

[4830-01-P]

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG-113891-07]

RIN 1545-BG72

Benefit Restrictions for Underfunded Pension Plans; Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correction to notice of proposed rulemaking.

SUMMARY: This document contains corrections to a notice of proposed rulemaking (REG-113891-07) that was published in the **Federal Register** on Friday, August 31, 2007 (72 FR 50544) providing guidance regarding the use of certain funding balances maintained for defined benefit pension plans and regarding benefit restrictions for certain underfunded defined benefit pension plans. These regulations affect sponsors, administrators, participants, and beneficiaries of single employer defined benefit pension plans.

FOR FURTHER INFORMATION CONTACT: Lauson C. Green or Linda S.F. Marshall at (202) 622-6090 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

**Background**

The correction notice that is the subject of this document is under sections 430(f) and 436 of the Internal Revenue Code.

**Need for Correction**

As published, the notice of proposed rulemaking (REG-113891-07) contains errors that

may prove to be misleading and are in need of clarification.

### **Correction of Publication**

Accordingly, the publication of proposed rulemaking (REG-113891-07), which was the subject of FR Doc. 07-4262, is corrected as follows:

1. On page 50544, column 3, in the preamble, under the paragraph heading “Background”, second line of the footnote number 1 at the bottom of the column, the language “Security Act of 1974, as amended (ERISA) sets forth” is corrected to read “Security Act of 1974, as amended (ERISA), sets forth”.

2. On page 50547, column 3, in the preamble, under the paragraph heading “F. Elections Under Section 430(f)”, twelfth line from the bottom of the column, the language “the plan year, before the last day of the” is corrected to read “the plan year, on or before the last day of the”.

3. On page 50548, column 1, in the preamble, under the paragraph heading “F. Elections Under Section 430(f)”, tenth line of the first paragraph of the column, the language “Form 5500 (with extensions) while an” is corrected to read “Form 5500 (with extensions), while an”.

4. On page 50549, column 2, in the preamble, under the paragraph heading “B. Limitation on Plant Shutdown and Other Unpredictable Contingent Event Benefits”, second line from the bottom of the first paragraph, the language “436(b)(2), as described in paragraph F in” is corrected to read “436(b)(2), as described in paragraph II. F in”.

5. On page 50549, column 2, in the preamble, under the paragraph heading “B. Limitation on Plant Shutdown and Other Unpredictable Contingent Event Benefits”, first and second lines of footnote number 4, the language “See also Notice 2007-14, IRB 501,

(see §601.601(d)(2) of this chapter) requesting” is corrected to read “See also Notice 2007-14, 2007-7 IRB 501 (see §601.601(d)(2) of this chapter), requesting”.

6. On page 50550, column 1, in the preamble, under the paragraph heading “C. Limitation on Plan Amendments Increasing Liability for Benefits”, second line from the bottom of the first paragraph, the language “described in paragraph F of this” is corrected to read “described in paragraph II. F of this”.

7. On page 50551, column 2, in the preamble, under the subparagraph heading “5. Prohibited payment.”, second line of the paragraph (c), the language “on a retroactive annuity starting date,” is corrected to read “under a retroactive annuity starting date,”.

8. On page 50551, column 2, in the preamble, under the subparagraph heading “5. Prohibited payment.”, lines third and fourth to last of the paragraph (d), the language “from an insurer to pay benefits under plan.” is corrected to read “from an insurer to pay benefits under the plan.”.

9. On page 50551, column 2, in the preamble, under the paragraph heading “E. Limitation on Benefit Accruals”, second line from the bottom of the paragraph, the language “436(e)(2), as described in paragraph F of” is corrected to read “436(e)(2), as described in paragraph II. F of”.

10. On page 50552, column 2, in the preamble, under the paragraph heading “G. Presumed Underfunding for Purposes of Benefit Limitations”, tenth line of the second paragraph of the column, the language “percent but less than 90 percent, then” is corrected to read “percent but less than 90 percent (or, if that preceding plan year is the pre-effective plan year, was certified to be less than 90 percent), then”.

11. On page 50553, column 2, in the preamble, under the paragraph heading

“G. Presumed Underfunding for Purposes of Benefit Limitations”, eleventh line of the third paragraph of the column, the language “prior certification applied, then the plan” is corrected to read “prior certification applied, the plan”.

12. On page 50554, column 1, in the preamble, under the subparagraph heading “3. Periods prior to certification—special rules for unpredictable contingent event benefits and plan amendments that increase liability.”, ninth line from the bottom of the first paragraph, the language “a funding standard account carryover” is corrected to read “a funding standard carryover”.

**§1.430(f)-1 [Corrected]**

13. On page 50559, column 2, §1.430(f)-1(g) Example 1.(i), ninth line of the paragraph, the language “of the funding standard account carryover” is corrected to read “of the funding standard carryover”.

14. On page 50559, column 2, §1.430(f)-1(g) Example 1.(i), thirteenth line of the paragraph, the language “effective interest rate in 2008 for plan P is” is corrected to read “effective interest rate in 2008 for Plan P is”.

15. On page 50559, column 2, §1.430(f)-1(g) Example 1.(iv), seventh line of the paragraph, the language “standard account balance as of January 1,” is corrected to read “standard carryover balance as of January 1,”.

16. On page 50559, column 3, §1.430(f)-1(g) Example 5.(i), ninth line of the paragraph, the language “actual rate of return on plan Q’s assets in” is corrected to read “actual rate of return on Plan Q’s assets in”.

17. On page 50560, column 1, §1.430(f)-1(g) Example 5.(iii), first line of the column, the language “makes a contribution to Plan T of \$190,000” is corrected to read

“makes a contribution to Plan Q of \$190,000”.

**§1.436-1 [Corrected]**

18. On page 50560, column 3, §1.436-1(a)(3)(ii), eighth line of the paragraph, the language “this section 436 could apply differently” is corrected to read “section 436 and this section could apply differently”.

19. On page 50564, column 3, §1.436-1(d)(5)(ii)(C), second line of the paragraph, the language “on a retroactive annuity starting date,” is corrected to read “under a retroactive annuity starting date,”.

20. On page 50565, column 3, §1.436-1(f)(2)(iv), last line of the paragraph, the language “amendment under 436(c)—” is corrected to read “amendment under section 436(c)—”.

21. On page 50566, column 1, §1.436-1(f)(3)(ii)(A), lines third, fourth, and fifth of the paragraph, the language “surety for purposes of section 412 of the Employee Retirement Income Security Act of 1974, as amended; or” is corrected to read “surety for purposes of section 412 of ERISA; or”.

22. On page 50566, column 2, §1.436-1(f)(4) Example 1.(ii), fifth line of the paragraph, the language “the increase in funding target due to this” is corrected to read “the increase in the funding target due to this”.

23. On page 50567, column 1, §1.436-1(f)(4) Example 3.(iii), seventh line of the paragraph, the language “section (f)(2)(iv)(A) apply, and the amount of” is corrected to read “paragraph (f)(2)(iv)(A) of this section apply, and the amount of”.

24. On page 50570, column 1, §1.436-1(g)(7) Example 2., paragraphs (i) through (v) are removed and [Reserved]. is inserted in its place.

25. On page 50570, column 2, §1.436-1(g)(7) Example 3.(i), second line of the paragraph, the language “Example 2. On July 1, 2011, the enrolled” is corrected to read “Example 1. On July 1, 2011, the enrolled”.
26. On page 50571, column 3, §1.436-1(h)(1)(iii)(A), sixth line from the bottom of the paragraph, the language “under paragraph (h)(1)(iii)(B) of this” is corrected to read “under paragraph (h)(1)(iii)(B) or (h)(2)(iii) of this”.
27. On page 50571, column 3, §1.436-1(h)(2)(i), twelfth line of the paragraph, the language “less than 90 percent, and where the” is corrected to read “less than 90 percent (or, if that prior plan year is the pre-effective plan year, was certified to be less than 90 percent), and where the”.
28. On page 50572, column 1, §1.436-1(h)(3)(i), third line from the bottom of the paragraph, the language “the plan year, then that first day is” is corrected to read “the plan year, that first day is”.
29. On page 50573, column 1, §1.436-1(h)(4)(iii)(C)(1), eleventh line from the bottom of the paragraph, the language “applied, then the plan will not have” is corrected to read “applied, the plan will not have”.
30. On page 50573, column 2, §1.436-1(h)(6), eighth line from the bottom of the paragraph, the language “carryforward balance as of any of the” is corrected to read “prefunding balance as of any of the”.
31. On page 50574, column 1, §1.436-1(h)(6) Example 4.(ii), third line from the bottom of the paragraph, the language “distributions in paragraph (d)(1) and the” is corrected to read “distributions in paragraph (d)(1) of this section and the”.
32. On page 50574, column 1, §1.436-1(h)(6) Example 5.(iii), third line from the

bottom of the column, the language “paragraph (h)(2)(iii) of this section apply” is corrected to read “paragraph (h)(1)(iii) of this section apply”.

33. On page 50574, column 2, §1.436-1(h)(6) Example 5.(iv), seventh line of the paragraph, the language “(h)(2)(ii) of this section apply. Accordingly,” is corrected to read “(h)(2)(iii) of this section apply. Accordingly,”.

34. On page 50574, column 2, §1.436-1(h)(6) Example 6.(v), last line of the column, the language “2011, would be able to elect a new starting” is corrected to read “2011, would be able to elect a new annuity starting”.

35. On page 50576, column 1, §1.436-1(j)(3)(iv), third line from the bottom of the paragraph, the language “percentage for the plan has been” is corrected to read “attainment percentage for the plan has been”.

36. On page 50577, column 2, §1.436-1(k)(5), fifth line from the bottom of the column, the language “plan year beginning before the first” is corrected to read “plan year beginning before the”.

LaNita Van Dyke  
Chief, Publications and Regulations Branch  
Legal Processing Division  
Associate Chief Counsel  
(Procedure and Administration)