



## IRS Issues Final Regulations on Mortality Tables Under PPA

*The IRS has issued final regulations defining the mortality tables to be used for defined benefit plan funding under the Pension Protection Act of 2006 (including for determining current liability for multiemployer plans). These tables are to be used beginning with 2008 plan years. The final regulations also provide rules for the use of plan-specific tables.*

### Background

The Pension Protection Act of 2006 (PPA) significantly changed the funding rules for defined benefit pension plans for plan years beginning on or after January 1, 2008. (See our October 24, 2006 [For Your Information](#).) One of these changes requires the use of specified mortality tables (to be provided by the IRS) in determining any present value or making any computation related to funding of single-employer defined benefit plans. PPA also requires the use of specified mortality tables in determining current liability with respect to multiemployer plans. In addition, PPA provides that plan-specific tables may be used in lieu of the IRS provided tables if certain conditions are met.

The IRS issued proposed regulations in May 2007 (see our June 6, 2007 [For Your Information](#)) providing the required mortality tables as well as guidance regarding the development and use of plan-specific mortality tables.

### Final Regulations

The final regulations are substantially the same as the proposed regulations, incorporating a few changes based on comments received. The regulations provide the specified (or generally applicable) mortality tables and provide guidance on the requirements for use of plan-specific mortality tables.

### Generally Applicable Mortality Tables

The generally applicable mortality tables in the regulations are based on the same mortality rates set forth in regulations applicable to current liability calculations for the 2007 plan year – that is, they are based on the RP-2000 mortality tables. (See our February 13, 2007 [For Your Information](#).) Like the 2007 mortality tables, the tables in these regulations provide mortality rates for males and females, separately for annuitants (for the period after assumed benefit commencement) and nonannuitants (for the period before assumed benefit commencement).

Expected mortality improvements are required to be reflected in one of two ways – a static projection (one table for all participants updated annually) or a fully generational projection (projected to all future years from the base

table for each participant). The regulations provide static tables for use in 2008 valuations which have been projected from 2000 (the base year of the RP-2000 table) to 2015 (i.e., 7 years after the 2008 valuation date) for annuitants, and to 2023 (i.e., 15 years after the 2008 valuation date) for nonannuitants. Updated static tables will be provided by the IRS either annually or periodically (as a series of tables) – the preamble to the regulations indicates that the IRS intends to publish a notice in the near future providing a series of tables for valuation dates through 2013. The regulations also include base mortality tables along with projection factors (Scale AA) to be used to determine generational tables.

Small plans (i.e., plans with 500 or fewer active and inactive participants as of the valuation date) are permitted to use a single blended static table for all participants. The regulations provide male and female weighting factors to create these blended rates.

The IRS indicates in the preamble to these regulations that final regulations on minimum funding rules should clarify that it will be permissible in appropriate cases to assume no mortality for the period prior to benefit commencement.

## Plan-Specific Mortality Tables

Plan-specific mortality tables (referred to as substitute tables) are permitted to be used instead of the generally applicable mortality tables, but only if certain conditions are met.

Substitute tables must be generational (based on the IRS-prescribed projection scale), gender specific, and must reflect the actual “credible” experience of the plan. To be credible, the experience must be based on at least 1,000 deaths within a gender over the period of the mortality experience study (a 2, 3, 4, or 5-consecutive year period ending less than three years before the first day of the plan year for which the substitute tables will apply). If credible experience is only available for one gender for a plan, substitute tables would be used for that gender and the generally applicable tables would be used for the other gender.

**All plans in controlled group.** In general, substitute tables may be used for a plan only if substitute tables are used for all plans within the sponsor’s controlled group. However, plans that cannot use substitute tables due to a lack of credible experience (for both males and females) are ignored for this rule. In this case, the lack of credible experience has to be demonstrated annually using mortality experience generally over a 4-year period ending less than three years before the first day of that year.

**Separate populations.** As noted above, separate tables are required for males and females. The regulations allow for the use of tables for separate populations within a gender (e.g., annuitants and nonannuitants, hourly and salaried). Substitute tables for separate populations are permitted only if all individuals in a gender are divided into separate populations, each separate population has credible experience, and each separate mortality table is based on mortality experience for that population. However, the requirement to have credible experience for each separate population does not apply in the case of tables developed for annuitants and nonannuitants within a gender.

**Plan aggregation.** The regulations permit plans to be aggregated for these purposes. Thus, in order to use the same substitute mortality tables for two or more plans, the rules for developing and using the tables would apply by treating those plans as a single plan.

**IRS approval required.** In order to use substitute tables, a plan sponsor must submit a written request to the IRS at least seven months before the first day of the first plan year for which the tables would apply. In general, if the IRS does not respond to a request within 180 days, the request would be deemed to be approved. Importantly, under a special rule, requests submitted by October 1, 2007 are considered timely for use in 2008, and similarly, requests submitted by October 1, 2008 will be considered timely for use in 2009.

In May 2007, the IRS issued [Revenue Procedure 2007-37](#), which provides the procedures that must be followed when requesting the use of substitute tables. The preamble to the final regulations indicates that the IRS intends to issue a revenue procedure in the near future updating these rules.

**Duration of use.** The request for approval of the substitute tables must specify the term during which the proposed tables will be used – however the IRS may shorten that period. The use of the substitute tables must cease sooner than expected under certain conditions, including a failure to demonstrate that the plan continues to have creditable mortality experience, or a change occurs in the number of individuals covered by the substitute tables of at least 20% (unless the plan actuary certifies that the table(s) continue to be accurately predictive of future mortality for the population after the change).

## Effective Date

The provisions of these regulations regarding the generally applicable mortality tables apply to plan years beginning on or after January 1, 2008. The provisions regarding the approval and use of substitute mortality tables apply to plan years beginning on or after January 1, 2009, but may be relied upon for 2008 plan years.

## Conclusion

Buck's consultants would be pleased to discuss these final regulations and the anticipated effect on the funding of your defined benefit plans. In addition, we can discuss with you the cost effectiveness of developing plan-specific mortality tables for use in plan valuations.

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*This FYI is intended to provide general information. It does not offer legal advice or purport to treat all the issues surrounding any one topic.*