



TaxNewsFlash

United States



No. 2023-067
February 24, 2023

Proposed regulations: Use of forfeitures in qualified retirement plans

The U.S. Treasury Department and IRS today released for publication in the Federal Register proposed regulations (REG- 122286-18) relating to the use of forfeitures in qualified retirement plans, including a deadline for the use of forfeitures in defined contribution plans.

The [proposed regulations](#) [PDF 227 KB] (4 pages as published in the Federal Register on February 27, 2023) would clarify that forfeitures arising in any defined contribution plan (including in a money purchase pension plan) may be used for one or more of the following purposes, as specified in the plan: (1) to pay plan administrative expenses, (2) to reduce employer contributions under the plan, or (3) to increase benefits in other participants' accounts in accordance with plan terms. The proposed regulations would generally require that plan administrators use forfeitures no later than 12 months after the close of the plan year in which the forfeitures are incurred. In addition, the proposed regulations would update rules relating to the use of forfeitures in defined benefit plans to reflect the enactment, after the issuance of Treas. Reg. § 1.401-7, of new minimum funding requirements applicable to defined benefit plans.

The proposed regulations are proposed to apply for plan years beginning on or after January 1, 2024. Thus, for example, the deadline for the use of defined contribution plan forfeitures incurred in a plan year beginning during 2024 will be 12 months after the end of that plan year. Taxpayers, however, may rely on the proposed regulations for periods preceding the applicability date.

Comments on the proposed regulations, and requests for a public hearing, are due by the date that is 90 days after the proposed regulations are published in the Federal Register, which is scheduled to be February 27, 2023. Specifically, comments are requested on the following topics:

- Whether the rules for the use of forfeitures in defined benefit and defined contribution plans can be further simplified to reduce administrative costs and burdens
- Whether any issues arise concerning other unallocated amounts (in addition to forfeitures) with respect to qualified retirement plans, and, if issues do arise, whether guidance needs to be provided addressing those issues

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