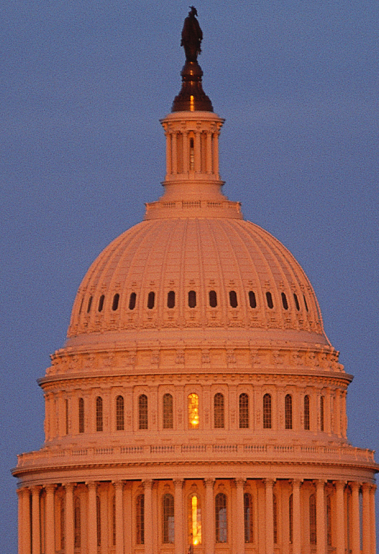




TaxNewsFlash

United States



No. 2022-087
March 25, 2022

Proposed regulations: Multiple employer plans (text of regulations)

The U.S. Treasury Department and IRS today released for publication in the Federal Register a notice of proposed rulemaking (REG-121508-18) relating to certain qualified retirement plans that are multiple employer plans (MEPs) described in section 413(c).

The [proposed regulations](#) [PDF 279 KB] (17 pages as published in the Federal Register on March 28, 2022) provide an exception under newly enacted section 413(e), if certain requirements are met, to the application of the “unified plan rule” that would otherwise treat the MEP as a single plan, in the event of a failure by one or more employers participating in the plan to take actions required of them to satisfy the applicable requirements of the Code. This is sometimes referred to as the “one bad apple” issue.

Section 413(e) was added by the “Setting Every Community Up for Retirement Enhancement Act of 2019” (SECURE Act) (December 20, 2019) and creates a statutory exception to the unified plan rule for certain types of MEPs. A MEP is eligible for the exception to the unified plan rule if it is a section 413(c) defined contribution plan described in section 401(a) or consists of individual retirement accounts (IRAs) described in section 408 (including by reason of section 408(c)), provided that the MEP either is maintained by employers that have a “common interest” or has a “pooled plan provider.” Section 413(e)(1) provides that, with certain exceptions, this type of MEP will not be treated as failing to meet the applicable qualification requirements under the Code merely because one or more participating employers fail to take actions that are required for the plan to meet those requirements.

These proposed regulations would affect certain MEPs, participants in those MEPs (and their beneficiaries), employers participating in those MEPs, and plan administrators of those MEPs.

With today’s release, previous regulations that were proposed on this topic in July 2019 prior to enactment of the SECURE Act are being withdrawn.

Comments and outlines of topics to be discussed at the public hearing scheduled for June 22, 2022, at 10:00 a.m., must be received by May 27, 2022.

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