

HATFA Guidance – What You Need to Know Now

- ACOPA Webcast – Sept. 23, 2014
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Agenda

- Background
- Changes
- Implications, Details, Actions
- Questions

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BACKGROUND

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HATFA?

- Highway and Transportation Funding Act of 2014

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Why?

- Highway Trust Fund running on empty – need to fund it, but need to pay for it for budget neutrality.

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Solution

- Extend pension smoothing provisions of MAP-21.
- Reduces required contributions, which reduces deductions, and results in higher taxes paid over budget window

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MAP -21?

- Moving Ahead for Progress in the 21st Century Act – passed 2012
- Changed PPA segment rates – the 24th month average is to be within a corridor of around the 25-year average

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MAP- 21

- Corridor was initially 10%, but phased into 30%
- Effect was to increase segment rates used, decrease MRC, and “pay” for cost of MAP-21

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MAP-21

- Annual Funding Notice – MAP-21 required additional disclosures for 2012-2014 plan years
- DOL FAB 2013-1 provided guidance and MAP-21 Supplement

HATFA

- Extended the period over which the MAP-21 corridor moved to 30% - to “pay” for highway funds
- Other changes as well

IRS Guidance

- Notice 2012-61 – MAP-21 guidance
- Notice 2014-53 – HATFA guidance
- Notice 2014-48 – Segment rates with HATFA reflected

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CHANGES

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Corridor

- MAP-21 corridor around 25-year average

Plan Year beginning in	MAP-21 Minimum	MAP-21 Maximum
2012	90%	110%
2013	85%	115%
2014	80%	120%
2015	75%	125%
2016 or later	70%	130%

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Corridor

- HATFA corridor around 25-year average

Plan Year beginning in	HATFA Minimum	HATFA Maximum
2012-2017	90%	110%
2018	85%	115%
2019	80%	120%
2020	75%	125%
2021 or later	70%	130%

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Impact on 2013

Jan. 2014 Rate	1 st Segment	2 nd Segment	3 rd Segment
Unadjusted rates	1.62%	4.40%	5.45%
MAP-21	4.94%	6.15%	6.76%
HATFA	5.23%	6.51%	7.16%

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Impact on 2014

Jan. 2014 Rate	1 st Segment	2 nd Segment	3 rd Segment
Unadjusted rates	1.25%	4.06%	5.08%
MAP-21	4.43%	5.62%	6.22%
HATFA	4.99%	6.32%	6.99%

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Choice for 2013

- Plan sponsor may elect –
 - **Not** to have HATFA corridor change apply to any plan year beginning in 2013, either for
 - All purposes, or
 - Solely for determining plan's AFTAP for that plan year

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Annual Funding Notice

- HATFA extended period for added disclosures of MAP-21 through 2019
- No DOL guidance yet

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Benefit Restrictions

- Modified requirement for paying accelerated payments if plan sponsor in bankruptcy – 100% threshold to be determined without corridor (2015, but 2016 for collectively bargained plan)

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Application of Segment Rates

- Modified period for use of 1st, 2nd, and 3rd segment rates - based upon valuation date not 1st day of plan year. Thus, for example, 1st segment rate applies to payments made during 5 years from valuation date.

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IMPLICATIONS, DETAILS, ACTIONS

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Immediate - 2013

- How to elect to defer? Notice 2014-53 gives two methods
 - Method 1 – Written election.
 - Method 2 – Deemed election.

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Immediate - 2013

- How to elect to defer – Method 1
 - Plan sponsor makes written election to actuary and plan administrator that has plan name, EIN and PN, and deferral for all or AFTAP only.
 - This election is irrevocable
 - Must be made by later of (1) time for filing 2013 Form 5500 series return, or (2) 12/31/2014.

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Immediate - 2013

- How to elect to defer – Method 2
 - If Form 5500, 5500-SF, or 5500-EZ is filed before 12/31/2014, and Schedule SB reflects MAP-21 rates, then an election to defer use of HATFA for both §§ 430 and 436 is deemed made.

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Immediate - 2013

- How to elect to defer – Method 2 (cont.)
 - This deemed election can be revoked by filing, not later than 12/31/2014, an amended Form 5500, etc. with a revised Schedule SB that reflects HAFTA.
 - Alternatively, can make written election to revoke or election to defer for § 436 only.

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Immediate - 2013

- How to elect to defer – Method 2(cont.)
 - Alternative revocation can be used only if
 - notify PBGC (with copy of revocation or election to defer for § 436 only) at revoke.deemed.HATFA.election@pbgc.gov on or before 12/31/2014, (showing plan name, EIN, and plan name on subject line) and
 - Plan sponsor not in bankruptcy

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Immediate - 2013

- How to elect to defer – Method 2(cont.)
 - If alternative revocation made, must file amended Form 5500, etc. and revised Schedule SB not later than date on which Form 5500, etc. is timely filed for the following plan year (2014 for calendar year plan).

Immediate - 2013

- Late § 430 elections and re-designations are allowed for 2013 plan year (if HAFTA applied)
- However, not permitted if would result in benefit restrictions or unpaid MRC for years before 2014

Immediate – 2013

- Reversal of election to reduce balances – plan sponsor permitted to reverse elections to reduce balances as of 1st day of 2013 plan year, including deemed elections, if the reduction was made before 9/30/2014

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Immediate - 2013

- Reversal of elections to reduce balances (cont.) – IRS regards the decrease in the balances caused by an election to use the balances to offset the MRC and that exceeds the MRC (and for which the use election could not be revoked timely) as a reduction election.

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Immediate - 2013

- Late election to add to PFB – plan sponsor can add excess contributions to pre-funding balance after normal time period, which is 9/15/2014 for a calendar year plan

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Immediate - 2013

- Redesignation of § 436 contribution – A § 436 contribution in connection with a certified AFTAP in 2013, is applied to MRC to extent not needed to avoid or remove benefit restriction

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Immediate - 2013

- Redesignation of contribution originally designated for 2013 – Plan sponsor may choose to re-designate contribution made in 2014 for 2013 PY as being for 2014.
- Contribution has to have been made by 9/30/2014

Immediate - 2013

- Procedure and timing
 - Written notice to EA and plan administrator, not later than last day of plan year beginning in 2014 (12/31/2014 for calendar year plans)
 - Plan name, EIN, plan number, & relevant details including specific dollar amount

Immediate - 2013

- If do not elect to defer use HATFA rates for 2013, Schedule SB must reflect use of HATFA rates
- It appears that if already filed, and do not want to defer, need to file amended SB

Immediate - 2014

- For plan year beginning in 2014, there is no choice. Must use HATFA.
- Notice provides rules for § 436 for years, beginning after 12/31/2012 and before 10/1/2014 to which HATFA applied

Immediate - 2014

- Presumptions – applied based on AFTAP for prior year. 1st year HAFTA applied does not affect the application of presumption for that year but affects next year

Immediate - 2014

- 1st AFTAP for plan year –
 - if uses HAFTA, § 436 applied using that AFTAP
 - if on or before 9/30/2014, and uses MAP-21, then rules more complicated

Immediate - 2014

- 1st AFTAP for plan year –
 - if on or before 9/30/2014, AFTAP uses MAP-21, AFTAP must be determined using HATFA. If a material change, AFTAP must be re-certified.
 - Can choose (i) prospectively (as described), or (ii) retroactively to date of original cert.

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Immediate - 2014

- 1st AFTAP for plan year –
 - If HATFA used for 2013 AFTAP, cannot use prospective choice for 2014 upon re-cert using HATFA

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Immediate - 2014

- 1st plan year for HATFA –
 - If AFTAP using HATFA is certified by EOY, then in absence of an affirmative election to apply changes retroactively, plan sponsor will be treated as having elected to apply any changes prospectively

Immediate - 2014

- 1st plan year for HATFA – all plan operations and elections must be consistent with choice of whether to apply AFTAP prospectively or retroactively, and any inconsistent operations must be corrected

Immediate - 2014

- Prospective application
 - If MAP-21 AFTAP on or before 9/30/2014, and HATFA AFTAP later, then treated as a deemed immaterial change.
 - Date of event is earlier of 10/1/2014, or date of HAFTA AFTAP re-cert

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Immediate - 2014

- Prospective application
 - Need to re-certify using HATFA rates by 12/31/2014 to satisfy the “as soon as practicable” requirement

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Immediate - 2014

- Retroactive application
 - If MAP-21 AFTAP on or before 9/30/2014, and HATFA AFTAP later, plan operations must be conformed to date of original cert
 - If HATFA applied to 2013, then 2014 plan operations using presumption must be conformed too

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Immediate – 2014

- Reversals for 2014 plan year
 - May reverse an election to reduce a funding balance made on or before 10/1/2014, or
 - Re-designate a § 436 contribution made on or before 10/1/2014
 - Not permitted if results in benefit restrictions that would otherwise not apply

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Immediate – 2014

- Corrections – plan administrator must take corrective actions once HATFA AFTAP is certified. Plan operations are then treated as consistent with plan document

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Immediate - 2014

- Corrections – plan is eligible for self-correction, but requirements of favorable DL and established practices and procedures do not apply

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Immediate - 2014

- Corrections – need to look to see if each of the following would have been allowed under HATFA as it applied for the year
- UCEBs, plan amendments, prohibited payments, and accruals

Overall

- Notice 2012-61 continues to apply except to extend statutory provisions changed
- Thus, any guidance on EOY vals continued to apply, but using HATFA rates instead of MAP-21 (depending on year)



Questions?

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