as of January 1, 2012. Using the segment rates for the 2012 plan year, the present value of these remaining installments is $1,000,426.

(d) The subsequent amortization installments are reduced or eliminated as required under § 430(c)(7)(B)(ii). Accordingly, the shortfall amortization installment for the 2018 plan year is eliminated, and the installment for the 2017 plan year is reduced to $37,233. This results in the following shortfall amortization installments, which have the same present value ($1,000,426) as the remaining installments prior to applying the acceleration adjustment:

Year	Shortfall amortization installments	
	Before adjustment	After adjustment
2012	$168,458	$382,458
2013	168,458	168,458
2014	168,458	168,458
2015	168,458	168,458
2016	168,458	168,458
2017	168,458	37,233
2018	168,458	0
Present value as of January 1, 2012	$1,000,426	$1,000,426

Q I-4: How is the § 430(c)(7)(C)(ii) annual limitation on the increase in the shortfall amortization installment applied?

A I-4: (a) The annual limitation on the increase in the shortfall amortization installment is determined for a shortfall amortization base as the excess of (i) the sum (without interest) of the shortfall amortization installments for the plan year and all preceding plan years, determined as if the sponsor had not elected the alternative amortization schedule, over (ii) the sum (without interest) of the actual shortfall amortization installments for the plan year and all preceding plan years, reflecting the alternative amortization schedule elected by the plan sponsor. The shortfall amortization installments in clause (ii) of the preceding sentence reflect any acceleration adjustments for all preceding plan years, but not for the current plan year. Thus, as of the end of the plan year for which a shortfall amortization installment for a shortfall amortization base is increased, the cumulative amount of the shortfall amortization installments for that base, including any increase on account of an installment acceleration amount, will not be greater than the cumulative amount of the shortfall amortization installments for that base determined as if the alternative amortization schedule had not been elected.

In addition, the increase is limited so that it does not cause the increased shortfall amortization installment for that plan year to exceed the present value of the remaining shortfall amortization installments for that base, determined as of the valuation date (without regard to the increase attributable to the installment acceleration amount for the plan year).

(b) The annual limitation is applied separately to the increase in the shortfall amortization installment for each affected shortfall amortization base. The resulting increase in the shortfall amortization installment for a base is not affected by whether or not the increases in the shortfall amortization installments for any other affected base exceed the annual limitation for that base.

Example I-2: (a) The facts are the same as in *Example I-1,* except that the installment acceleration amount determined for the 2012 plan year is $250,000.

(b) Based on the first and second segment rates for the 2010 election year of 4.81% and 6.69% respectively, each shortfall amortization installment would have been $167,698 under the 7-year amortization schedule that would have applied absent an election to use an alternative amortization schedule. The annual limitation on the installment acceleration amount is the excess of (1) the sum of shortfall amortization installments under the 7-year amortization schedule that would have applied absent the election to use an alternative amortization schedule, over (2) the sum of the shortfall amortization installments under the 2 plus 7-year amortization schedule elected by the plan sponsor, or $214,636, as shown in the table below:

Year	Shortfall amortization installments	
	Without alternative amortization schedule (a)	Reflecting alternative amortization schedule (b)
2010	$167,698	$60,000
2011	167,698	60,000
2012	167,698	168,458
Total	$503,094	$288,458
Excess of (a) over (b)		$214,636

(c) Using the first and second segment rates for the 2012 plan year of 5.50% and 6.25%, respectively, the present value of the remaining shortfall amortization installments prior to application of the installment acceleration amount for 2012 is $1,000,426. The increase in the shortfall amortization installment for the 2012 plan year is limited to the smaller of this amount or the annual limitation in § 430(c)(7)(C)(ii), or $214,636. The increased shortfall amortization installment for 2012 for the affected shortfall amortization base is therefore $168,458 + $214,636, or $383,094.

Q I-5: What carryover rules apply if the otherwise-applicable increase in the shortfall amortization installment for an amortization base exceeds the annual limitation described in Q&A I-4 of this notice?

A I-5: (a) If the otherwise-applicable increase in the shortfall amortization installment for a shortfall amortization base exceeds the annual limitation described in Q&A I-4 of this notice for that base for a plan year, the excess (referred to in this notice as an excess installment acceleration amount) is carried over and added to the increase in the shortfall amortization installment for that base for the following plan year if that plan year is within the carryover period described in Q&A I-6 of this notice. Any carryover of an excess installment amortization amount is added only to the installments for the shortfall amortization base to which it was originally attributed.

(b) The acceleration adjustment added to the shortfall amortization installment for any plan year within the carryover period described in Q&A I-6 of this notice is equal to (i) the installment acceleration amount for that shortfall amortization base, if that base is within the restriction period, plus (ii) any installment acceleration amount carried over from previous years in accordance with this Q&A I-5, with that sum limited by the annual limitation in Q&A I-4 of this notice.

Example I-3. (a) The facts are the same as in *Example I-2*. The amount carried over to the 2013 plan year is equal to $35,364, which is the excess of the installment acceleration amount determined for the 2012 plan year, or $250,000, over the amount that was added to the shortfall amortization installment for the 2012 plan year after application of the annual limitation, or $214,636. No installment acceleration amount is applicable for the 2013 plan year, because the 2013 plan year is not within the restriction period for the shortfall amortization base established for the 2010 plan year.

(b) Before application of the annual limit under § 430(c)(7)(C)(ii) and Q&A I-4 of this notice, the shortfall amortization installment for 2013 would be increased to $168,458 + $35,364, or $203,822. The annual limitation for the 2013 plan year is the excess of (i) the sum of the shortfall amortization installments for the 2010 through 2013 plan years, determined as if the sponsor had not elected the alternative amortization schedule, over (ii) the sum of the actual shortfall amortization installments for the 2010 through 2013 plan years reflecting the alternative amortization schedule elected by the plan sponsor, including acceleration adjustments added to the shortfall amortization installments through 2012. Accordingly, the annual limitation for the 2013 plan year is $0, as shown in the table below:

Year	Shortfall amortization installments	
	Without alternative amortization schedule (a)	Reflecting alternative amortization schedule (b)
2010	$167,698	$60,000
2011	167,698	60,000
2012	167,698	383,094
2013	167,698	168,458
Total	$670,792	$671,552
Excess of (a) over (b)		$0

Q I-6: For how long will excess installment acceleration amounts be carried over?

A I-6: (a) In general, any excess installment acceleration amount for a shortfall amortization base is carried over each plan year until there is no longer an excess installment acceleration amount for the associated shortfall amortization base or until the associated shortfall amortization base is completely amortized. However, in no event is an excess installment acceleration amount carried over to a plan year which begins after the first plan year following the last plan year in the restriction period for a base being amortized using the 2 plus 7-year amortization schedule. For a base being amortized using the 15-year amortization schedule, no excess installment acceleration amount is carried over to a plan year which begins after the second plan year following the last plan year in the restriction period for that base.

(b) For example, if the sponsor of a plan with a calendar-year plan year elected to amortize the shortfall amortization base established for the 2010 plan year using the 2 plus 7-year amortization schedule, the restriction period would end in 2012 (the end of the 3-year period beginning with the election year of 2010) and the last year for which any installment acceleration amounts would be carried over from previous years is the following year, 2013. Any excess installment acceleration amounts remaining at the end of 2013 would not be added to the remaining shortfall amortization installments for that base (or any other base) for any future years.

(c) If, instead, the plan sponsor elected to amortize the shortfall amortization base established for 2010 using the 15-year amortization schedule, the restriction period would end in 2014 (the end of the 5-year period beginning with the election year of 2010) and the last year for any installment acceleration amounts to be carried over from previous years is the second year following the end of the restriction period, or 2016. Any excess installment acceleration amounts remaining at the end of 2016 would not be added to the remaining

shortfall amortization installments for that base (or any other base) for any future years.

Q I-7: How is an installment acceleration amount for a plan year allocated among plans for which the sponsor has elected to use an alternative amortization schedule?

A I-7: (a) Under § 430(c)(7)(F)(iii), if a plan sponsor elects to use alternative amortization schedules for two or more plans, the installment acceleration amount for a plan year is allocated among those plans. If the plan sponsor has elected to use an alternative amortization schedule for only one election year for each plan, the installment acceleration amount for a plan year is allocated among all plans of the plan sponsor's controlled group for which a shortfall amortization base is being amortized using an alternative amortization schedule, but only if that shortfall amortization base is still in its restriction period for the plan year for which the installment acceleration amount is being allocated. These plans are referred to in this notice as affected plans. If the plan year for which the installment acceleration amount is determined is later than the last year of a restriction period for all shortfall amortization bases for a plan, that plan is not an affected plan, and is disregarded in allocating the installment acceleration amount for that plan year. See Q&A I-9 and Q&A I-10 of this notice for rules regarding the allocation of installment acceleration amounts if an election to use an alternative amortization schedule is made for more than one election year for one or more plans in the controlled group.

(b) The first step in allocating the installment acceleration amount among the affected plans is to identify the shortfall amortization bases for which the shortfall amortization installments are determined using an alternative amortization schedule, and which are still in their restriction period as described in Q&A I-2 of this notice (affected shortfall amortization bases). The second step is to determine, for each affected shortfall amortization base, the difference between (i) the shortfall amortization installment without reflecting the alternative amortization schedule, and (ii) the shortfall amortization installment for the first year of the alternative amortization schedule, determined without regard to any installment acceleration amount that may have applied for that first year. This difference is referred to in this notice as the first-year reduction with respect to the affected shortfall amortization base.

(c) The portion of the installment acceleration amount allocated to an affected plan for a plan year (the allocated portion) is determined by multiplying the installment acceleration amount for that plan year by a fraction, the numerator of which is the first-year reduction for that plan, and the denominator of which is the sum of the first-year reductions for all affected plans. Each amount so allocated is limited as described in Q&A I-4 and Q&A I-5 of this notice, and the resulting acceleration adjustment is added to the corresponding affected shortfall amortization base.

Example I-4. (a) Assume that a plan sponsor has two plans (with calendar year plan years) for which an alternative amortization schedule has been elected:

Plan	Plan A	Plan B
Election year	2009	2011
Alternative amortization schedule elected	2 plus 7-year	15-year
Shortfall amortization installments for first year of amortization schedule:		
Without alternative schedule	$167,698	$252,579
Reflecting alternative schedule	60,000	146,878
First-year reduction	$107,698	$105,701

Installment acceleration amounts of $100,000 and $300,000 are calculated for the plan years beginning January 1, 2010, and January 1, 2011, respectively.

(b) The installment acceleration amount of $100,000 determined for the plan year beginning January 1, 2010, is applied only to the shortfall amortization installment for Plan A, and the carryover of any amount over the annual limitation for 2010 and future years is applied only to Plan A. No portion of the installment acceleration amount for 2010 is allocated to Plan B because it is not an affected plan in 2010.

(c) The installment acceleration amount of $300,000 determined for the plan year beginning January 1, 2011, is allocated ratably between Plans A and B based on the first-year reduction for each plan. Accordingly, the allocated portion of the installment acceleration amount for Plan A for the 2011 plan year is $151,404, determined by multiplying the installment acceleration amount of $300,000 by a fraction, the numerator of which is the first-year reduction for Plan A ($107,698) and the denominator of which is the total of such first-year reductions for Plans A and B ($107,698 + $105,701, or $213,399). Similarly, the portion of the $300,000 installment acceleration amount for the 2011 plan year that is allocated to Plan B is $148,596.

Q I-8: How is the installation acceleration amount determined if the amount is required to be allocated among plans that have differing plan years?

A I-8: If an alternative amortization schedule has been elected for more than one plan and the plans do not all have the same plan year, then installment acceleration amounts are determined on a calendar year basis and the installment acceleration amount so determined for a calendar year is allocated among the plans based on the plan years that begin within that calendar year. See Q&A S-4 of this notice for related rules.

Q I-9: How do the installment acceleration rules apply if the sponsor elected to use an alternative amortization schedule for two election years?

A I-9: (a) Section 430(c)(7)(A) provides that the shortfall amortization installment otherwise determined with respect to an election year is increased on account of the installment acceleration amount. Section 430(c)(7) provides for an allocation of the installment acceleration amount among plans for which the sponsor elected to use an alternative amortization schedule (see § 430(c)(7)(F)(iii) and Q&A I-7 and Q&A I-8 of this notice), but does not provide for the allocation of the installment acceleration amount among individual shortfall amortization bases within a plan. Accordingly, subject to the adjustments in Q&A I-4 through Q&A I-6 of this notice, the increase on account of the excess compensation amount and excess shareholder payment amount is added separately to the shortfall amortization installment for each base for which an alternative amortization schedule was elected.

(b) For example, if the plan sponsor elected an alternative amortization schedule for the plan year beginning in 2009 and elected the same alternative amortization schedule for the plan year beginning in 2010, and if the installment acceleration amount for the 2010 plan year is $500,000, then, subject to the annual limitation in § 430(c)(7)(C)(ii), the shortfall amortization charge for the 2010 plan year reflects an increase of $500,000 with respect to the shortfall amortization base established for the 2009 plan year and an additional increase of $500,000 with respect to the shortfall amortization base established for the 2010 plan year, for a total increase in the minimum required contribution for the 2010 plan year of $1,000,000. Thus, the minimum required contribution can be increased by $2 for every $1 of the installment acceleration amount if an election has been made for two plan years and the installment acceleration amount arises in the restriction period for both election years (but can only be increased by $1 for every $1 of the installment acceleration amount if an election has been made for only one plan year).

Q I-10: How is an installment acceleration amount allocated among plans for which the sponsor has elected to use an alternative amortization schedule for shortfall amortization bases established for more than one election year?

A I-10: (a) As discussed in Q&A I-9 of this notice, a separate installment acceleration amount determined for a plan year is added to the shortfall amortization installment for that plan year for each affected shortfall amortization base. Accordingly, if a plan sponsor elects to use an alternative amortization schedule for two shortfall amortization bases for any plan in the controlled group, and if both of those bases are still within the restriction period (as described in Q&A I-2 of this notice), the installment acceleration amount is added twice. However, because no plan can have more than two election years, the installment acceleration amount cannot be added more than twice, even if the election years for various plans within the controlled group fall in more than two separate plan years. Each installment acceleration amount is then allocated

among the plans based on the rules described in Q&A I-7 and Q&A I-8 of this notice, as described in paragraphs (b) through (e) of this Q&A I-10.

(b) First, all affected plans in the controlled group and the affected shortfall amortization bases are identified, as outlined in Q&A I-7 of this notice, disregarding those which are no longer in the restriction period for the year for which the installment acceleration amount is being allocated. The affected shortfall amortization bases are then divided into two groups, the earlier-year shortfall amortization bases and the later-year shortfall amortization bases. The group of earlier-year shortfall amortization bases consists of the affected shortfall amortization bases for each plan for which the election year is not later than the election year for any other affected shortfall amortization base for that plan. The group of later-year shortfall amortization bases consists of the affected shortfall amortization bases in the group of affected shortfall amortization bases that are not in the group of earlier-year shortfall amortization bases. Note that a later-year shortfall amortization base for a plan will move to the group of earlier-year shortfall amortization bases when the original earlier-year shortfall amortization base for that plan is no longer in its restriction period.

(c) The allocated portion of the installment acceleration amount for each plan with an earlier-year shortfall amortization base is determined by multiplying the installment acceleration amount calculated for the current plan year by a fraction, the numerator of which is the first-year reduction (as described in paragraph (b) of Q&A I-7 of this notice) for the earlier-year shortfall amortization base for that plan and the denominator of which is the sum of such first-year reductions for the earlier-year shortfall amortization bases for all plans in the controlled group.

(d) Similarly, the allocated portion of the installment acceleration amount for each plan with a later-year shortfall amortization base is determined by multiplying the installment acceleration amount calculated for the current plan year by a fraction, the numerator of which is the first-year reduction for the later-year shortfall amortization base for that plan and the denominator of which is the sum of such first-year reductions for all plans in the controlled group with later-year shortfall amortization bases.

(e) The increase in the shortfall amortization installment for each affected shortfall amortization base is subject to the adjustments described in Q&A I-4 and Q&A I-5 of this notice.

Example I-5: (a) The facts are the same as for *Example I-4*, except that the plan sponsor also elects to use the 2 plus 7-year amortization schedule for Plan A for the shortfall amortization base established for 2011:

Plan	Plan A	Plan A	Plan B
Election year	2009	2011	2011
Alternative amortization schedule elected	2 plus 7-year	2 plus 7-year	15-year
End of restriction period	2012	2013	2015
Shortfall amortization installments for first year of amortization schedule:			
Without alternative schedule	$167,698	503,094	$252,579
Reflecting alternative schedule	60,000	172,500	146,878
First-year reduction	$107,698	$330,594	$105,701

An installment acceleration amount of $100,000 is determined for the plan year beginning January 1, 2011.

(b) Because an alternative amortization schedule has been elected for two shortfall amortization bases for Plan A, and because the 2011 plan year is in the restriction period for each base, an installment acceleration amount is added to each shortfall amortization installment for 2011. The installment acceleration amounts are allocated between Plan A and Plan B based on the rules in Q&A I-7 and Q&A I-8 of this notice. The earlier-year shortfall amortization base for Plan A is the first shortfall amortization base for which an alternative amortization schedule was elected for that plan (the base established for 2009). The earlier-year shortfall amortization base for Plan B is the only base for which an alternative amortization schedule was elected for that plan, established for the 2011 plan year.

(c) The installment acceleration amount of $100,000 is allocated between the plans in proportion to the first-year reduction for each earlier-year shortfall amortization base for the first year of the amortization schedule. The allocated portion of the installment acceleration amount for Plan A is $50,468. This amount is calculated by multiplying the installment acceleration amount of $100,000 by a ratio, the numerator of which is the first-year reduction for the earlier-year shortfall amortization base for Plan A and the denominator of which is the sum of the first-year reductions for the earlier-year shortfall amortization bases for Plans A and B ($100,000 x $107,698 ÷ ($107,698 + $105,701) = $50,468). Similarly, the allocated portion of the installment acceleration amount for Plan B is $49,532.

(d) In addition, a second installment acceleration amount of $100,000 is added to the shortfall amortization installments for the later-year shortfall amortization bases. The only later-year shortfall amortization base for which the sponsor has elected an alternative amortization schedule is the base established for Plan A for 2011. Therefore, the full $100,000 installment acceleration amount is allocated to Plan A, and the total installment acceleration amount allocated to

both affected shortfall amortization bases for Plan A amounts to $150,468 for the 2011 plan year. As developed earlier in this example, an additional installment acceleration amount of $49,532 is allocated to Plan B, for a total installment acceleration amount of $200,000 for the 2011 plan year.

Example I-6: (a) The facts are the same as in *Example I-5*. An installment acceleration amount of $150,000 is determined for the 2013 plan year.

(b) Because the shortfall amortization base established for Plan A for the 2009 plan year is no longer in the restriction period, that base is ignored when determining the installment acceleration amounts that are allocated to that plan for that plan year. Accordingly, the shortfall amortization base established for 2011 becomes the earlier-year shortfall amortization base for Plan A, and there are no later-year shortfall amortization bases for either plan.

(c) Because neither plan has more than one shortfall amortization base for which an alternative amortization schedule was elected and which is still in its restriction period, the installment acceleration amount is only applied once, and the amount is allocated between Plans A and B based on the reduction in the first-year installments for each base. The allocated portion of the installment acceleration amount for Plan A for the 2013 plan year is $113,660. This amount is calculated by multiplying the installment acceleration amount for the 2013 plan year ($150,000) by a ratio, the numerator of which is the first-year reduction for the shortfall amortization base established for Plan A for 2011 and the denominator of which is the sum of the first-year reductions for the shortfall amortization bases established for Plan A and Plan B for that same year ($150,000 x $330,594 ÷ ($330,594 + $105,701) = $113,660). Similarly, the allocated portion of the installment acceleration amount for the shortfall amortization base established for Plan B for 2011 is $36,340.

Q I-11: How do the rules of this section apply to multiple employer plans?

A I-11: (a) In the case of a multiple employer plan to which § 413(c)(4)(A) applies, the rules of § 430 and this section are applied separately for each employer under the plan as if each employer maintained a separate plan. Accordingly, any installment acceleration amount is determined separately for each plan sponsor who elects an alternative amortization schedule, based on the excess compensation amount for employees in that sponsor's controlled group in accordance with the rules of section III.C of this notice, and on the excess shareholder payment amounts for that sponsor's controlled group determined in accordance with the rules of section III.S of this notice. The resulting installment acceleration amount for a plan sponsor is added only to shortfall amortization bases for which that sponsor elected to use an alternative amortization schedule, in accordance with the rules of this section.

(b) In the case of a multiple employer plan to which § 413(c)(4)(A) does not apply, the rules of § 430 are applied as if all participants in the plan were employed by a single employer. Therefore, if an election is made to use an alternative amortization schedule, the installment acceleration amount is determined based on the excess compensation amount for all employees of the controlled groups for all sponsoring employers in accordance with section III.C of this notice, and on the excess shareholder payment amounts for any member of the controlled groups for all sponsoring employers, in accordance with section III.S of this notice.

C. EXCESS COMPENSATION AMOUNTS

The excess employee compensation amount that is included in the installment acceleration amount is defined at § 430(c)(7)(D). In general, the excess employee compensation amount is, with respect to any employee for any plan year, the excess (if any) over $1,000,000, of the aggregate amount includible in income for remuneration during the calendar year in which the plan year begins for services performed by the employee for the plan sponsor (whether or not performed during the calendar year). Under § 430(c)(7)(D)(vi), the term "employee" includes a self-employed individual who is treated as an employee under § 401(c), and the term "compensation" includes earned income of such individual with respect to such self-employment. Pursuant to § 430(c)(7)(D)(viii), the $1,000,000 amount is indexed under § 1(f)(3) for calendar years after 2010, rounded to the next lowest multiple of $1,000.

Under § 430(c)(7)(D)(ii), if during any calendar year, assets are set aside or reserved (directly or indirectly) in a trust (or other arrangement as determined by the Secretary), or transferred to such a trust or other arrangement, by a plan sponsor for purposes of paying deferred compensation of an employee under a nonqualified deferred compensation plan (as defined in § 409A) of the plan sponsor, then, for purposes of determining the excess employee compensation amount with respect to an employee, the amount of those assets is treated as remuneration of the employee includible in income for the calendar year, unless that amount is taken into account under § 430(c)(7)(D)(i) for that year. An amount that is taken into account as remuneration includible in income under § 430(c)(7)(D)(ii) for a calendar year is not taken into account under § 430(c)(7)(D) for any subsequent calendar year. Sections 430(c)(7)(D)(iii) through (v) provide four additional exceptions from the remuneration taken into account for purposes of calculating the excess employee compensation amount.

Q C-1: How is the excess compensation amount that is included in the installment acceleration amount determined?

A C-1: (a) The excess compensation amount for a plan year is the sum, for all employees of the plan sponsor, of the portion of the PRA compensation amount for each such employee that exceeds $1,000,000 (as indexed for changes in the

cost-of-living index). For this purpose, the PRA compensation amount for an employee for a plan year is determined as the employee's compensation amount, as described in Q&A C-2 of this notice, adjusted by adding any set-aside amount as described in Q&A C-3 of this notice, but disregarding any amounts excluded as described in Q&A C-4 through Q&A C-7 of this notice.

(b) For purposes of determining the excess compensation amount, (1) the term "employee" includes former employees and self-employed individuals who are treated as employees under § 401(c), and (2) the term "plan sponsor" includes all members of the plan sponsor's controlled group (as defined in § 412(d)(3)). However, in the case of a plan established or maintained jointly by an employer and an employee organization, the term "plan sponsor" includes all members of the employer's controlled group (as defined in § 412(d)(3)).

Q C-2: What is the compensation amount for an employee for a plan year?

A C-2: The compensation amount for an employee for a plan year is equal to the amount that is includible in the employee's income for the calendar year in which the plan year begins and that constitutes remuneration for services performed by the employee for the plan sponsor (including remuneration for services performed by the employee for the plan sponsor in earlier years that is includible in the employee's income for the calendar year in which the plan year begins, subject to the special rules described in Q&A C-3 through Q&A C-7 of this notice). With respect to a self-employed individual who is treated as an employee under § 401(c), compensation for this purpose includes the earned income of that individual with respect to such self-employment for the taxable year ending during the calendar year in which the plan year begins.

Q C-3: How is the set-aside amount determined for an employee for a plan year?

A C-3: (a) The set-aside amount for an employee for a plan year that is added to the compensation amount under Q&A C-2 of this notice for purposes of determining the PRA compensation amount is equal to the fair market value of assets that are set aside or reserved (directly or indirectly) in a trust (or other arrangement as determined by the Secretary), or transferred to such a trust or other arrangement, by a plan sponsor for purposes of paying deferred compensation of the employee under a nonqualified deferred compensation plan (as defined in § 409A) during the calendar year in which the plan year (of the qualified plan) begins, except to the extent that amount is includible in income for that year. For this purpose, any guidance under § 409A(b)(1) concerning assets that are set aside or reserved (directly or indirectly) in a trust or other arrangement (or transferred to such a trust or other arrangement) also applies for purposes of § 430(c)(7)(D)(ii) (but without regard to the situs of the trust or other arrangement).

(b) An amount that is taken into account as part of the set-aside amount for an employee for a plan year is not also taken into account in determining the employee's compensation amount under Q&A C-2 of this notice for any subsequent period.

(c) The fair market value of assets set aside, reserved, or transferred is determined at the time they are set aside, reserved, or transferred. If such assets are permitted under the trust or arrangement to be applied to the deferred compensation of more than one employee, those assets are included in the set-aside amounts of each employee proportionately to the aggregate present value of each employee's benefits for which assets are permitted to be applied under the trust or arrangement.

(d) Payments made by a foreign corporation to a foreign trust (or other foreign arrangement as determined by the Secretary) on behalf of a nonresident alien are not considered to be set-aside amounts for the purpose of determining excess compensation under § 430(c)(7)(D)(i) to the extent that such payments would not have been subject to U.S. income tax as income effectively connected with the conduct of a trade or business within the United States if they had been paid to the nonresident alien in cash.

(e) The exceptions set forth in §§ 430(c)(7)(iii) through (v), as described in Q&A C-4 through Q&A C-7 of this notice, do not apply for purposes of determining the set-aside amount under § 430(c)(7)(ii), as described in this Q&A C-3.

Q C-4: Section 430(c)(7)(iii) provides that remuneration taken into account under § 430(c)(7)(D)(i) only includes remuneration to the extent attributable to services performed by the employee for the plan sponsor after February 28, 2010. How is this rule applied?

A C-4: Remuneration included in an employee's compensation amount under Q&A C-2 of this notice for a calendar year that is attributable to services performed before March 1, 2010, is subtracted from the amount otherwise included in an employee's remuneration in determining the compensation amount for that calendar year. The rules of Q&A-23 of Notice 2009-8 (2009-4 I.R.B. 347) apply for purposes of determining whether a compensation amount under Q&A C-2 of this notice for a calendar year is attributable to services performed before March 1, 2010 (applied by substituting periods before March 1, 2010, for periods before January 1, 2009). However, for remuneration which is not directly attributable to services performed during specific months within the 2010 calendar year, the remuneration is treated as attributable pro rata to months during 2010. Thus, for a $12,000 bonus payment made to an employee for services rendered by the employer for the plan sponsor during the entire 2010 calendar year, $2,000 would be attributable to services performed during January and February of 2010, and only the remaining $10,000 would be included in remuneration for purposes of § 430(c)(7)(D)(i).

Q C-5: Section 430(c)(7)(D)(iv) provides that remuneration taken into account under § 430(c)(7)(D)(i) does not include any amount includible in income with respect to the granting, after February 28, 2010, of service recipient stock (within the meaning of § 409A) that, upon such grant, is subject to a substantial risk of forfeiture (as defined in § 83(c)(1)) for at least 5 years from the date of that grant. How is this rule applied?

A C-5: For purposes of determining whether a grant of service recipient stock made after February 28, 2010, is taken into account under § 430(c)(7)(D)(i), except as provided in the final sentence of this Q&A C-5, the determination of whether a risk of forfeiture constitutes a substantial risk of forfeiture (as defined in § 83(c)(1)) for at least 5 years from the date of that grant is made as of the date of grant. Thus, provided the risk of forfeiture with respect to such a grant is a substantial risk of forfeiture as of the date of grant, the grant does not fail to meet the requirement that the service recipient stock be subject to a substantial risk of forfeiture for at least 5 years from the date of that grant merely because the risk of forfeiture lapses prior to the end of the 5-year period pursuant to the terms of the grant. For example, if the terms of the grant on the date of the grant impose a substantial risk of forfeiture for at least 5 years, but the terms provide for the risk to lapse if the grantee dies, the grant will be treated as being subject to a substantial risk of forfeiture for at least 5 years from the date of the grant for purposes of § 430(c)(7)(D) even if the risk of forfeiture lapses within 5 years after the grant due to the death of the grantee. However, if any amendment is made to the terms of the grant after February 28, 2010, that causes the grant to cease to be subject to a substantial risk of forfeiture (as defined in § 83(c)(1)) for at least 5 years from the date of that grant, the special rule described in this Q&A C-5 will cease to apply to the grant.

Q C-6: Section 430(c)(7)(D)(v)(I) provides that the remuneration taken into account under § 430(c)(7)(D)(i) does not include any remuneration payable on a commission basis solely on account of income directly generated by the individual performance of the individual to which that remuneration is payable. How is this rule applied?

A C-6: For purposes of § 430(c)(7)(D)(i)(I), remuneration is payable on a commission basis only if the facts and circumstances show that the remuneration is paid solely on account of income generated directly by the individual performance of the individual to whom the compensation is paid and the income is a result of a direct sale of a product or service to an unrelated customer in the ordinary course of the business of the employer. Thus, remuneration is not payable on a commission basis if the remuneration is paid on account of broader performance standards, such as on account of the income produced by a business unit of the employer or on account of the disposition of a business unit that is not in the ordinary course of business of the employer. However, remuneration does not fail to be attributable directly to the individual merely

because support services, such as secretarial or research services, are utilized in generating the income.

Q C-7: Section 430(c)(7)(D)(v)(II) provides that the remuneration taken into account under § 430(c)(7)(D)(i) does not include any remuneration consisting of nonqualified deferred compensation, restricted stock, stock options, or stock appreciation rights payable or granted under a written binding contract that was in effect on March 1, 2010, and that was not modified in any material respect before that remuneration is paid. How is this rule applied?

A C-7: (a) Remuneration consisting of nonqualified deferred compensation, restricted stock, stock options, or stock appreciation rights payable or granted under a written binding contract that was in effect on March 1, 2010, and that was not modified in any material respect before that remuneration is paid and which is included in an employee's compensation amount under Q&A C-2 of this notice for a plan year is subtracted from the amount otherwise included in determining the PRA compensation amount for that plan year. For this purpose, remuneration is not payable or granted under a written binding contract that is in effect on March 1, 2010, if the employee does not have a legally binding right to the remuneration on March 1, 2010, under the rules set forth in § 1.409A-1(b)(1). Whether a material modification has occurred is determined under rules similar to the rules under § 1.409A-6(a)(4) (substituting March 1, 2010, for October 3, 2004, or January 1, 2005), as applied based on the nonqualified deferred compensation, restricted stock, stock options, or stock appreciation rights modified. For example, if an employee's contract addresses both cash compensation and stock options, and a material modification is made on or after March 1, 2010, with respect to the employee's cash compensation, but the modification does not affect the employee's stock options, then the compensation in the form of stock options is not considered to have been materially modified.

(b) For purposes of applying § 430(c)(7)(D)(v)(II), nonqualified deferred compensation does not include remuneration that is not deferred for more than a brief period of time after the end of the employer's taxable year, as described in § 1.404(b)-1T, Q&A-2. Accordingly, compensation is not considered to consist of nonqualified deferred compensation for purposes of the exception described in this Q&A C-7 to the extent that such compensation is received on or before the 15th day of the 3rd calendar month after the end of the employer's taxable year in which the related services are rendered.

S. EXCESS SHAREHOLDER PAYMENT AMOUNTS

Section 430(c)(7)(E) defines the excess shareholder payment amount that is included in the installment acceleration amount. The excess shareholder payment amount for a plan year is the excess (if any) of the sum of dividends declared during the plan year by the plan sponsor plus the aggregate amount paid for the redemption of stock of the plan sponsor redeemed during the plan

year, over the greater of two amounts. The first such amount is the adjusted net income (within the meaning of section 4043 of ERISA) of the plan sponsor for the preceding plan year, determined without regard to any reduction by reason of interest, taxes, depreciation, or amortization. The second such amount is, in the case of a plan sponsor that determined and declared dividends in the same manner for at least 5 consecutive years immediately preceding such plan year, the aggregate amount of dividends determined and declared for such plan year using such manner. Sections 430(c)(7)(E)(ii) through (v) provide certain exceptions from dividends and redemptions that are taken into account in determining the excess shareholder payment amount.

Q S-1: How is the excess shareholder payment amount that is included in the installment acceleration amount determined?

A S-1: (a) Except as described in this Q&A S-1 and Q&A S-5 through Q&A S-8 of this notice, the excess shareholder payment amount for a plan year is the excess (if any) of (i) the sum of dividends declared by the plan sponsor during the plan year for which the installment acceleration amount is calculated (regardless of whether the dividends are paid after the last day of that plan year) plus the aggregate amount paid for the redemption of stock (as described in § 317(b)) of the plan sponsor that occurs during such plan year (regardless of whether the redemption was announced before the first day of that plan year), over (ii) the adjusted net income for the prior plan year as described in Q&A S-2 of this notice. However, in the case of a plan sponsor that determined and declared dividends in the same manner for at least 5 consecutive years, as described in Q&A S-3 of this notice, the amount in clause (ii) of the preceding sentence is not less than the aggregate amount of dividends determined and declared for the plan year that are determined in that same manner.

(b) Section 430(c)(7)(E)(iii) provides an exception for intra-group dividends, under which dividends paid by one member of a controlled group (as defined in § 412(d)(3)) to another member of that group are not taken into account.

(c) For purposes of determining the excess shareholder payment amount, pursuant to § 430(c)(7)(F), the term “plan sponsor” includes all members of the plan sponsor’s controlled group. However, in the case of a plan established or maintained jointly by an employer and an employee organization, the term “plan sponsor” includes all members of the employer’s controlled group.

Q S-2: How is the adjusted net income for the prior plan year determined for purposes of calculating the excess shareholder payment amount?

A S-2: (a) The adjusted net income for the prior plan year for purposes of calculating the excess shareholder payment amount is the adjusted net income (within the meaning of 29 CFR 4043.31(e)(1)) of the plan sponsor for the fiscal year ending with or during that prior plan year (the applicable fiscal year),

determined before any reduction by reason of interest, taxes, depreciation, or amortization. Adjusted net income is defined in 29 CFR 4043.31(e)(1) as the net income before after-tax gain or loss on any sale of assets, as determined in accordance with generally accepted accounting principles and practices. Accordingly, the adjusted net income for purposes of calculating the excess shareholder payment amount is the net income as determined in accordance with generally accepted accounting principles and practices, but determined before any reduction by reason of interest, taxes, depreciation, or amortization and disregarding any gain or loss on any sale of assets. The amount of adjusted net income for this purpose is deemed to be no less than zero.

(b) If the length of the plan year for which the excess shareholder payment amount is determined and the fiscal year used to determine the adjusted net income described in Q&A S-2 are not the same, the adjusted net income is multiplied by a fraction, the numerator of which is the number of months in the plan year for which the excess shareholder payment amount is determined and the denominator of which is the number of months in the fiscal year for which the adjusted net income is determined. For example, if a short plan year is 5 months long, and the fiscal year is 12 months long, then the adjusted net income for the prior plan year as determined in this Q&A S-2 is multiplied by 5/12 to determine the adjusted net income used in calculating the excess shareholder payment amount.

Q S-3: What does it mean for dividends to be determined and declared in the same manner for at least 5 consecutive years?

A S-3: (a) The aggregate amount of dividends declared during the plan year for which the installment acceleration amount is determined is deemed to be determined in the same manner for at least 5 consecutive years if the dividends are determined using the same formula (including the same specified dollar amount, determined on either a per share basis, with appropriate adjustments for stock splits and similar changes in capitalization, or on an aggregate basis) as was used for dividends declared during the 60-month period immediately preceding the first day of that plan year. Other examples of dividends determined using the same formula include dividends that increase by a fixed amount each year, dividends that increase by a fixed percentage each year, and dividends that are a fixed percentage of income, earnings, or other consistently applied measure of profitability.

(b) If, at any time during the 60 months immediately preceding the first day of the plan year for which the installment acceleration amount is determined, a plan sponsor omitted its periodic dividend or the sponsor has existed for fewer than 60 months prior to the first day of that plan year, the exception under § 430(c)(7)(E)(i)(II) does not apply.

Example S-1. (a) Assume that a plan sponsor that elected to use an alternative amortization schedule for the shortfall amortization base established as of January 1, 2011, has determined dividends in the same manner for the 60-month period immediately preceding January 1, 2012. The plan sponsor continues to determine dividends in the same manner for dividends declared as of March 31, 2012, June 30, 2012, and December 31, 2012, but declares a reduced dividend as of September 30, 2012. Assume the following dividends were declared as a result:

Date dividends declared	Dividend amount	Dividend determined in the same manner as the 60-month period ending December 31, 2011
March 31, 2012	$100,000	Yes
June 30, 2012	101,000	Yes
September 30, 2012	50,000	No
December 31, 2012	99,000	Yes
Total dividends declared during the plan year	$350,000	N/A

(b) In accordance with Q&A S-1 of this notice, the excess shareholder payment amount for the 2012 plan year reflects the total dividends declared during the plan year, or $350,000. However, the amount of dividends eligible for the exception under § 430(c)(7)(E)(i)(II) excludes the dividend declared September 30, 2012, because that dividend was not determined in the same manner as dividends declared during the 60-month period immediately preceding the plan year for which the installment acceleration amount is calculated. Accordingly, the amount of dividends taken into account for purposes of Q&A S-1(a)(ii) of this notice is $300,000, and the excess shareholder payment amount for the 2012 plan year is the excess of (i) the $350,000 in dividends declared by the plan sponsor during the 2012 plan year plus the aggregate amount paid for the redemption of stock during 2012, over (ii) the adjusted net income for the plan sponsor for the fiscal year that ends during 2011 or $300,000 if larger.

(c) For any excess shareholder payment amount determined for the 2013 plan year, no dividends are eligible for the exception under § 430(c)(7)(E)(i)(II), because the dividends were not determined in the same manner throughout the 60-month period immediately preceding January 1, 2013.

Example S-2. (a) Assume that the sponsor of Plan A has an October 1 - September 30 fiscal year and elects to use an alternative amortization schedule for Plan A for its plan year beginning July 1, 2011. Assume further that the dividends declared during the plan year beginning July 1, 2011, total $1,200,000, payments made for the redemption of stock during the plan year beginning July 1, 2011, total $500,000, and that the adjusted net income for the fiscal year ending September 30, 2010, was $1,000,000.

(b) If the dividends declared during the plan year beginning July 1, 2011, were determined in the same manner as those declared during the 60 months preceding July 1, 2011 (that is, during the period beginning July 1, 2006, and ending June 30, 2011), the exception under Q&A S-1 of this notice and § 430(c)(7)(E)(i)(II) applies to the dividends declared during the plan year beginning July 1, 2011. In such a case, the excess shareholder payment amount for the plan year beginning July 1, 2011, is equal to the excess of (i) the sum of dividends declared by the plan sponsor during the plan year beginning July 1, 2011, and amounts paid by the plan sponsor for the redemption of stock during that plan year ($1,200,000 plus $500,000, or $1,700,000) over (ii) the greater of the plan sponsor's adjusted net income for the fiscal year beginning October 1, 2009, and ending September 30, 2010, or dividends declared during the plan year beginning July 1, 2011 (the greater of $1,000,000 or $1,200,000, or $1,200,000). The excess shareholder payment amount for the plan year beginning July 1, 2011, is therefore $500,000, which is the excess of $1,700,000 over $1,200,000.

(c) However, if none of the dividends declared during the plan year beginning July 1, 2011, were determined in the same manner as those declared during the 60-month period beginning July 1, 2006, and ending June 30, 2011 (or if the dividends declared during the 60-month period beginning July 1, 2006, and ending June 30, 2011, were not determined in the same manner throughout that period), then the exception under Q&A S-1 of this notice and § 430(c)(7)(E)(i)(II) does not apply to the dividends declared during the plan year beginning July 1, 2011. In that case, the excess shareholder payment amount for the plan year beginning July 1, 2011, would be equal to $700,000, which is the excess of (i) the sum of dividends declared by the plan sponsor during the plan year beginning July 1, 2011, and amounts paid by the plan sponsor for the redemption of stock redeemed during that plan year, or $1,700,000, over (ii) the plan sponsor's adjusted net income for the fiscal year beginning October 1, 2009, and ending September 30, 2010 ($1,000,000).

Q S-4: How does the calculation of excess shareholder payment amounts change if the installment acceleration amount is to be allocated among plans with differing plan years?

A S-4: (a) If on any date during a calendar year (the applicable calendar year) there are two or more plans within the controlled group for which an election has been made to use an alternative amortization schedule (for which the restriction period has not ended) and two or more of those plans have different plan years, then, for all plan years that begin in the applicable calendar year, the excess shareholder payment is determined as if the plan year were the calendar year. Accordingly, subject to the special rules in Q&A S-5 through Q&A S-8 of this notice, the excess shareholder payment amount for a plan year is calculated in accordance with Q&A S-1 through Q&A S-3 of this notice, but (i) using dividends

declared by the plan sponsor and the aggregate amount paid for the redemption of stock, as defined in Q&A S-1 of this notice, during the applicable calendar year, (ii) using adjusted net income, as defined in Q&A S-2 of this notice, for the fiscal year ending with or during the calendar year preceding the applicable calendar year, and (iii) determining whether dividends have been determined and declared in the same manner for at least 60 consecutive months in accordance with Q&A S-3 of this notice by using the 60 months immediately preceding the first day of the applicable calendar year as the relevant period. In such a case, the installment acceleration amount is determined based on the applicable calendar year in which the plan year begins because both the excess shareholder payment amount and the excess compensation amount are determined based on the applicable calendar year.

(b) If the special rule of paragraph (a) applies for an applicable calendar year but did not apply in the preceding calendar year, then, except as provided in paragraph (c) of this Q&A S-4, the excess shareholder payment for any plan year that began in the preceding calendar year and ends in the applicable calendar year is determined as if the plan year were the preceding calendar year.

(c) The special rule in paragraph (b) of this Q&A S-4 does not apply if the date in the applicable calendar year on which the conditions of paragraph (a) of this Q&A S-4 are first satisfied is after the close of all the plan years that began in the prior calendar year and end in the applicable calendar year.

Example S-3. (a) The facts are the same as in *Example S-2*, except that the plan sponsor also elects to use an alternative amortization schedule for Plan B, which has a plan year beginning March 1. The shortfall amortization base for Plan B is still in the restriction period for the plan year beginning March 1, 2011, and the installment acceleration amount will be allocated between Plans A and B.

(b) The excess shareholder payment amount is determined based on the calendar year in which the plan years begin. Accordingly, the excess shareholder payment amount allocated to Plan A for the plan year beginning July 1, 2011, and to Plan B for the plan year beginning March 1, 2011, is based on (i) the dividends declared by the plan sponsor and amounts paid by the plan sponsor for the redemption of stock as defined in Q&A S-1 of this notice during the 2011 calendar year; and (ii) the plan sponsor's adjusted net income as defined in Q&A S-2 of this notice for the fiscal year beginning October 1, 2009, and ending September 30, 2010. Dividends declared throughout the 2006 through 2010 calendar years (the 60-month period immediately preceding January 1, 2011) must have been determined and declared in the same manner, in order for any dividends to be eligible for the exception under § 430(c)(7)(E)(i)(II) and Q&A S-1 of this notice.

Q S-5: Section § 430(c)(7)(E)(ii) provides that only dividends declared, and redemptions occurring, after February 28, 2010, are taken into account. How is this rule applied?

A S-5: Only dividends declared, and redemptions occurring, after February 28, 2010, are taken into account in determining the excess shareholder payment amount that is included in the installment acceleration amount for any plan year. Accordingly, any dividends declared on or before February 28, 2010, are not reflected in the installment acceleration amount without regard to when they are paid. In contrast, any stock redemptions occurring after February 28, 2010, are reflected in the installment acceleration amount without regard to when they were announced.

Q S-6: Under what circumstances is a distribution of the stock of the employer taken into account in determining the excess shareholder payment?

A S-6: Pursuant to § 305(a), a distribution by a corporation of its stock is generally not treated as a dividend and is therefore not generally taken into account in determining the excess shareholder payment. However, pursuant to § 305(b), a distribution of stock that is described in § 305(b)(1) through (5) (for example, a distribution of stock that has the result of changing the proportionate interests of the shareholders in the earnings and profits of the corporation) is treated as a distribution of property to which § 301 applies and therefore is a dividend that is taken into account in determining the excess shareholder payment, provided that the distribution is paid out of earnings and profits as described in § 316(a).

Q S-7: Under § 430(c)(7)(E)(iv), redemptions of stock that are made pursuant to a plan maintained with respect to employees, or that are made on account of the death, disability, or termination of employment of an employee or shareholder, are not taken into account. How is this rule applied?

A S-7: (a) Redemptions of shares that are made pursuant to a plan maintained with respect to employees (whether or not the plan is qualified) are not taken into account when determining the amount of excess shareholder payment amounts. For this purpose, a plan maintained with respect to employees that is not a qualified plan does not include an agreement or arrangement that covers only a single individual, but instead is limited to a plan that covers a category of employees.

(b) Redemptions that are made on account of the death, disability, or termination of employment of an employee or shareholder, are not taken into account in determining the excess shareholder payment amount that is included in the installment acceleration amount. For this purpose, a redemption is made on account of death, disability, or termination of employment only if, as a result of the death, disability, or termination of employment of the employee or shareholder, either (i) the plan sponsor or any member of the plan sponsor's controlled group is required to redeem the stock held by the shareholder (even if the shareholder is not required to tender the stock) or (ii) the shareholder is

required to tender the stock for redemption (even if the plan sponsor or a member of the plan sponsor's controlled group is not required to redeem the stock tendered).

(c) For example, if a company's bylaws require that the shares in the company be held by active employees, an employee who terminates employment is required to tender his/her shares in the company for redemption. Any amount paid by the company to redeem these shares would not be taken into account for purposes of determining an excess shareholder payment amount. However, if the spouse of a deceased shareholder in a company that does not require shares to be held by active employees voluntarily redeems the stock held by the shareholder (under circumstances not otherwise described in clause (i) or (ii) of paragraph (b) of this Q&A S-7), the amount paid by that company to redeem these shares would be taken into account when determining an excess shareholder payment amount.

Q S-8: Section 430(c)(7)(E)(v) provides an exception with respect to certain preferred stock. How is this rule applied?

A S-8: Under this exception, dividends with respect to applicable preferred stock are not taken into account in determining the excess shareholder payment amount that is included in the installment acceleration amount to the extent that dividends accrue with respect to that stock at a specified rate in all events and without regard to the plan sponsor's income, and interest accrues on any unpaid dividends with respect to that stock. In addition, redemptions with respect to applicable preferred stock are not taken into account in determining the excess shareholder payment amount that is included in the installment acceleration amount if dividends accrue with respect to that stock at a specified rate in all events and without regard to the plan sponsor's income, and interest accrues on any unpaid dividends with respect to that stock. For this purpose, applicable preferred stock is preferred stock that was originally issued before March 1, 2010, or that was originally issued prior to that date and is subsequently reissued with otherwise identical terms. In addition, applicable preferred stock includes preferred stock that was issued on or after March 1, 2010, and is held by an employee benefit plan that is subject to the provisions of Title I of ERISA and that is maintained for the benefit of employees and former employees of the plan sponsor and their beneficiaries.

M. MERGERS AND ACQUISITIONS

Section 430(c)(2)(F)(iv) provides that the Secretary of the Treasury is to prescribe rules for the application of installment acceleration amounts in any case where there is a merger or acquisition involving a plan sponsor that has elected to use an alternative amortization schedule in accordance with § 430(c)(2)(D).

Q M-1: How does a merger or acquisition affect the calculation of the excess compensation amount described in section III.C and the excess shareholder payment amount described in section III.S?

A M-1: (a) If a plan sponsor that elected to use an alternative amortization schedule for any shortfall amortization base merges with, acquires, or is acquired by another company that was not in its controlled group prior to the transaction, and that other company either did not sponsor a single-employer defined benefit plan or did not elect to use an alternative amortization schedule for any plan it sponsored, any aggregate compensation amount with respect to employees of such other company that would otherwise be taken into account prior to the date of the merger or acquisition is disregarded for the purpose of calculating the amounts in section III.C of this notice with respect to any installment acceleration amounts determined for the plan sponsor. Similarly, any dividends declared by such other company and any redemptions of stock of such other company that occur prior to the date of the transaction are ignored for the purpose of calculating the amounts in section III.S of this notice.

(b) If the other company involved in the transaction described in paragraph (a) of this Q&A M-1 sponsors a plan for which an election was made to use an alternative amortization schedule, the rule in paragraph (a) of this Q&A M-1 does not apply. Accordingly, the installment acceleration amount is determined by combining the compensation amounts and shareholder payment amounts for both companies involved in the transaction as if they had been in the same controlled group before and after the transaction. The installment acceleration amount is then allocated as described in Q&A I-7 through Q&A I-10 of this notice.

(c) For purposes of this Q&A M-1, (i) any election to use an alternative amortization schedule during the plan year in which the transaction occurs is treated as an election that occurred prior to the date of the transaction and (ii) a shortfall amortization base that is not in its restriction period for the plan year of the transaction is disregarded when determining whether a plan sponsor has elected to use an alternative amortization schedule.

(d) The rules of this Q&A M-1 apply regardless of whether the transaction is an asset or a stock transaction.

Example M-1. (a) Assume that Company A and Company B are separate companies that are not in the same controlled group, and that Company A sponsors a single-employer defined benefit plan for which an election was made to use an alternative amortization schedule for the 2010 plan year. Company B sponsors a single-employer defined benefit plan but did not elect to use an alternative amortization schedule. Company A acquires Company B effective July 1, 2011. Consider the following employees:

Employee Company	Employee X A	Employee Y B
Compensation for 2011:		
Paid before July 1, 2011	$400,000	$750,000
Paid on or after July 1, 2011	1,100,000	750,000
Total	$1,500,000	$1,500,000

(b) The installment acceleration amount for 2011 for the plan sponsored by Company A reflects the compensation paid to Employee X for all of 2011, because Employee X was an employee of Company A prior to the date of the acquisition. The threshold for determining excess compensation for 2011 is $1,014,000. Therefore $486,000 of Employee X's compensation is excess compensation. However, only the compensation paid to Employee Y after July 1, 2011, is considered when calculating the 2011 installment acceleration amount for the plan sponsored by Company A, because Employee Y was not in the same controlled group as Company A prior to the date of the acquisition. Because the compensation paid to Employee Y on and after July 1, 2011, was under $1,014,000, none of Employee Y's compensation is considered excess compensation.

Example M-2. (a) The facts are the same as in *Example M-1*, except that Company B, not Company A, elected to use an alternative amortization schedule for the 2010 plan year. The installment acceleration amount for 2011 for the plan sponsored by Company B reflects the compensation paid to Employee Y for all of 2011, because Employee Y was an employee of Company B prior to the date of the acquisition. Therefore, $486,000 of Employee Y's compensation is excess compensation for the purpose of determining the installment acceleration amount for the 2011 plan year.

(b) Only the compensation paid to Employee X after July 1, 2011, is considered when calculating the 2011 installment acceleration amount for the plan sponsored by Company B, because Employee X was not in the same controlled group as Company B prior to the date of the acquisition. As a result, $86,000 of Employee X's compensation is excess compensation for the purpose of determining the installment acceleration amount for the 2011 plan year.

Q M-2: Are amounts paid to purchase stock pursuant to a merger or acquisition reflected in the excess shareholder payment amount for the plan year in which the transaction occurs?

A M-2: Any amounts paid to redeem or purchase stock pursuant to a merger or acquisition are not reflected in the excess shareholder payment amount determined according to section III.S of this notice, regardless of whether the actual payment occurs during the plan year in which the transaction occurs.

E. ELECTIONS TO USE AN ALTERNATIVE AMORTIZATION SCHEDULE

Section 430(c)(2)(D)(iv)(III) provides that a plan sponsor's election under § 430(c)(2)(D) is to be made at such time and in such form and manner as is prescribed by the Secretary of the Treasury. Section 430(c)(2)(D)(iv)(III) provides further that any such election may be revoked only with the consent of the Secretary, after consultation with the Pension Benefit Guaranty Corporation (PBGC).

Q E-1: How is an election made to use an alternative amortization schedule for a plan year?

A E-1: An election made on or after January 1, 2011, must be made by the plan sponsor, by providing written notification of such election to both the plan's enrolled actuary and the plan administrator. Such election must be signed and dated by the plan sponsor and must include all of the following information:

(1) The name of the plan;
(2) The plan number;
(3) The name of the plan sponsor;
(4) The plan sponsor's mailing address;
(5) The plan sponsor's employer identification number;
(6) Which of the two alternative amortization schedules is being elected;
(7) The plan year for which the election is being made;
(8) Whether an alternative amortization schedule has been elected for another year, and, if so, a statement that the same alternative amortization schedule is being elected; and
(9) A statement that the plan sponsor will notify the PBGC and plan participants and beneficiaries pursuant to § 430(c)(2)(D)(vi) of the Code and ERISA section 303(c)(2)(D)(vi).

Q E-2: What is the deadline for making the election?

A E-2: The election must be made by the latest of: (i) the last day of the plan year for which the election is made, (ii) 30 days after the valuation date for the plan year for which the election is made, or (iii) January 31, 2011. For example, if the valuation date for a plan is the first day of the plan year, an election for the plan year that begins on January 1, 2009, or January 1, 2010, must be made by January 31, 2011; for the plan year that begins on January 1, 2011, the election must be made by December 31, 2011.

Q E-3: How does the ability to elect an alternative amortization schedule apply to multiple employer plans?

A E-3: (a) In the case of a multiple employer plan to which § 413(c)(4)(A) applies, the rules of § 430 and this section are applied separately for each

employer under the plan as if each employer maintained a separate plan. Thus, each employer under a multiple employer plan may elect to use an alternative amortization schedule independent of the elections of other employers under the plan.

(b) In the case of a multiple employer plan to which § 413(c)(4)(A) does not apply, the rules of § 430 and this notice are applied as if all participants in the plan were employed by a single employer, and any reference to the plan sponsor means the plan administrator within the meaning of § 414(g).

N. NOTIFICATION TO PARTICIPANTS, BENEFICIARIES, AND THE PBGC

Section 303(c)(2)(D)(vi)(I) of ERISA and § 430(c)(2)(D)(vi)(I) of the Code require a plan sponsor that elects funding relief to give notice of the election to participants and beneficiaries of the plan (pension funding relief notice).

Section 303(c)(2)(D)(vi)(II) of ERISA and § 430(c)(2)(D)(vi)(II) of the Code require the plan sponsor to inform the PBGC of such election in such form and manner as the Director of the PBGC may prescribe. The PBGC has informed the Treasury Department and the Service that the form and manner for complying with this requirement are the rules described in Q&A N-6 and Q&A N-7 of this section III.N.

Q N-1: When must the pension funding relief notice be provided to participants and beneficiaries?

A N-1: The pension funding relief notice must be provided to participants and beneficiaries of the plan by 120 days after the end of the plan year for which an alternative amortization schedule is elected, or by May 2, 2011, if later. For example, if an alternative amortization schedule is elected for a plan year beginning June 1, 2010, then the notice must be provided to participants and beneficiaries by September 28, 2011. If the election for a plan is made simultaneously for two plan years, the notices for both elections can be combined as long as the notice identifies both years for which the election is made.

Q N-2: Which participants and beneficiaries must receive the notice?

A N-2: Except as otherwise provided in this section III.N, a pension funding relief notice is required to be provided to all plan participants and beneficiaries. However, the pension funding relief notice does not have to be provided to any person who either became a plan participant or beneficiary after the last day of the last plan year ending before the notice is due or ceased to be a participant or beneficiary prior to the date on which the pension funding relief notice is provided.

Q N-3: How does the notice requirement affect multiple employer plans?

A N-3: (a) In the case of a multiple employer plan to which § 413(c)(4)(A) applies, the rules of § 430 are applied separately for each employer under the plan. Accordingly, the notice in this section III.N must be provided only to those participants or beneficiaries as described in Q&A N-2 of this notice who are associated with a plan sponsor which elects to use an alternative amortization schedule.

(b) In the case of a multiple employer plan to which § 413(c)(4)(A) does not apply, the rules of § 430 are applied as if all participants in the plan were employed by a single employer. Therefore, if an election is made to use an alternative amortization schedule, such election applies to the entire plan and the notice must be provided to all participants and beneficiaries of the plan as described in Q&A N-2 of this notice.

Q N-4: What information is required to be in a pension funding relief notice?

A N-4: (a) A pension funding relief notice must provide (1) the name of the plan for which the election has been made, (2) the plan year for which the election has been made, (3) a general description of the effect of the election, including the fact that the election will delay pension funding and which of the two schedules has been elected, and (4) the name, address, and telephone number of the plan administrator or other contact person from whom more information may be obtained.

(b) A pension funding relief notice must be written in a manner calculated to be understood by the average plan participant or beneficiary. In addition, the notice must be written in such a manner that the average participant or beneficiary will understand the significance of the required information in the notice. While a pension funding relief notice may include any additional information that is necessary or helpful for recipients to understand the required information in the notice, the notice should not have the effect of misleading or misinforming recipients or of distracting recipients from the required information in the notice. A pension funding relief notice must be a separate notice and cannot be combined with other information. However, a pension funding relief notice can be provided at the same time as another notice is provided; for example, a pension funding relief notice does not fail to meet the requirements of this Q&A N-4 merely because it is provided at the same time as a notice under section 101(f) of ERISA.

(c) The following examples illustrate information that satisfies the requirements of paragraph (a) of this Q&A N-4:

(i) ALTERNATIVE 1 -- pension funding relief notice reflecting an election for a plan for one plan year

Notice Regarding [ENTER NAME OF PLAN]

The employer sponsoring your pension plan has made an election permitted under Federal law to delay funding for the plan. The election applies to the plan year beginning on [ENTER DATE] and ending on [ENTER DATE].

[ALTERNATIVE IF 2 PLUS 7-YEAR SCHEDULE IS ELECTED: Without the election, Federal law generally requires that any increase in the amount by which the plan is underfunded for a plan year be paid off over 7 years. However, the election allows the increase in the amount by which the plan is underfunded for this plan year to be paid off over 9 years, with the payments for the first 2 years limited to interest on that increase.]

[ALTERNATIVE IF 15-YEAR SCHEDULE IS ELECTED: Without the election, Federal law generally requires that any increase in the amount by which the plan is underfunded for a plan year be paid off over 7 years. However, the election allows the increase in the amount by which the plan is underfunded for this plan year to be paid off in smaller annual payments over 15 years.]

If you have any questions, contact [ENTER NAME, ADDRESS, AND TELEPHONE NUMBER FOR CONTACT INFORMATION].

(ii) ALTERNATIVE 2 -- pension funding relief notice reflecting an election for a plan for two plan years

Notice Regarding [ENTER NAME OF PLAN]

The employer sponsoring your pension plan has made elections permitted under Federal law to delay funding for the plan. The elections apply to the plan year beginning on [ENTER DATE] and ending on [ENTER DATE], and to the plan year beginning on [ENTER DATE] and ending on [ENTER DATE].

[ALTERNATIVE IF 2 PLUS 7-YEAR SCHEDULE IS ELECTED: Without the elections, Federal law generally requires that any increase in the amount by which the plan is underfunded for a plan year be paid off over 7 years. However, for each of these years, the election allows the increase in the amount by which the plan is underfunded for the plan year to be paid off over 9 years, with the payments for the first 2 years limited to interest on that increase.]

[ALTERNATIVE IF 15-YEAR SCHEDULE IS ELECTED: Without the elections, Federal law generally requires that any increase in the amount by which the plan is underfunded for a plan year be paid off over a period of 7 years. However, the election allows the increase in the amount by which the plan is underfunded for each of these plan years to be paid off in smaller annual payments over 15 years.

If you have any questions, contact [ENTER NAME, ADDRESS, AND TELEPHONE NUMBER FOR CONTACT INFORMATION].

Q N-5: What are the acceptable methods of providing the pension funding relief notice? In particular, can the notice be provided electronically?

A N-5: The pension funding relief notice must be in writing and may be furnished in any paper or electronic form to the extent such form is reasonably accessible to persons to whom the notice is required to be provided. Permissible electronic methods include those permitted under regulations of the Department of Labor at 29 C.F.R. § 2520.104b-1(c) and those described at § 54.4980F-1, Q&A-13(c).

Q N-6: How does a plan sponsor electing pension funding relief comply with the requirement to notify the PBGC of such election?

A N-6: A copy of an election made for a plan that is covered by the PBGC must be e-mailed to the PBGC at single-employer.funding.relief.election@pbgc.gov. The subject line of the e-mail must contain the plan sponsor's employer identification number, the plan number, and the name of the plan. See Q&A T-1 of this notice for additional information that may be required for elections made before January 1, 2011.

Q N-7: What is the deadline for notifying the PBGC?

A N-7: PBGC notification must be made by the later of: (i) 30 days after the date the election is made or (ii) January 31, 2011.

CP. ELIGIBLE CHARITY PLANS

Section 202(b) of PRA 2010 provides that delayed effective dates under section 104 of PPA '06 are applicable to eligible charity plans.

Q CP-1: What is an eligible charity plan for purposes of section 202(b) of PRA 2010?

A CP-1: (a) A plan is an eligible charity plan for a plan year if it is maintained by more than one employer, each of which is described in § 501(c)(3), determined without regard to whether the employers are members of the same controlled group.

(b) In accordance with section 104(a) of PPA '06 as amended by section 202(b) of PRA 2010, the delayed effective dates under section 104 with respect to an eligible charity plan only apply to a plan that was in existence as of July 26, 2005, and that was an eligible charity plan for the plan year that includes that date. Under section 104 of PPA '06, the rules of §§ 430 and 436 do not apply with respect to an eligible charity plan until the earlier of (i) the first plan year in which

the plan ceases to be an eligible charity plan and (ii) the first plan year beginning on or after January 1, 2017. Therefore, the delay in effective dates under section 104 with respect to an eligible charity plan does not apply to a plan established after July 26, 2005, or to a plan that was not an eligible charity plan on that date. In addition, for plan years that begin before January 1, 2017, §§ 430 and 436 apply to a plan that was an eligible charity plan on July 26, 2005, beginning with the first plan year during which the plan fails to be an eligible charity plan.

R. REPORTING REQUIREMENTS

Notice 2010-55 (2010-33 I.R.B. 253) provides that, in the case of a plan year that ends before guidance on the special funding rules under PRA 2010 is issued, a plan sponsor will be permitted to elect to use an alternative amortization schedule under PRA 2010 without regard to whether the Form 5500 (and Schedule SB) has been filed for that plan year. However, Notice 2010-55 did not preclude plan sponsors from electing to use the special funding rules before such guidance was issued, nor did it preclude enrolled actuaries from reporting shortfall amortization installment amounts on the Schedule SB reflecting their understanding of the calculations under the alternative amortization schedules.

The Service expects that some plan sponsors may have made an election to use an alternative amortization schedule prior to the issuance of this notice, and that at least some of these elections may not have complied with the requirements of this notice.

In addition, the Service expects that some plan sponsors have elected (or will elect) to use an alternative amortization schedule for a plan year that ended prior to the issuance of this notice. For some of these plans, the Schedule SB for that plan year may reflect (1) a minimum required contribution that does not take the alternative amortization schedule into account, or (2) a minimum required contribution that takes the alternative amortization schedule into account but is different than the amount determined using the rules in this notice.

Q R-1: If, in accordance with Notice 2010-55, the plan sponsor elected to use an alternative amortization schedule for the 2008 or 2009 plan year, and the election was not reflected in the computations on the Schedule SB filed with the Form 5500 or Form 5500-SF for the relevant plan year, how should the reduced shortfall amortization installments be reflected in the reporting for the plan?

A R-1: (a) The filing of an amended Form 5500 or Form 5500-SF for the 2008 or 2009 plan year is not required solely because the plan sponsor elected to use an alternative amortization schedule for that plan year which was not reflected in the computations on the Schedule SB. However, the Schedule SB filed with the Form 5500 or Form 5500-SF for a subsequent plan year no later than the 2010 plan year must accurately reflect the effect of any election to use an alternative

amortization schedule for the 2008 or 2009 plan year on the calculation of the minimum required contribution, determined in accordance with this notice. To the extent that the amounts shown on the Schedule SB for the subsequent plan year are different than the amounts shown on the Schedule SB for prior years, this difference should be explained in attachments to the Schedule SB for such subsequent plan year as explained in paragraphs (b), (c), (d), and (e) of this Q&A R-1 (whichever apply).

(b) A plan sponsor's election to use an alternative amortization schedule for the 2008 plan year will affect the minimum required contribution and either the amount of excess contributions or the amount of the unpaid minimum required contribution for the 2008 and 2009 plan years. If, in accordance with Q&A T-2 of this notice, the plan sponsor elects to add an additional amount to the plan's prefunding balance as a result of the election for the 2008 plan year made after the Schedule SB for the 2009 plan year is filed, the plan's prefunding balance as of the beginning of the 2009 plan year as reported on Line 13 of the Schedule SB filed for the 2009 plan year will be different than the actual amount of the prefunding balance as of the beginning of the 2009 plan year that must be reported on Line 7 of the Schedule SB filed for the 2010 plan year. In this situation, this difference should be explained in an attachment to Line 7 of the Schedule SB filed for the 2010 plan year. Additionally, the election for the 2008 plan year will affect the amount of excess contributions for the 2009 plan year. Accordingly, the amount reported on Line 11a of the Schedule SB for the 2010 plan year will be different than the amount reported on Line 38 of the Schedule SB filed for the 2009 plan year. The attachment already described in the instructions for Line 9 of the Schedule SB filed for the 2010 plan year is an appropriate means for providing an explanation of this difference.

(c) A plan sponsor's election to use an alternative amortization schedule for the 2008 plan year will affect the plan's minimum required contribution for both the 2008 and 2009 plan years. If an unpaid minimum required contribution was reported on Line 40 of the Schedule SB filed for the 2009 plan year before the election to use an alternative amortization schedule was made, then the amount on Line 28 of the Schedule SB for the 2010 plan year will be different than that amount. The attachment already described in the instructions for Line 9 of the Schedule SB filed for the 2010 plan year is an appropriate means for providing an explanation of this difference.

(d) If the plan sponsor's election to use an alternative amortization schedule for the 2008 plan year is first reflected on the Schedule SB for the 2009 plan year, the amount on Line 11a of the Schedule SB for the 2009 plan year will be different than Line 38 of the Schedule SB for the 2008 plan year. The attachment already described in the instructions for Line 9 of the Schedule SB for the 2009 plan year is an appropriate means for providing an explanation of this difference.

(e) A plan sponsor's election to use an alternative amortization schedule for the 2009 plan year after the Schedule SB is filed for that plan year will affect the minimum required contribution and either the amount of excess contributions or the amount of the unpaid minimum required contribution for the 2009 plan year. Accordingly, the amount reported on Line 11a of the Schedule SB for the 2010 plan year will be different than the amount reported on Line 38 of the Schedule SB filed for the 2009 plan year (or in the case of a change in the amount of the unpaid minimum required contribution the amount reported on Line 28 of the Schedule SB for the 2010 plan year will be different than the amount reported on Line 40 of the Schedule SB for the 2009 plan year). The attachment already described in the instructions for Line 9 of the Schedule SB filed for the 2010 plan year is an appropriate means for providing an explanation of this difference.

Q R-2: If the plan sponsor elected to use an alternative amortization schedule for the 2008 or 2009 plan year before the Form 5500 or Form 5500-SF for those plan years were filed, and the calculations of the plan's alternative amortization schedule reflected on the forms filed before this guidance is reflected are different than the calculations required under this notice, how should the revised calculations be reflected in the reporting for the plan?

A R-2: (a) The minimum required contribution for the affected plan year must be calculated in accordance with the rules of this notice, regardless of whether the minimum required contribution amount was originally determined using a reasonable interpretation of the statute.

(b) The filing of an amended Form 5500 or Form 5500-SF for the 2008 or 2009 plan year is not required solely to reflect changes in the calculation of the minimum required contribution as a result of applying the rules in this notice. However, the Schedule SB filed with the Form 5500 or Form 5500-SF for a subsequent plan year no later than the 2010 plan year must accurately reflect the effect of any election to use an alternative amortization schedule for the 2008 or 2009 plan year on the calculation of the minimum required contribution determined in accordance with this notice. To the extent that the amounts shown on the Schedule SB for the subsequent plan year are different than the amounts shown on the Schedule SB for prior years, this difference should be explained in attachments to the Schedule SB for the 2010 plan year as explained in Q&A R-1.

Q R-3: May a plan sponsor's election to use an alternative amortization schedule for the 2008 or 2009 plan year be reflected in the filing of an amended Form 5500 or Form 5500-SF for the 2008 or 2009 plan year (or both, as applicable)?

A R-3: Yes. In lieu of the reporting procedure described in Q&A R-1 and Q&A R-2 of this notice, an amended Form 5500 or Form 5500-SF with a revised Schedule SB showing the amounts based on the alternative amortization schedule and the provisions of this notice is permitted to be filed.

Q R-4: How should the plan sponsor respond to any inquiries from the Service regarding Form 5330 if the plan sponsor elected to use an alternative amortization schedule after the Form 5500 or Form 5500-SF was filed with a Schedule SB that did not reflect the reduced shortfall amortization installments?

A R-4: (a) If a plan sponsor expects that an unpaid minimum required contribution shown on the Schedule SB will be eliminated by an election that the plan sponsor intends to make to use an alternative amortization schedule, Form 5330 should not be filed. However, when a Schedule SB showing an unpaid minimum required contribution is filed, and the plan sponsor does not timely file a Form 5330 to pay the associated excise tax under § 4971(a), the Service will normally send a notice that informs the plan sponsor that the Form 5330 and the excise tax are due. In this case, the plan sponsor should respond to the notice, advising the Service that the reported unpaid minimum required contribution will be eliminated by an election to use an alternative amortization schedule and providing supporting evidence thereof.

(b) If the plan sponsor expects to have an unpaid minimum required contribution for the plan year once the alternative amortization schedule is reflected but did not file a Form 5330 when due, the plan sponsor should file a Form 5330 reflecting the corrected unpaid minimum required contribution and pay the excise tax under § 4971(a) as soon as possible in order to minimize interest and penalty charges.

Q R-5: How should the effect of the plan sponsor's election to use an alternative amortization schedule be reflected on the Schedule SB?

A R-5: (a) If a plan sponsor's election to use an alternative amortization schedule is reflected on the Schedule SB for a plan year, the shortfall amortization installment reported on Line 32a of the Schedule SB (and the information reported in the attachment to Line 32a) must reflect the calculation of the installment as determined under this notice. However, any Schedule SB filed for plan years ending before December 17, 2010, is not required to reflect the election. See Q&A R-1 and Q&A R-2 of this notice for rules regarding reconciliation of amounts affected by the election when filing Schedule SB for the plan for a subsequent year.

Q R-6: How are the rules of this section III.R applied to plans for which Schedule SB is not required to be filed, pursuant to the instructions for Form 5500-EZ and Form 5500-SF?

A R-6: Schedule SB is not required to be filed for plans for which Form 5500-EZ is filed and certain plans for which Form 5500-SF is filed. For these plans, the Schedule SB must be completed (including being signed by the enrolled actuary) and delivered to the plan administrator, who must retain it. With respect to these

plans, the rules of this section III.R are applied by substituting the completion and delivery of the Schedule SB for the filing of the Schedule SB.

T. TRANSITION RULES

Q T-1: What are the consequences if a plan sponsor made an election to use an alternative amortization schedule prior to January 1, 2011, but the election did not include all of the information required in Q&A E-1 of this notice?

A T-1: (a) If a plan sponsor made an election to use an alternative amortization schedule prior to January 1, 2011, but the sponsor did not fulfill all the requirements pertaining to an election to use an alternative amortization schedule in Q&A E-1 of this notice, the fact that the sponsor did not meet all such requirements does not invalidate the election, and does not permit the sponsor to revoke that election without receiving approval from the IRS.

(b) Any sponsor that made such an election must notify participants of that election by the deadline set forth in Q&A N-1 of this notice regardless of whether the election to use an alternative amortization schedule was made before, on, or after January 1, 2011.

(c) Any sponsor that made such an election for a plan that is covered by the PBGC must include in the email notification to the PBGC described in Q&A N-6 of this notice any information described in Q&A E-1 of this notice whether or not that information was included in the election.

Q T-2: If a plan sponsor's election to use an alternative amortization schedule for a plan year creates or increases the excess contributions for that plan year after the deadline for making an election to increase the prefunding balance for that year, can the plan sponsor still elect to increase the prefunding balance by the additional excess contributions?

A T-2: (a) The minimum required contribution for a plan may decrease as a result of an election to use an alternative amortization schedule when the provisions of this notice are applied. This can occur either if the plan sponsor makes an election to use an alternative amortization schedule that was not reflected in the Schedule SB originally prepared for the plan year, or if the plan's enrolled actuary had prepared the Schedule SB reflecting an election to use an alternative amortization schedule and showing a minimum required contribution amount that was larger than the amount required under this notice.

(b) If a plan sponsor timely made a valid standing election in accordance with § 1.430(f)-1(f)(1)(ii) to add the maximum amount to the prefunding balance, then any adjustments made to the minimum required contribution in accordance with this notice will automatically increase the prefunding balance if the minimum required contribution is reduced. However, a plan sponsor can make a written

election to temporarily suspend the standing election retroactively so that all or part of the excess contributions created as a result of applying the provisions of this notice are not added to the prefunding balance.

(c) If a plan sponsor had not made a standing election for the affected plan year (or had temporarily suspended a standing election retroactively, as described in paragraph (b) of this Q&A T-2), the plan sponsor may make an election to increase the prefunding balance by an amount no greater than the amount of the increase in excess contributions for the plan year resulting from the election to use an alternative amortization schedule when the provisions of this notice are applied.

(d) Plan sponsors that wish to increase the prefunding balance by any increase in excess contributions that results from an election to use an alternative amortization schedule in accordance with the provisions of this notice should take into account the effect of the increase in the prefunding balance on the adjusted funding target attainment percentage ("AFTAP") as defined in § 1.436-1(j)(1), and the implications of that change on compliance with the requirements of section 206(g) of ERISA and § 436 of the Code for plan years beginning with the year to which that increase applies.

Q T-3: If a plan sponsor elected to use the funding standard carryover balance or the prefunding balance (funding balances) to offset the minimum required contribution for a plan year, and the minimum required contribution is decreased as a result of making an election to apply an alternative amortization schedule in accordance with the provisions of this notice, can the election to use the funding balance(s) be revoked?

A T-3: (a) The minimum required contribution for a plan may decrease when a plan sponsor makes an election to use an alternative amortization schedule in accordance with the provisions of this notice. This can occur either if the plan sponsor makes an election to use an alternative amortization schedule that was not reflected in the Schedule SB originally prepared for the plan year, or if the plan's enrolled actuary had prepared the Schedule SB reflecting an election to use an alternative amortization schedule and showing a minimum required contribution that was larger than the amount required under this notice.

(b) If the plan sponsor had made a timely, valid standing election under § 1.430(f)-1(f)(1)(ii) to use the funding balances to offset the minimum required contribution, the amount of the funding balances used to offset the minimum required contribution will automatically be adjusted to reflect the amount of the revised minimum required contribution. However, a plan sponsor can make a written election to temporarily suspend the standing election retroactively so that the amount of the funding standard carryover balance and the prefunding balance is unchanged as a result of applying the provisions of this notice.

(c) Section 1.430(f)-1(f)(3) provides in general that elections with respect to the plan's prefunding balance or funding standard carryover balance are irrevocable and must be unconditional. However, § 1.430(f)-1(f)(3)(ii) provides that an election to use the prefunding balance or funding standard carryover balance to offset the minimum required contribution for a plan year is permitted to be revoked to the extent the amount the plan sponsor elected to use to offset the minimum required contribution exceeds the minimum required contribution for the plan year. This election must generally be made by the end of the plan year for which the election was made (if the valuation date is the first day of the plan year) or the due date (including extensions) for filing Schedule SB of Form 5500 (if the valuation date is not the first day of the plan year). However, a plan sponsor is permitted to make an additional election under § 1.430(f)-1(f)(3)(ii), to the extent that making an election to use an alternative amortization schedule in accordance with the provisions of this notice reduced the minimum required contribution for the plan year.

(d) Except as provided in paragraph (c) of this Q&A T-3, a plan sponsor is not permitted to revoke an affirmative election to use the funding balances to offset the minimum required contribution regardless of whether it was made before or after the application of the provisions of this notice.

(e) Plan sponsors who wish to adjust the funding standard carryover balance or the prefunding balance under paragraphs (b) or (c) above should take into account the effect of that adjustment on the AFTAP as defined in § 1.436-1(j)(1), and the implications of that change on compliance with the requirements of section 206(g) of ERISA and § 436 of the Code for plan years beginning with the year to which that adjustment applies.

Q T-4: What is the deadline for making the elections described in Q&A T-2 and Q&A T-3 of this notice?

A T-4: Any of the elections described in Q&A T-2 or Q&A T-3 of this notice (relating to changes in elections with respect to the funding standard carryover balance and the prefunding balance) must be made no later than the due date that would otherwise apply for making the election under § 1.430(f)-1(f) or March 31, 2011, if later.

IV. PAPERWORK REDUCTION ACT

The collections of information contained in this notice have 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 1545-2196.

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 OMB control number.

The collections of information in this notice are in section III of this notice. The collections of information are required to determine the application of the special funding rules under § 430(c)(2)(D) and to comply with the statutory notice requirements related to those rules. The collections of information are mandatory for those plan sponsors making an election to apply the special funding rules. The likely respondents are sponsors of single employer defined benefit plans.

For all information except for Q&A N-6, Q&A N-7, and Q&A T-1(c) of this notice (relating to information provided to the Pension Benefit Guaranty Corporation (PBGC)), the estimated total number of respondents is 34,100 plans. The estimated annual burden per respondent varies from 30 minutes to 50 minutes, depending on individual circumstances, with an estimated average of 45 minutes. The estimated total annual reporting and/or recordkeeping burden is 25,700 hours.

The information collected in Q&A N-6, Q&A N-7, and Q&A T-1(c) applies only to single-employer defined benefit plans covered by the PBGC. For this information, the estimated total number of respondents is 13,820 plans. The estimated annual burden per respondent/recordkeeper is 15 minutes.[1] The estimated total annual reporting and/or recordkeeping burden is 3,455 hours.

Estimates of the annualized cost to respondents for the hour burdens shown are not available at this time.

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 § 6103.

V. DRAFTING INFORMATION

The principal author of this notice is Carolyn Zimmerman of the Employee Plans, Tax Exempt and Government Entities Division. For further information regarding this notice, please contact the Employee Plans taxpayer assistance answering service at 1-877-829-5500 (a toll free number) or e-mail Ms. Zimmerman at RetirementPlanQuestions@irs.gov.

[1] The PBGC expects that single-employer plans will incur this burden twice, in 2011 and 2012. The figures shown represent the average annual number of respondents and reporting and/or recordkeeping burden over a 3-year period.