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Gray Book Review Selected Questions

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Question 1 – Contribution ordering

- Contributions must first go toward any “Unpaid Minimum Required Contribution” (UMRC)
 - UMRC does not exist until after the final contribution due date
 - Used to be called a funding deficiency
 - Does not roll directly into next year’s funding requirement, but remains outstanding until paid
 - Lower asset value affects current year minimum
- If no UMRC, contributions may be designated for either current or prior year (if during prior year grace period)
 - Allocated toward earliest quarterly that remains outstanding for that year (if any)

Question 1 – Contribution ordering

Example

- Remaining 2008 minimum = \$3,000,000; EIR = 6%
- 2009 required quarterly payments = \$4,000,000 each
- \$1,000,000 paid 4/15/2009
 - Sponsor elects to allocate toward 2008 minimum
 - \$4,000,000 late quarterly
- \$1,000,000 paid 7/15/2009
 - Sponsor elects to allocate toward 2009
 - Credited against 4/15 quarterly - \$3,000,000 remains outstanding
 - Entire 7/15 quarterly of \$4,000,000 is outstanding
- No payment on 9/15/2009
 - 2008 UMRC = $\$3,000,000 - \$1,000,000 / 1.06^{(15.5/12)} = \$2,072,501$
- \$1,000,000 paid 10/15/2009
 - 2008 UMRC reduced by $\$1,000,000 / 1.06^{(21.5/12)}$ to \$1,171,635
 - Discounting continues to use 2008 EIR

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Question 1 – Contribution ordering

Observations

- Sponsor could have decided to change allocation of 7/15 payment to 2008 to reduce UMRC
 - Would save substantial excise tax
 - PBGC lien already triggered anyway
- Check for effect of lower 2009 asset value due to failure to pay 2008 minimum on 2009 quarterly
 - If based on 90% of 2009 MRC, failure to pay minimum could increase amount of late quarterly

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Question 7 – Mid-year spinoff after PPA

- Guidance still pending (reserved)
- Example of possible approach

7/1/2009 Spinoff of Group A

	Group A	Ongoing Plan	Total
FT at 1/1/09	2,000,000	8,000,000	10,000,000
TNC at 1/1/09	50,000	70,000	120,000
Assets allocated at 7/1/09	1,600,000	6,600,000	8,200,000
Pct of total	19.5%	80.5%	
Assets as of 1/1 (allocated in proportion to 7/1)	1,365,854	5,634,146	7,000,000
Funding shortfall (no COB/PFB)	634,146	2,365,854	3,000,000
Shortfall amortization charge (allocated in proportion to funding shortfall)	105,691	394,309	500,000
MRC allocated (full year)	155,691	464,309	620,000
MRC allocated (1/2 year of A allocated to spinoff, remainder to ongoing plan)	77,846	542,154	620,000

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Question 9 Full Yield Curve Election

Answer 9: Yes! Plan sponsor can switch to the full yield curve without IRS approval.

Final Regulations

- Ability to elect (switch to) segment rates or full yield curve in 2009 and/or 2010 – “automatic approval”
- Similar treatment for asset valuation method

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Question 10
Election to Reduce COB or PFB

Answer 10: Specific dollar amount must be elected and CANNOT be changed later.

Final Regulations

- Confirms specific dollar amount requirement
- Election to “reduce” is still irrevocable

- ❖ Revocable election is available for COB/PFB if “used” to offset the minimum AND amount used exceeds the minimum

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Question 18
Method Change after AFTAP Certification

Answer 18: If “material” change to AFTAP, then a revised certification is required.

What is a “material” change?

- AFTAP greater than 80% to less than 80%
 - ✓ Only if the plan pays full lump sums

Other “material” changes?

- Impacts plan operations for benefits addressed by §436
 - ✓ See Q&A 24 for additional observations...

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Question 21

Reflecting Prefunding Balance in AFTAP

Answer 21: AFTAP certification should only reflect the amount specified (in sponsor election) to be added to PFB.

Final Regulations

- Confirms specific dollar amount requirement

- ❖ Definition of excess contributions clarified
- ❖ PFB standing elections available

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Question 24 – Contributions and 436 measurement dates

When certification is updated (per final regs)

Required

- Any deemed immaterial change (next slide) that would otherwise be material
- 436(f) contribution of amount to keep plan at 60% / 80% threshold after UCEB / amendment

Optional

- Any other change that does not result in a change in plan operations
 - Contribution
 - Credit balance election
 - Amendment
 - UCEB
 - Change in method or assumptions

Any update must reflect all amendments that took effect, all UCEBs permitted to be paid and all 436(f) contributions made to date

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Question 24 – Contributions and 436 measurement dates

Deemed immaterial changes

- Exception to materiality rule for change in AFTAP due to
 - Additional contribution
 - Election to reduce or apply credit balance
 - Change in method or assumption requiring IRS approval (once approval is granted)
 - Plan amendments and UCEBs along with any 436(f) contribution
- If change would otherwise be material, then must recertify ASAP
 - Example
 - November 2010 plan amendment (for calendar year plan that pays lump sums) lowers the 2010 AFTAP from 92% to 85%
 - Must recertify right away even though this change would not have a material effect on administration until 4/1/2011

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Question 27 – Deemed waivers of funding balances

Ordering of credit balance usage per final regs

- Generally elections take effect chronologically
 - May elect to apply balance toward current year for quarterly before prior year MRC is satisfied
- Deemed (and elective) waiver takes precedence over any current year election to apply credit balance
 - Could result in retroactive late quarterlies
 - Does not take precedence over prior year election to apply balance already made
- Deemed waiver does not apply if it would not avoid restrictions

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Question 27 – Deemed waivers of funding balances
 Ordering of credit balance usage per final regs - example

	No deemed waiver	Additional contribution triggers deemed waiver and late quarterlies	Higher contribution avoids deemed waiver and eliminates late quarterlies	Prior year election made before deemed waiver - reduces deemed waiver but no effect on late quarterlies
2009 contribution made 8/1/2010 (discounted)	\$0	\$100,000	\$700,000	\$100,000
COB/PFB as of beginning of year	1,000,000	1,000,000	1,000,000	1,000,000
Amount applied to current year to cover quarterlies	600,000	600,000	600,000	600,000
Amount applied to prior year MRC before AFTAP certification	-	-	-	400,000
Amount remaining after prior year election	1,000,000	1,000,000	1,000,000	600,000
Funding Target	20,000,000	20,000,000	20,000,000	20,000,000
AAV	15,900,000	16,000,000	16,600,000	16,000,000
Adjusted Assets	14,900,000	15,000,000	15,600,000	15,400,000
AFTAP before deemed waiver	74.5%	75.0%	78.0%	77.0%
Amount to waive to get to 80%	1,100,000	1,000,000	400,000	600,000
COB/PFB waived	-	1,000,000	400,000	600,000
Adjusted Assets	14,900,000	16,000,000	16,000,000	16,000,000
AFTAP after deemed waiver	74.5%	80.0%	80.0%	80.0%
Retroactive late quarterlies	-	600,000	-	600,000

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Question 28 – Interim adjusted assets and presumed FT

- Presumed FT =
$$\frac{\text{Interim adjusted value of plan assets (IAVPA)}}{\text{Presumed AFTAP}}$$
- IAVPA = AAV – credit balance
 - IAVPA is not adjusted for
 - Any sponsor elections after measurement date to add to PFB or waive credit balance
 - Any prior year contributions made after measurement date
- Proposed regs (and Gray Book) specify that presumed FT continues to be calculated at later measurement date (4/1) based on original IAVPA
 - Resulting FT compared to *updated* IAVPA to determine amount of deemed waiver
 - Contributions between 1/1 and 4/1 could reduce amount of deemed waiver
- Final regs change this
 - Presumed FT at later measurement date also uses updated IAVPA
 - Contributions between 1/1 and 4/1 don't reduce deemed waiver

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Question 28 – Interim adjusted assets and presumed FT Example

Effect of additional prior plan year contribution

	Values at 4/1/2010			
	Values at 1/1/2010	Adjustments from 1/1 to 4/1	Final Regs	Proposed Regs
Presumed AFTAP	85%	-10%	75%	75%
AAV	10,000,000	1,000,000	11,000,000	11,000,000
COB/PFB	500,000	-	500,000	500,000
IAVPA	9,500,000		10,500,000	10,500,000
Presumed FT	11,176,471		14,000,000	12,666,667
Waiver required to get to 80%			700,000	(366,667)
Actual waiver			-	-
Presumed AFTAP after contribution and waiver			75%	83%

$\$10,500,000 / .75$	$\$9,500,000 / .75$
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Question 43
§417(e) Applicable Mortality Table

Answer 43: Lump sum is determined using the mortality table for the year the stability period began, even if the plan year began in the prior year.

Example

- Plan year begins 7/1/08 (monthly stability period)
- ✓ Payments between 7/1/08 and 12/31/08 – **2008 Mortality**
- ✓ Payments between 1/1/09 and 6/30/09 – **2009 Mortality**
- ✓ Interest rates based on 2008 methodology