

Significant Index No. 0430.00-00



TAX EXEMPT AND  
GOVERNMENT ENTITIES  
DIVISION

DEPARTMENT OF THE TREASURY

SEP 20 2022

Number: 202250014

Release Date: 12/16/2022

Re: Substitute Mortality Table Ruling

Taxpayer =

EIN: -

Plans for which substitute mortality tables are requested:

Plan 4 =

EIN: - (Plan No. )

Plan 5 =

EIN: - (Plan No. )

Other defined benefit plans in the Taxpayer's controlled group:

Plan 1 =

EIN: - (Plan No. )

Plan 2 =

EIN: - (Plan No. )

Plan 3 =

EIN: - (Plan No. )

Plan 6 =

EIN: - (Plan No. )

Dear :

This letter is response to the Taxpayer's request dated March 22, 2022 along with supplemental information provided by the Taxpayer's authorized representatives via electronic mail on May 27, 2022, June 10, 2022, and June 23, 2022.

The following facts and representations have been submitted under penalties of perjury in support of the ruling requested.

Plan 1, Plan 2, Plan 3, Plan 4, Plan 5, and Plan 6 are the only defined benefit retirement plans in the Taxpayer's controlled group. There was one additional defined benefit retirement plan that left the Taxpayer's controlled group as of [redacted] that was not included in the Taxpayer's experience study. Taxpayer does not sponsor any multiple-employer plans.

Taxpayer requests approval for the following specific populations:

- Plan 4 and Plan 5 combined – Male participants (annuitants and nonannuitants combined), including disabled participants.
- Plan 4 and Plan 5 combined – Female participants (annuitants and nonannuitants combined), including disabled participants.

Taxpayer indicated that Plan 6 does not have credible mortality experience and therefore, the standard mortality tables will be used for calculations under section 430 of the Internal Revenue Code ("Code").

Taxpayer is also requesting approval for substitute mortality tables for Plan 1, Plan 2, and Plan 3, which will be addressed in a separate ruling letter.

Effective [redacted] the Taxpayer transferred approximately 3,300 deferred vested participants from Plan 4 to Plan 5. Effective [redacted] the Taxpayer transferred approximately [redacted] deferred vested and in-pay participants from Plan 4 to Plan 5. These transfers are not expected to have any impact on the mortality analysis because the two impacted plans are being studied together as if being a single plan. The data for all participants in these two plans was included in each year of the experience study (i.e., the spun-off participants are included in the analysis as full year exposures).

An annuity contract was secured to take the obligations of certain annuitants with benefits under \$ [redacted] per month from Plan 5 and under \$ [redacted] per month from Plan 4 on [redacted] participants. This event reduced the combined plans' participant count by roughly [redacted] participants.

Similarly, an annuity contract was secured to take the obligations of certain annuitants with benefits under \$ [redacted] per month from Plan 5 and under \$ [redacted] per month from Plan 4 on [redacted] participants. This event reduced the combined plans' participant count by roughly [redacted] participants.

Both annuity buyouts were only for in-pay participants in Plan 4 and Plan 5. Therefore, all active and deferred vested plan participants in Plan 4 and Plan 5 with benefits under the listed thresholds remained part of each plan after the annuity buyouts. Additionally, a small number of in-pay participants in Plan 4 and Plan 5 with benefits under the listed

thresholds were excluded from the annuity buyouts. These participants were excluded due to data incompleteness or payment complexities that were excluded due to data incompleteness or payment complexities that were unable to be properly handled by the administration teams of the insurance companies. For example, certain participants have benefit amounts that are scheduled to change over time, and this was a feature that the insurance companies were not comfortable inheriting. Taxpayer is unaware of any characteristics relating to this small group of participants that would cause them to have materially different mortality experience than other similar participants who were included in the annuity buyouts.

The annuity buyouts significantly reduced the number of participants in Plan 4 and Plan 5 that will be retained once the proposed mortality tables are being used (beginning in ). While the size of a participant's benefit is not believed to be correlated to factors that do have causal reasons for such differences. As such, experience for annuitants with benefits under the dollar per month thresholds noted above were excluded if they were part of the annuity buyouts or if they would have been part of the annuity buyouts had they survived to the date of the buyout execution.

Near the end of a lump sum window was offered to terminated vested participants in Plan 4 and Plan 5. The window significantly reduced the number of terminated vested participants remaining in the pension plans once the proposed mortality tables will be used (beginning in ). It is possible that the portion of the population that elected to take a lump sum may have different mortality experience from the portion of the population that did not (i.e., there may be anti-selection), and because the Taxpayer does not have post-lump sum window experience, the Taxpayer has excluded the entire terminated vested population from the experience analysis.

Taxpayer's proposed mortality rates were developed based on an experience study period from through with a base year of Taxpayer's proposed mortality rates were calculated by adjusting the applicable standard mortality tables in section 1.430(h)(3)-1(d) of the Treasury Regulations ("Regulations"), using the mortality ratio and credibility weighting factor individually determined for each population, as shown in the table below.

Population	Mortality ratio	Credibility weighting factor
Plan 4 and Plan 5 combined – Male participants (annuitants and nonannuitants combined), including disabled participants		
Plan 4 and Plan 5 combined – Female participants (annuitants and nonannuitants combined), including disabled participants		

Taxpayer's request is made in accordance with section 430(h)(3)(C) of the Code, section 303(h)(3) of the Employee Retirement Income Security Act of 1974, section 1.430(h)(3)-2 of the Regulations, and Revenue Procedure 2017-55.

Based on the above facts and representations, the Taxpayer requests a ruling to use the substitute mortality tables for making computations under section 430 of the Code.

Taxpayer requests this ruling to be effective for a period of up to 5 plan years beginning with the plan year commencing

Taxpayer's proposed base mortality rates are as follows:

**Substitute Mortality Tables**  
**Proposed for use beginning with the plan year commencing**  
**Base year**

<b>Age</b>	<b>Male Participants, Including Disabled Participants</b>	<b>Female Participants, Including Disabled Participants</b>
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<b>Age</b>	<b>Male Participants, Including Disabled Participants</b>	<b>Female Participants, Including Disabled Participants</b>
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<b>Age</b>	<b>Male Participants, Including Disabled Participants</b>	<b>Female Participants, Including Disabled Participants</b>
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<b>Age</b>	<b>Male Participants, Including Disabled Participants</b>	<b>Female Participants, Including Disabled Participants</b>
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Section 430(h)(3)(A) of the Code states, in relevant part, that the Secretary shall by regulation prescribe mortality tables to be used in determining any present value of making any computation under section 430 of the Code.

Section 430(h)(3)(C) of the Code states, that upon request by the plan sponsor and approval by the Secretary, a mortality table shall be used in determining any present value or making any computation under section 430 of the Code during the period of consecutive plan years (not to exceed 10) specified in the request.

Section 430(h)(3)(C)(ii) of the Code states, in relevant part, a substitute mortality table shall cease to be in effect as of the earliest of:

- the date on which there is a significant change in the participants in the plan by reason of a plan spinoff or merger or otherwise, or
- the date on which the plan actuary determines that such substitute mortality table does not meet the following requirements of Section 430(h)(3)(C)(iii) of the Code.

Section 430(h)(3)(C)(iii) of the Code states, in relevant part, that a mortality table meets the requirements of this section if:

- there is a sufficient number of plan participants, and the pension plans have been maintained for a sufficient period of time, to have credible information necessary, and
- such substitute mortality table reflects the actual experience of the pension plans maintained by the sponsor and projected trends in general mortality experience.

Section 1.430(h)(3)-2(c)(3) of the Regulations states, in relevant part, that the base year for the base substitute mortality table is the calendar year that contains the day before the midpoint of the experience study period. Additionally, a plan's substitute mortality tables must be generational mortality tables.

Section 1.430(h)(3)-2(c)(6)(ii) of the Regulations states, in relevant part, that a plan's substitute mortality tables must not be used beginning with the earliest of:

- For a plan using a substitute mortality table for only one gender, the first plan year for which there is full or partial credible mortality information with respect to the other gender that had lacked credible mortality information (unless an approved substitute mortality table is used for that gender),
- The first plan year in which the plan fails to satisfy the requirement that other plans and populations in the controlled group must also use substitute mortality tables unless it can be demonstrated that they do not have credible mortality information (taking into account the transition period for newly affiliated companies),
- The second plan year following the plan year for which there is a significant change in individuals covered by the plan as described in Section 1.430(h)(3)-2(c)(6)(iii) of the Regulations.
- The plan year following the plan year in which a substitute mortality table used for a plan population is no longer accurately predictive of future mortality of that population, as determined by the Commissioner or as certified by the plan's actuary to the satisfaction of the Commissioner, or
- The date specified in guidance published in the Internal Revenue Bulletin pursuant to a replacement of mortality tables specified under section 430(h)(3)(A) of the Code and section 1.430(h)(3)-1 of the Regulations, other than annual updates to the static mortality tables issued pursuant to section 1.430(h)(3)-1(a)(3) of the Regulations or changes to the mortality improvement rates pursuant to section 1.430(h)(3)-1(a)(2)(i)(C) of the Regulations.

Section 1.430(h)(3)-2(c)(6)(iii) of the Regulations states, in relevant part, a significant change in the individuals covered by a substitute mortality table for a plan year occurs if the number of individuals covered by the substitute mortality table for the plan year is less than 80% or more than 120% of either the average number of individuals in that population over the years covered by the experience study on which the substitute mortality tables are based, or the number of individuals covered by the substitute mortality table in a plan year for which a certification (described below) was made on account of a prior change in coverage. However, a change in coverage is not treated as significant if the plan's actuary certifies in writing to the satisfaction of the Commissioner that the substitute mortality tables used for the population continue to be accurately predictive of future mortality of that population (taking into account the effect of the change in the population).

Section 1.430(h)(3)-2(d)(2) of the Regulations states, in relevant part, that the experience study period must consist of 2, 3, 4, or 5 consecutive 12-month periods, and must be the same period for all populations. The last day of the experience study period



must be less than 3 years before the first day of the first plan year for which the substitute mortality tables are to apply.

Section 1.430(h)(3)-2(d)(4) of the Regulations states, in relevant part, that the base mortality rates are determined by multiplying the mortality rate from the standard mortality table by the mortality ratio.

Section 1.430(h)(3)-2(e)(1) of the Regulations states, in relevant part, that if the actual number of deaths is less than the full credibility threshold, then the base mortality rates are determined using a partial credibility weighting factor.

Section 1.430(h)(3)-2(f) of the Regulations provides special rules for newly-affiliated plans - a plan is a newly-affiliated plan if the plan sponsor becomes a member of the new controlled group in connection with a merger, acquisition, or similar transaction described in § 1.410(b)-2(f). A plan also is treated as a newly-affiliated plan for purposes of this section if the plan is established in connection with a transfer of assets and liabilities from another employer's plan in connection with a merger, acquisition, or similar transaction described in § 1.410(b)-2(f).

The Internal Revenue Service has reviewed the substitute mortality rates and supporting information and has determined that based on the information submitted, the rates were developed in accordance with section 1.430(h)(3)-2 of the Regulations and Revenue Procedure 2017-55.

Permission is hereby granted for the Taxpayer to use the proposed substitute mortality rates shown above for participants in Plan 4 and Plan 5 (including disabled participants).

The approved substitute mortality rates (shown above) must be applied on a generational basis, as provided in section 1.430(h)(3)-2(c)(3) of the Regulations.

Your attention is called to the early termination rules under section 430(h)(3)(C) of the Code and section 1.430(h)(3)-2(c)(6) of the Regulations, which describe the circumstances in which the use of the approved substitute mortality tables will terminate before the end of the approved period (described above).

We also draw your attention to the fact that the male participants in Plan 6 (annuitants and nonannuitants combined, including disabled male participants) experienced deaths and female participants in Plan 6 (annuitants and nonannuitants combined, including disabled female participants) experienced deaths during the experience study period. Note that these populations will have credible mortality experience if they experience at least 100 deaths during any period corresponding to the length of the experience study used to construct the approved substitute mortality tables (shown above). It is important to monitor these populations to ensure that appropriate action is taken, should this occur, to avoid violating the early termination rules under section 1.430(h)(3)-2(c)(6) of the Regulations.

A certification must be provided each year that is required under the Regulations, as described above, signed by the enrolled actuary for each impacted plan, to avoid the early termination rules due to a significant change in coverage under section 1.430(h)(3)-2(c)(6) of the Regulations. The certification must state that the substitute mortality tables continue to be accurately predictive of the expected future mortality for the plan. The certification must also contain a statement that:

- The enrolled actuary is current with educational requirements set forth by the \_\_\_\_\_ as well as any other actuarial designations asserted;
- The enrolled actuary was personally involved in the determination that the substitute mortality table is still accurately predictive and provides the actuary's best estimate for the Plan;
- In determining that the substitute mortality table is still accurately predictive, the enrolled actuary took into consideration the effect of business combinations, plan mergers or spinoffs, settlements/other risk transfers, and other events that would have similar effects on the relevant populations; and,
- The enrolled actuary has the specific knowledge and experience to make the judgements set forth above and attests to these representations.

All certifications must be provided on or before the date Form 5500 is filed for each plan year for which the certification is required and must be accompanied by the supporting information relied upon by the enrolled actuary to make that certification. To the extent possible, please also provide the following supporting information:

- The number of actual deaths during the experience study period used to develop the substitute mortality tables and the beginning and ending dates of the experience study period.
- A table showing the number of expected deaths and actual deaths, reported separately for each plan year beginning with deaths during the plan year beginning on \_\_\_\_\_ through the plan year immediately preceding the most recent actuarial valuation, and in total.
- A table showing the mortality gains/losses, reported separately for each plan year beginning with the plan year beginning on \_\_\_\_\_ through the plan year immediately preceding the most recent actuarial valuation.
- A table similar to the stability demonstration required under section 8 of Revenue Procedure 2017-55, showing the average number of participants in the population included in the experience study and the number of participants in the population as of the end of each plan year, beginning with \_\_\_\_\_ through the plan year immediately preceding the most recent actuarial valuation, expressed both as a headcount and as a percentage of the average number of participants in the experience study.
- A table showing a comparison of:
  - the average ages, and

- o the percentage of the population, by the following monthly single life annuity brackets:
  - under \$100,
  - between \$100 and \$250,
  - between \$250 to \$500,
  - between \$500 to \$1,000,
  - between \$1,000 and \$1,500, and
  - \$1,500 and over,
 along with the average age and average benefit amount for the population in total. This information should also be provided for the population in the experience study and at the end of each plan year, beginning with the valuation date for the first plan year that the certification is required, through the date immediately preceding the most recent actuarial valuation at the time the information is reported.
- An explanation of any material changes in the population.

This information must be provided to Mr. David M. Ziegler (or to another individual designated by the Internal Revenue Service) at the following address:

Internal Revenue Service  
 Attn: Mr. David M. Ziegler  
 TE/GE: SE:T:EP:RA:T:A2  
 IR-6213  
 1111 Constitution Ave. NW  
 Washington DC 20224-0002

Failure to provide this information by the due date may result in a requirement that the standard mortality tables must be used for purposes of section 430 of the Code, beginning with the earlier of:

- (1) the plan year for which the deadline for providing this information is missed, or
- (2) the date required for early termination of the use of the substitute mortality tables pursuant to section 1.430(h)(3)-2(c)(6) of the Regulations.

No opinion is expressed as to the tax treatment of the transaction described herein under the provisions of any other section of either the Code or Regulations which may be applicable thereto, as appropriate.

In granting this approval, we have only considered whether the substitute mortality rates were developed in accordance with section 1.430(h)(3)-2 of the Regulations and Revenue Procedure 2017-55. Accordingly, we are not expressing any opinion as to the accuracy or acceptability of any calculations or other material submitted with your request.

This ruling is directed only to the taxpayer that requested it. Section 6110(k)(3) of the Code provides that it may not be used or cited by others as precedent.

When filing Form 5500 for the plan years for which the substitute mortality tables are used, please note the information that is required to be attached to Schedule SB (Actuarial Information) in accordance with the instructions to that form.

Pursuant to a power of attorney on file with this office, a copy of this letter ruling is being sent to your authorized representatives.

Additionally, a copy of this letter ruling is being sent to the Manager, EP Classification in Houston, Texas and to the Manager, EP Compliance Unit in Chicago, Illinois.

If you wish to inquire about this ruling, please contact \_\_\_\_\_ (ID Badge Number \_\_\_\_\_) at (\_\_\_\_\_) - \_\_\_\_\_. Please address all correspondence to SE:T:EP:RA:T:A2.

Sincerely yours,

David M. Ziegler, Manager  
Employee Plans Actuarial Group 2

**Enclosures**

Notice 437, Notice of Intention to Disclose (Rulings)  
A deleted copy of the ruling

cc: