

*This notice is scheduled to appear in Internal Revenue Bulletin 2006-36 dated Sept. 5, 2006.*

### **Part III --- Administrative, Miscellaneous, and Procedural**

#### **Weighted Average Interest Rate Modification**

##### **Notice 2006-75**

This notice provides guidance as to the determination of the weighted average interest rate and the resulting permissible range of interest rates used to calculate current liability for the purpose of the additional funding requirements under § 412(l) of the Internal Revenue Code (Code) and the minimum full funding limitation of § 412(c)(7)(E), and the corresponding requirements and limitation under sections 302(c)(7)(E) and 302(d) of the Employee Retirement Income Security Act of 1974 (ERISA), as in effect for plan years beginning in 2006 and 2007. This notice implements changes to the rules regarding those interest rates that were enacted by §301 of the Pension Protection Act of 2006 (PPA '06).

#### **BACKGROUND**

Section 412 of the Code, and the corresponding requirements of section 302 of ERISA, set forth minimum funding standards that apply to certain plans. Title I of PPA '06, enacted on August 17, 2006, makes extensive changes to the rules of § 412 of the Code and section 302 of ERISA, generally applicable to plan years beginning on or after January 1, 2008. In addition, section 301 of PPA '06 makes certain changes to the minimum funding rules that apply to earlier plan years. For purposes of this notice, all references to § 412 refer to § 412 of the Code without regard to the amendments made by Title I of PPA '06.

#### **PRIOR LAW**

Under § 412(b)(5)(A), the funding standard account (and items therein) must be charged or credited with interest at the appropriate rate consistent with the rate or rates of interest used under the plan to determine costs.

Section 412(b)(5)(B) provides special rules for the interest rate that is used to determine a plan's current liability for purposes of § 412(l) and for purposes of the minimum full funding limitation under § 412(c)(7)(E). In general, that interest rate must fall within a specified corridor based on the weighted average of the rates of interest on 30-year Treasury constant maturities during the 4-year period ending on the last day before the beginning of the plan year, as published monthly in the Internal Revenue Bulletin. See Notice 88-73, 1988-2 C.B. 383, and Notice 2006-8, 2006-5 I.R.B. 386.

Section 412(b)(5)(B)(ii) provides a special rule that applies for plan years beginning in 2004 and 2005. Under that special rule, the interest rate used to determine current liability must not be above and must not be more than 10 percent below the weighted average of the rates of interest on amounts invested conservatively in long-term investment-grade corporate bonds during the 4-year period ending on the last day before the beginning of the plan year. In Notice 2004-34,

2004-1 C.B. 848, the Treasury Department prescribed the method for periodically determining the corporate rates, and made the permissible range, indices and methodology used to determine the average rate publicly available.

Section 412(l)(7)(C)(i)(II) generally provides that, for plan years beginning after 1999, the interest rate used to determine the deficit reduction contribution must be not more than 105% of the weighted average interest rate (or 120% of the weighted average interest rate for plan years beginning in 2002 and 2003). Section 412(l)(7)(C)(i)(IV) provided that, for plan years beginning in 2004 and 2005, the interest rate used to determine current liability for purposes of determining the deficit reduction contribution must be the same as the rate used under §412(b)(5).

### **PENSION PROTECTION ACT OF 2006**

Section 301(b) of PPA '06 amends § 412(b)(5)(B)(ii)(II) to extend the use of the corporate bond weighted average for plan years beginning in 2006 and 2007. Section 412(l)(7)(C)(i)(IV) is also amended by extending the use of the corporate bond weighted average for plan years beginning in 2006 and 2007. Corresponding changes were made to the parallel ERISA provisions. This notice provides the composite corporate bond rates from December, 2005 through July, 2006, and the resulting corporate bond weighted averages for plan years beginning in the months from January, 2006 through August, 2006. These interest rates have been computed in accordance with the methodology and using the indices set forth in Notice 2004-34.

<b>For Plan Years Beginning in</b>		<b>Composite Corporate Bond Rate</b>	<b>Corporate Bond Weighted Average</b>	<b>Permissible Range</b>	
<b>Month</b>	<b>Year</b>			<b>90%</b>	<b>100%</b>
December	2005	5.72			
January	2006	5.65	5.77	5.19	5.77
February	2006	5.73	5.75	5.18	5.75
March	2006	5.89	5.75	5.17	5.75
April	2006	6.18	5.74	5.17	5.74
May	2006	6.29	5.74	5.17	5.74
June	2006	6.31	5.75	5.18	5.75
July	2006	6.30	5.77	5.19	5.77
August	2006		5.78	5.20	5.78

### **DRAFTING INFORMATION**

The principal author of this notice is Tony Montanaro of the Employee Plans, Tax Exempt and Government Entities Division. For further information regarding this notice, please contact the Employee Plans' taxpayer assistance telephone service at 1-877-829-5500 (a toll-free number), between the hours of 8:30 a.m. and 4:30 p.m. Eastern time, Monday through Friday. Mr. Montanaro may be reached at 1-202-283-9714 (not a toll-free number).