

¹SUPPORTING STATEMENT
(Announcement 2004-38)

1. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION

Section 102 of the Pension Funding Equity Act of 2004 provides certain eligible employers, i.e., those that are (1) a commercial passenger airline, (2) primarily in the production or manufacture of a steel mill product, or the processing of iron ore pellets, or (3) described in section 501(c)(5) of the Code that established a plan on June 30, 1955, to make election to make an alternative deficit reduction contribution.

Announcement 2004-38 implements the aforementioned section 102 and provides guidelines by which the Internal Revenue Service may monitor whether defined benefit pension plans are operating within the framework of the law and congressional intent.

2. USE OF DATA

The data will be used by the Service to monitor whether the plan or plans of an employer are eligible for an alternative deficit reduction contribution election. This data may be shared with the Employee Benefits Security Administration of the U.S. Department of Labor in the enforcement of the provisions of the Employee Retirement Income Security Act of 1974.

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**

This announcement follows the congressional directive in notifying applicable employers that they election will be made in a time and manner prescribed by the Secretary of the Treasury (or his delegate).

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

Not applicable.

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

Because the statute applies to plan years beginning after December 27, 2003, and section 102 of the statute is effective on the date of enactment of the statute the information contained in the announcement must be submitted before 30 days.

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

Announcement 2004-38 was published in the Internal Revenue Bulletin on May 3, 2004 (2004-18 IRB 878).

In response to the **Federal Register** notice dated **March 14, 2007 (72 FR 11940)**, we received no comments during the comment period regarding Announcement 2004-38.

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

Not applicable.

10. **ASSURANCE OF CONFIDENTIALITY OF RESPONSES**

Submissions under this notice 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 II of the announcement requests certain information of employers that elect to make an alternative deficit reduction contribution. This information includes the name of the employer, the name of the plan, and the applicable plan year for which the election is being made .

The total estimated average annual burden varies from 3 hours to 5 hours with a total estimated burden of 4 hours on 200 respondents for a total of 800 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

As suggested by OMB, our **Federal Register** notice dated **March 14, 2007 (72 FR 11940)**, requested public comments on estimates of cost burden that are not captured in the estimates of burden hours, i.e., estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information. However, we did not receive any response from taxpayers on this subject. As a result, estimates of the cost burdens are not available at this time.

14. ESTIMATED ANNUALIZED COST TO THE FEDERAL GOVERNMENT

Not applicable.

15. REASONS FOR CHANGE IN BURDEN

There is no change in the paperwork burden previously approved by OMB. We are making this submission to renew the OMB approval.

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 by leading taxpayers to believe that the announcement sunset as of the expiration date. Taxpayers are not likely to be aware that the Service intends to 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.

Note: The following paragraph applies to all of the 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 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 26 U.S.C. 6103.