



AMERICAN ACADEMY *of* ACTUARIES

August 18, 2003

Ms. Carol D. Gold
Director, Employee Plans
Department of the Treasury
1111 Constitution Ave., NW
Washington, DC 20224-0002

Re: Rev. Rul. 2003-83

Dear Ms. Gold:

Members of the Pension Committee of the American Academy of Actuaries¹ appreciate the opportunity to comment on the Internal Revenue Service's recently released Revenue Ruling (Rev. Rul.) 2003-83 regarding two versions of the aggregate entry age normal funding method that have been ruled unreasonable funding methods for the purpose of section 412(c)(3).

We appreciate the fact that Rev. Rul. 2003-83, banning the use of the aggregate entry age normal funding method, is prospective. This Rev. Rul., however, does raise an issue that would best be addressed through a clarifying Revenue Procedure (Rev. Proc.).

Many plan sponsors adopted the aggregate entry age normal funding method pursuant to sections 4.01(3) or 4.01(4) of Rev. Proc. 81-29, which granted automatic approval for a change to this funding method. Plan sponsors adopted this change in good faith notwithstanding Reg. 1.412(c)(3)-1(c)(2), which deems a funding method reasonable only if it produces no experience gains and losses when each actuarial assumption is exactly realized. The rationale of the plan sponsors in doing so was that Rev. Proc. 81-29 had superceded the regulation inasmuch as it had been promulgated approximately a half year after the issuance of the regulation. Now these plan sponsors are required to change funding method in order to comply with Rev. Rul. 2003-83.

We believe that it would be appropriate that any change from the aggregate entry age normal funding method to the individual entry age normal funding method be automatically approved under the special approvals of section 4 of Rev. Proc. 2000-40, without either a five-year look back or a five-year look forward with respect to any other automatic approval. Under Rev. Proc. 2003-83, a change from the aggregate entry age normal funding method to the individual entry age normal funding method would be pursuant to the rules of section 3 of Rev. Proc. 2000-40. As such, the plan sponsor would be precluded from changing the liability funding methodology for a five-year period without a special application to the Service under Rev. Proc. 2000-41. This five year freeze on automatic approval does not seem equitable inasmuch as the change from aggregate entry age normal to individual entry age normal was mandated by the Service. By

¹ The American Academy of Actuaries is the public policy organization for actuaries of all specialties within the United States. In addition to setting qualification standards and standards of actuarial practice, a major purpose of the Academy is to act as the public information organization for the profession. The Academy is nonpartisan and assists the public policy process through the presentation of clear actuarial analysis. The Academy regularly prepares testimony for Congress, provides information to federal and state elected officials, regulators and congressional staff, comments on proposed federal and state regulations and legislation, and works closely with state officials on issues related to insurance. The Academy also develops and upholds actuarial standards of conduct, qualifications and practice, and the Code of Professional Conduct for all actuaries practicing in the United States.

amending Rev. Proc. 2000-40 to provide that this mandated change be approved pursuant to section 4, the five-year freeze would not apply.

Furthermore, many plans, which have utilized the aggregate entry age normal funding method have also utilized the alternate minimum funding standard account under section 412(g). As required by section 412(g)(1), the alternative minimum funding standard account may only be used if the underlying funding method is the entry age normal funding method. The Internal Revenue Code does not differentiate between the aggregate entry age normal funding method and the individual entry age normal funding method. In fact, Rev. Proc. 81-29 specifically identified two variations of the aggregate entry age normal funding method as two of four entry age normal funding methods, on par with two variations of the individual entry age normal funding method. However, a plan changing from the aggregate entry age normal funding method to the individual entry age normal funding method pursuant to Rev. Rul. 2003-83, under either section 3.08 or 3.09 of Rev. Proc. 2000-40, will be precluded from using the alternate minimum funding standard account methodology for a five-year period. This would not be the case if the approval were under section 4 of Rev. Proc. 2000-40.

There are many positive and constructive reasons an employer may look to take advantage of the practical applications of Rev. Proc. 2000-40. Accordingly, we would respectfully request that the Service modify section 4 of Rev. Proc. 2000-40 to provide automatic approval for the 2003 and 2004 plan years for any plan switching from the aggregate entry age normal funding method to the individual entry age normal funding method. There should be no restrictions on this change with respect to either a five-year look back, a five year look forward, or the ability to use the alternate minimum funding standard account.

Members of the Academy's Pension Committee appreciate the opportunity to provide comments. We would be delighted to discuss our ideas with you at your convenience. Please contact Heather Jerbi, the Academy's pension policy analyst, at 202/223-8196, or me directly at 212/251-5317, if we can be of assistance.

Sincerely,

Donald J. Segal, FSA, MAAA
Chair, Pension Committee
American Academy of Actuaries

Cc: Paul T. Shultz, Director, EP Rulings and Agreements
James Holland, Manager, EP Technical