AMERICAN ACADEMY *of* ACTUARIES

December 16, 2013

CC:PA:LPD:PR (Notice 2013-49)
Room 5203
Internal Revenue Service
POB 7604
Ben Franklin Station
Washington DC 200044

Re: Comment Request for Developing Future Mortality Tables for Use Under § 430(h)(3)

To Whom It May Concern:

The American Academy of Actuaries[1] Pension Committee (committee) respectfully asks for your consideration of this response to the Internal Revenue Service's request for comments regarding mortality tables to use under § 430(h)(3) of the Internal Revenue Code (Code) and § 303(h)(3) of the Employee Retirement Income Security Act of 1974 (ERISA), for years after 2015, as published in Notice 2013-49.

In general, we believe that any changes to reflect new mortality tables for pension funding requirements should continue to include alternatives (such as static tables) in order to simplify administration and valuations, especially for smaller plans. The implied precision of two-dimensional mortality projections scales may not be warranted for many small plans, or for plans that predominantly pay lump sum benefits.

Additional Mortality Studies

Comments were requested as to whether other studies of actual mortality experience of pension plans and projected trends of that experience are available and should be considered for use in developing mortality tables for future use under paragraph 430(h)(3).

The Social Security Administration evaluates mortality and mortality improvement data. We believe the Society of Actuaries (SOA) has considered this data and SSA's evaluation of it in developing its projected mortality improvement scales. The SOA's study is the only significant study of these factors for U.S. pension plan populations we are aware of.

[1] The American Academy of Actuaries is a 17,500-member professional association whose mission is to serve the public and the U.S. actuarial profession. The Academy assists public policymakers on all levels by providing leadership, objective expertise, and actuarial advice on risk and financial security issues. The Academy also sets qualification, practice, and professionalism standards for actuaries in the United States

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Pre-1995 Disabled Mortality Table

Comments were requested as to whether it is reasonable to expect the mortality experience for participants who became disabled before 1995 will continue to be sufficiently substandard so that a separate mortality table is warranted for future use with respect to those disabled participants.

Participants who became disabled prior to 1995 have now been disabled for at least 18 years. For disabled lives, much of the increased mortality risk occurs in the first five to 15 years. Additionally, for most plans, the portion of the plan's total liability for this subgroup of participants would likely be relatively small, suggesting that any change would have minimal impact on the total plan liability. Therefore, we do not believe that continuing to require the use of a different table for those who were disabled prior to 1995 produces materially different results; removing this requirement would simplify the valuation process.

Should Treasury choose to provide separate mortality tables for disabled lives, we suggest you consider the use of a select and ultimate table. Please refer to this SOA report for additional information regarding mortality and recovery rates: http://www.soa.org/research/experience-study/group-disability/2008-ltd-study.aspx.

Finally, where plans require a participant to be eligible for Social Security Disability benefits in order to receive a plan disability benefit, a disabled lives mortality table should continue to be allowed, but not required.

Alternate Versions of Mortality Tables due to the Limitations in Actuarial Software

Comments were requested as to:

- *Whether actuarial software generally available for use with small pension plans is capable of using separate mortality tables for annuitants and non-annuitants, or whether it is necessary for the IRS and Treasury to continue publishing combined static mortality tables.*
- *Whether generally available software is capable of using mortality tables on a fully generational basis, or whether it is necessary for the IRS and Treasury to continue publishing static mortality tables.*
- *Whether it is expected that generally available actuarial software will be capable of using a two-dimensional mortality projections scale as described in the SOA's September 2012 report.*

Aside from limitations in actuarial software, there are valid reasons to provide alternate versions of mortality tables for small plans and for those plans where a large percentage of distributions are in the form of lump sums.

Our committee did an informal survey of several software vendors who serve the small plan market. Each of the vendors said they would be able to provide for separate mortality tables pre- and post-retirement decrement, leading us to believe that a change to require separate mortality tables for annuitant versus non-annuitant participants would not create any major difficulties for pension valuations. However, we believe that the IRS and the Treasury should consider the potential impact on minimum present value requirements under § 417(e), which currently use a version of the combined static table. If it is still going to be published for minimum present value calculations, then it seems reasonable to continue to allow its use for small plan valuations.

In regard to using generational mortality tables, one vendor said it could include generational tables based on age-based mortality improvement factors (i.e., a one-dimensional scale), without a major update to the system. However, a two-dimensional table would require a major reworking of the software.

While the sample of vendors surveyed all said they would update their software to comply with any new §430 regulations and required mortality tables, they all felt the use of static projection tables should continue to be allowed in their marketplace. The reason cited most often was the immateriality of the mortality assumption to the overall valuation results. The committee believes this is particularly true for small plans and for any plans where the predominant distribution option is a lump sum. The mortality assumption is important when valuing a post-retirement pension benefit stream. It is not important if a plan allows lump sum payments and the vast majority of participants elect the lump sum option. In addition, most of the vendors felt the introduction of a two-dimensional improvement table was unnecessary in their marketplace as the preciseness implied by the assumptions was simply not valid and at the very least was misleading. For these reasons, the committee encourages the IRS and Treasury to continue to allow the use of static mortality tables for pension valuation purposes, if not for all plans, at least for smaller plans.

While most actuarial software will be updated to allow the actuary to use two dimensional tables, at least one vendor said that would cause a major rewrite of its system. IRS and Treasury should also consider the capability of some actuaries who, instead of using commercially available software, maintain their own software or utilize spreadsheets to complete their valuations. The committee doubts that a fully generational mortality table using a two-dimensional improvement scale could be easily included in such spreadsheet valuations.

Additional Comments and Considerations

The committee generally agrees that at some level of participants, the choice of the pre-retirement mortality assumption becomes immaterial. This might be 500 as defined in the current § 430 rules, or could be a different level depending upon the provisions of the plan. For example, if the average mortality rate before retirement is 0.20%, it would take over 50,000 lives before the expected number of deaths would be 100. Pre-retirement mortality experience is clearly not material for small pension plans.

Current Actuarial Standards of Practice (ASOPs) allow the use of a zero rate of mortality for small plans. As an example, when the death benefit is equal to the present value of the accrued benefit, the actuary may choose to assume no pre-retirement mortality. Section 3.5.3 of ASOP No. 35 provides guidance on the selection of the mortality and the mortality improvement assumptions and generally states that the actuary should consider factors such as:

> *Whether to use different assumptions before and after retirement, including the reasonableness of an assumption of no mortality before retirement in the case of a small plan.*

When a lump sum is payable at termination, death or retirement, the use of a post termination mortality table is also not necessary as long as the mortality table and interest rates used to determine lump sums are based on the plan's provisions.

Variations of the mortality experience from the assumptions are relatively minor compared to variations in the interest rate assumption.

As a result, while the committee believes that the forthcoming mortality study and improvement tables to be published by the SOA will represent the best and most current thoughts regarding pension mortality assumptions, some of our committee members do not necessarily believe that requiring its use for all pension valuations is prudent or appropriate.

When is Guidance Needed?
We request that any guidance for updated 2015 mortality table requirements under § 410(h)(3) be provided at least six to nine months ahead of the first valuation effective dates (i.e., in early 2014, if the changes are to be effective for 2015 valuations), in order to allow actuaries and vendors sufficient time to update systems to incorporate any required changes.

Conclusion
We appreciate the IRS and Treasury Department giving consideration to these comments. Please contact David Goldfarb, the Academy's pension policy analyst (202-785-7868 or goldfarb@actuary.org) if you have any questions or would like to discuss these items further.

Respectfully submitted,

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