

## SUPPORTING STATEMENT

### 1. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION

Section 601.201(a)(1) of the Statement of Procedural Rules (26 C.F.R. § 601.201(a)(1)) provides that it is the practice of the Internal Revenue Service (“Service”) to answer inquiries of individuals and organizations, whenever appropriate in the interest of sound tax administration as to the tax effects of their transactions.

Section 6.02 of Rev. Proc. 2007-4 2007-1 I.R.B. 118, 125, is the basic revenue procedure that describes the areas in which the Employee Plans function will issue letter rulings. Section 430 of the Code was added by section 112 of the Pension Protection Act of 2006.

In this revenue procedure, the Employee Plans function is expanding on the basic letter ruling revenue procedure by implementing the method for obtaining a letter ruling outlining the procedure by which employers that sponsor a defined benefit plans may request and obtain approval for the use of plan-specific substitute mortality tables pursuant to section 430(h)(3)(C) of the Internal Revenue Code and section 303(h)(3)(C) of the Employee Retirement Income Security Act of 1974 (ERISA), as amended.

While the general revenue procedure has obtained a control number (1545-1520) from the Office of Management and Budget, which has been renewed several times, this specialized revenue procedure, which was mandated by the Congress in the Pension Protection Act of 2006, could not be placed in final form until the applicable proposed regulations were almost complete. Moreover, this revenue procedure implementing the proposed regulations cannot be issued prior to the issuance of the proposed regulations.

The authority to consider letter rulings described in this revenue procedure was transferred to the sole jurisdiction of the Secretary of the Treasury (and his delegate) pursuant to section 101 of Reorganization Plan No. 4 of 1978, 1979-1 C.B. 480.

### 2. USE OF DATA

The data will be used by the Service to evaluate a proposed substitute mortality table of an employer that maintains a defined benefit pension plan and will assist the employers in the notification process. This data may be shared with the Employee Benefits Security Administration of the U.S. Department of Labor or the Pension Benefit Guaranty Corporation pursuant to the enforcement provisions of title III of the Employee Retirement Income Security Act of 1974 as amended.

### 3. USE OF IMPROVED INFORMATION TECHNOLOGY TO REDUCE BURDEN

IRS Publications, regulations, published guidance, e.g., revenue rulings and revenue procedures, notices, letters, and letter rulings are to be electronically

enabled on an as practicable basis in accordance with the IRS Reform and Restructuring Act of 1998.

4. EFFORTS TO IDENTIFY DUPLICATION

We have attempted to eliminate duplication within the agency wherever possible.

5. METHODS TO MINIMIZE BURDEN ON SMALL BUSINESSES OR OTHER SMALL ENTITIES

The proposed regulations under section 430(h) of the Code preclude a small business or other small entity from using substitute mortality tables. Moreover, the draft revenue procedure requires that the applicable plan have certain populations and experience in order to establish valid substitute mortality tables. Generally, these factors can only be found in larger plans. In addition, the revenue procedure contains a checklist to assist applicants in ascertaining whether they have completed the information sought by the Service.

6. CONSEQUENCES OF LESS FREQUENT COLLECTION ON FEDERAL PROGRAMS OR POLICY ACTIVITIES

Not applicable.

7. SPECIAL CIRCUMSTANCES REQUIRING DATA COLLECTION TO BE INCONSISTENT WITH THE GUIDELINES IN 5 CFR 1320.5(d)(2)

Various sections of the revenue procedure for letter rulings require information to be submitted before 30 days. These provisions are located throughout portions of 26 CFR 601.201.

8. CONSULTATION WITH INDIVIDUALS OUTSIDE OF THE AGENCY ON AVAILABILITY OF DATA, FREQUENCY OF COLLECTION, CLARITY OF INSTRUCTIONS AND FORMS, AND DATA ELEMENTS

We will publish a notice in the Federal Register in the near future to solicit public comments on this revenue procedure.

9. EXPLANATION OF DECISION TO PROVIDE ANY PAYMENT OR GIFT TO RESPONDENTS

Not applicable.

10. ASSURANCE OF CONFIDENTIALITY OF RESPONSES

Submissions under this revenue procedure are considered tax returns and tax return information, which are confidential as required by 26 U.S.C. § 6103. In general, certain matters relating to taxability and deductibility are disclosable under 26 U.S.C. § 6110.

11. JUSTIFICATION OF SENSITIVE QUESTIONS

Not applicable.

## 12. ESTIMATED BURDEN OF INFORMATION COLLECTION

Section 3 and Appendix A provide general administrative procedures and a checklist that should be signed and dated by the applicant in order to assist applicants in ascertaining that the information being submitted is complete.

The estimated annual burden per respondent varies from 30 minutes to 1½ hours with an estimated average burden of 1 hour on 50 respondents for a total of 50 hours.

Section 5 contains general rules for each request for each plan (or group of plans) such as descriptions of population groups, descriptions of permissive groups, and identification of the base year of the base table(s).

The estimated annual burden per respondent varies from 30 minutes to 1½ hours with an estimated average burden of 1 hour on 50 respondents for a total of 50 hours.

Section 6 sets forth plan specific information in the identification of plans for which the use of substitute mortality tables is being requested as well as similar information for each plan maintained by the applicant for which the use of substitute mortality tables is not being requested and each plan maintained by the applicant that was spun off within the 5-year period from the date of the application. This data includes the category of the plan; the plan's name; the plan's number; the plan year; in certain instances, a description of the plan's population; and if applicable, the reason for the spinoff.

The estimated annual burden per respondent varies from 4 hours to 8 hours with an estimated average burden of 6 hours on 50 respondents for a total of 300 hours.

Section 7 sets forth information that must be contained in the applicant's letter ruling that demonstrate creditable mortality experience. For example, the applicant's request must identify the period of time covered by the experience study used to develop the base tables and to identify the base year. In addition, there are special provisions if a plan came into existence as a result of a spinoff or if a plan was acquired subsequent to the first day of an experience study.

The estimated annual burden per respondent varies from 10 hours to 30 hours with an estimated average burden of 20 hours on 50 respondents for a total of 1,000 hours.

Section 8 sets forth additional information that must be contained in order to demonstrate stability. This includes the number of participants within the population under that plan as of the last day of the plan year that began two years before the plan year for which the use of substitute mortality tables is being requested and the number of participants within the population under that plan as of the first day and the last day of each plan year occurring during the experience study.

The estimated annual burden per respondent varies from 10 hours to 30 hours with an estimated average burden of 20 hours on 50 respondents for a total of 1,000 hours.

Section 9 sets forth information that must be contained in the applicant's letter ruling that demonstrate lack of creditable mortality experience. This includes the number of deaths within each relevant population within each plan in the permissive group that's seeking to use substitute mortality tables and the number of deaths within each plan that is not within the permissive group and does not meet an exception to providing that information.

The estimated annual burden per respondent varies from 10 hours to 30 hours with an estimated average burden of 20 hours on 50 respondents for a total of 1,000 hours.

Section 10 describes the development of data pertaining to the unadjusted mortality experience. This is requested on an individual and aggregate basis and includes (1) the sum of accrued benefits, (2) the average of the accrued benefits of all participants at that age, and (3) the number of participants and for each of these the data (i) at the beginning of the year specifying the same date for those who died during the year and (ii) those who left the population for a reason reasons other than death (including their adjusted benefits).

The estimated annual burden per respondent varies from 250 hours to 450 hours with an estimated average burden of 350 hours on 50 respondents for a total of 17,500 hours.

Section 11 pertains to the adjusted mortality experience and requests data on the graduation method used (including its parameters), if more than one graduation is performed, the use of intermediate tables and the rationale for the various parameters. This section also requests a copy of an analysis if one of two alternative methods is used.

The estimated annual burden per respondent varies from 40 hours to 100 hours with an estimated average burden of 70 hours on 50 respondents for a total of 3,500 hours.

Section 12 seeks tests of the reasonability of the base tables at various interest rates and age factors, aggregate liabilities of the plan and requests graphical displays.

The estimated annual burden per respondent varies from 10 hours to 30 hours with an estimated average burden of 20 hours on 50 respondents for a total of 1,000 hours.

The total estimated average annual burden varies from 335 hours to 681 hours with a total estimated average annual burden of 508 hours by 50 respondents for a total of 25,400 hours annually.

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

13. ESTIMATED TOTAL ANNUAL COST BURDEN TO RESPONDENTS

Estimates of capital or start-up costs of operation, maintenance, and purchase of services to provide information are not available at this time.

14. ESTIMATED ANNUALIZED COST TO THE FEDERAL GOVERNMENT

Not applicable.

15. REASONS FOR CHANGE IN BURDEN

Change in law.

16. PLANS FOR TABULATION, STATISTICAL ANALYSIS AND PUBLICATION

Not applicable.

17. REASONS WHY DISPLAYING THE OMB EXPIRATION DATE IS INAPPROPRIATE

We believe that displaying the OMB expiration date is inappropriate because it could cause confusion leading taxpayers to believe that the revenue procedure will sunset as of the expiration date. Taxpayers are not likely to be aware that the Service may request renewal of the OMB approval and obtain a new expiration date before the old one expires.

18. EXCEPTIONS TO THE CERTIFICATION STATEMENT ON OMB FORM 83-I

Not applicable.

19. REASONS FOR EMERGENCY

Although the annual, general revenue procedure on EP and EO letter rulings has a valid OMB control number, this specialized revenue procedure is a result of a legislative mandate and generates additional and unanticipated collections of information under the Paperwork Reduction Act of 1995. Section 430(h)(3) of the Code, as added by Congress in the Pension Protection Act of 2006, describes the prerequisites for substitute mortality tables that must be followed. Among the criteria is the requirement in section 430(h)(3)(C)(v)(I) that the submission must be made at least 7 months before the first day of the first plan year that the particular substitute mortality table is applicable. Accordingly, if a plan seeks a ruling as to the acceptability of a substitute mortality table, the submission must be made before June 1, 2007. Section 430 is applicable for plan years beginning on or after January 1, 2008.

An affected, eligible employer may rely on a ruling on an actual substitute mortality table for 10 years. Moreover, absent the attached revenue procedure affected, eligible employers would, in the ordinary course of their businesses,

take the time, energy and effort to create substitute mortality tables because the reduced costs in funding their defined benefit plans may far exceed the costs involved in the creation of substitute mortality tables. The revenue procedure provides a method for affected, eligible employers to obtain assurance as to the acceptability of their substitute mortality tables, and, therefore, substantial savings.

Note: The following paragraph applies to all collections of information in this submission:

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. Books or records relating to the 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 26 U.S.C. § 6103.