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Notice 2021-38: PBGC special financial assistance for multiemployer defined benefit pension plans financially at risk

The IRS today released an advance version of Notice 2021-38 as guidance for sponsors of multiemployer defined benefit pension plans that are financially at risk and eligible for certain financial assistance.

The “American Rescue Plan Act of 2021” requires certain multiemployer defined benefit pension plans to reinstate certain previously suspended benefits as a condition of receiving special financial assistance from the Pension Benefit Guaranty Corporation (PBGC). This is one of the legislative measures aimed at multiemployer pension plans that historically had been underfunded, by providing financial assistance under a fund established by the PBGC for financially troubled plans. Read [*TaxNewsFlash*](#)

[Notice 2021-38](#) [PDF 119 KB] provides guidance for sponsors of multiemployer defined benefit pension plans that are required to reinstate certain previously suspended benefits as a condition of receiving special financial from the PBGC.

A related IRS release—[IR-2021-148](#)—explains that Notice 2021-38 addresses three important areas regarding:

- The reinstatement of previously suspended pension benefits, along with make-up payments, as a condition that eligible multiemployer plans must meet if they receive special financial assistance
- The individual income tax treatment of these make-up payments
- How a plan that receives special financial assistance must treat the plan’s special financial assistance account for purposes of the minimum funding requirements for multiemployer defined benefit plans

In a related development, the PBGC today released for publication in the Federal Register an [interim final rule](#) [PDF 367 KB] (114 pages) to implement the requirements under the “American Rescue Plan

Act of 2021" with regard to a program of special financial assistance for financially troubled multiemployer plans. The program provides eligible multiemployer defined benefit pension plans with special financial assistance in the amounts required for the plans to pay all benefits due during the period beginning on the date of payment of the special financial assistance through the plan year ending in 2051.

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