

Part III – Administrative, Procedural and Miscellaneous

2006 Cumulative List of Changes in Plan Qualification Requirements

Notice 2007-3

I. PURPOSE

This notice contains the 2006 Cumulative List of Changes in Plan Qualification Requirements (2006 Cumulative List) described in section 4 of Rev. Proc. 2005-66, 2005-37 I.R.B. 509. The 2006 Cumulative List is to be used primarily by (1) plan sponsors of individually designed plans (that is, single employer individually designed defined contribution plans, including employee stock ownership plans (ESOPs), and single employer individually designed defined benefit plans) and plan sponsors of multiple employer plans that fall in Cycle B and (2) plan sponsors and practitioners in drafting defined benefit pre-approved plans (that is, defined benefit plans that are master and prototype (M&P) or volume submitter (VS) plans) for their first submission under the initial remedial amendment cycle under Rev. Proc. 2005-66. An individually designed plan is in Cycle B if the last digit of the employer identification number is 2 or 7. Multiple employer plans are also in Cycle B, pursuant to section 10.03 of Rev. Proc. 2005-66.

The list of changes in section V of this notice does not extend the deadline by which a plan must be amended to comply with any statutory, regulatory, or guidance changes. The general deadline for timely adoption of an interim or discretionary amendment can be found in section 5.05 of Rev. Proc. 2005-66. Section III of Notice 2005-95, 2005-51 I.R.B. 1172 provides that the general timing rules to adopt a plan amendment described in section 5.05 of Rev. Proc. 2005-66 do not apply if a statutory provision or guidance issued by the Service provides an earlier or later date than the deadline set forth in Rev. Proc. 2005-66.

II. BACKGROUND

Rev. Proc. 2005-66 sets forth procedures for issuing opinion, advisory, and determination letters and establishes the five-year remedial amendment cycle for individually designed plans and the six-year remedial amendment cycle for pre-approved plans. In addition, section 5.05 of Rev. Proc. 2005-66 provides the deadline for timely adoption of an interim amendment or discretionary amendment. Notice 2005-95 clarifies the interaction of the Rev. Proc. 2005-66 amendment timing deadlines for qualified plans with the deadlines set forth in statutory provisions or guidance issued by the Service.

Under section 4 of Rev. Proc. 2005-66, the Internal Revenue Service intends to annually publish a Cumulative List to identify statutory, regulatory and guidance changes that must be taken into account in submissions by plan sponsors to the Service for opinion, advisory and determination letters whose remedial amendment period begins on February 1st following issuance of the Cumulative List.

In Notice 2005-101, 2005-52 I.R.B. 1219, the Service published the 2005 Cumulative List of Changes in Plan Qualification Requirements (2005 Cumulative List). The 2005 Cumulative List is used primarily by plan sponsors of individually designed plans that fall in Cycle A that must be submitted to the Service for review by January 31, 2007. Thus, the 2005 Cumulative List set forth those plan qualification requirements that applied to individually designed defined contribution plans, including ESOPs, and individually designed defined benefit plans. Plan qualification requirements included statutory changes and guidance that became effective after December 31, 2001. The Service stated that plan language for guidance issued after December 13, 2005 would not be reviewed, unless it was on the 2005 Cumulative List.

In Notice 2004-84, 2004-2 C.B. 1030, the Service published the 2004 Cumulative List of Changes in Plan Qualification Requirements (2004 Cumulative List). The 2004 Cumulative List was used primarily by plan sponsors and practitioners in drafting defined contribution pre-approved plans (that is, defined contribution plans that are master and prototype or volume submitter plans) that were required to be submitted to the Service for review by January 31, 2006. Thus, the 2004 Cumulative List set forth only those plan qualification requirements that applied to defined contribution pre-approved plans. Plan qualification requirements included statutory changes and guidance that became effective after December 31, 2001 and any relevant qualification requirements not contained in the 2004 Cumulative List. The Service also stated that plan language for guidance issued after December 14, 2004 would not be reviewed, unless it was on the 2004 Cumulative List.

III. APPLICATION OF 2006 CUMULATIVE LIST

This notice is being issued in conjunction with the determination letter program for individually designed plans and multiple employer plans eligible for Cycle B and the opinion and advisory letter programs for M&P and VS defined benefit pre-approved plans. In Rev. Proc. 2005-66, the Service announced the opening of the initial five-year remedial amendment cycle. In accordance with Rev. Proc. 2005-66, the Service will start accepting determination letter applications for Cycle B individually designed plans (i.e., the last digit of the plan sponsor's employer identification number is 2 or 7) and multiple employer plans beginning on February 1, 2007. The 12-month submission period for Cycle B individually designed plans and multiple employer plans will end January 31, 2008. In addition, the Service will start accepting opinion and advisory letter applications

for defined benefit pre-approved plans beginning on February 1, 2007. The 12-month submission period for non-mass submitter sponsors and practitioners, word-for-word identical adopters, and M&P minor modifier placeholder applications will end January 31, 2008. The 9-month submission period for mass-submitters and national sponsors will end October 31, 2007, as provided in section 18.02 of Rev. Proc. 2005-66.

The 2006 Cumulative List, set forth in sections V and VI of this notice, informs plan sponsors of issues the Service has specifically identified for review in determining whether an individually designed plan, multiple employer plan or defined benefit pre-approved plan has been properly updated. Specifically, the 2006 Cumulative List reflects law changes under the Economic Growth and Tax Relief Reconciliation Act of 2001 (EGTRRA), Pub. L. 107-16 (with technical corrections made by the Job Creation and Worker Assistance Act of 2002 (JCWAA), Pub. L. 104-147), the Pension Funding Equity Act of 2004 (PFEA), Pub. L. 108-218, the American Jobs Creation Act of 2004 (AJCA), Pub. L. 108-357, the Gulf Opportunity Zone Act of 2005 (GOZA), Pub. L. 109-135, and certain law changes under the Pension Protection Act of 2006 (PPA '06), Pub. L. 109-280, described below. In order to be qualified, a plan must comply with all relevant qualification requirements, not just those on the 2006 Cumulative List. The following items on the 2006 Cumulative List include guidance that has not yet been published: 2, 8, 11, 18, 25, 28, 29, 30, 31, 32, and 33.

Except for the items listed in section V and the items listed in section VI (to the extent provided in section IV) of this notice, the Service will not consider in its review of any opinion, advisory or determination letter application, for the submission period that begins February 1, 2007, any:

- (1) guidance published after December 14, 2006;
- (2) statutes enacted after December 14, 2006;
- (3) qualification requirements first effective in 2008 or later; or
- (4) statutory provisions that are first effective in 2007, for which there is no guidance identified in this notice.

Terminating plans must include all law changes in effect at the time of termination. See section 8 of Rev. Proc. 2005-66 regarding plan termination.

IV. SPECIAL RULES FOR THE PENSION PROTECTION ACT OF 2006

Under section 1107 of PPA '06, a plan amendment made pursuant to any amendment made by PPA '06 generally may be retroactively effective, if, in addition to meeting the other applicable requirements, the amendment is made on or before the last day of the first plan year beginning on or after

January 1, 2009 (January 1, 2011 in the case of a governmental plan). Section VI of the notice includes certain PPA '06 law changes effective in 2006 and 2007.

Master and prototype plan sponsors and VS practitioners are required to include applicable PPA '06 provisions listed in section VI of this notice in plan documents submitted with their opinion and advisory letter applications for pre-approved defined benefit plans. The Service will consider PPA '06 in issuing opinion and advisory letters, and such letters may be relied on with respect to PPA '06, but only for the PPA '06 provisions listed in section VI of this notice under items 27, 28, 31, 32, and 33.

Individually designed plans and multiple employer plans can be amended, at the option of plan sponsors, to include the applicable PPA '06 provisions listed in section VI of this notice. Individually designed plans and multiple employer plans must identify which PPA '06 provisions the plan has been amended to include and the plan provision that reflects the PPA '06 provision when submitting the determination letter application. However, the Service will not consider PPA '06 in issuing determination letters for individually designed plans and multiple employer plans, and such letters cannot be relied on with respect to any plan provision identified as reflecting PPA '06, regardless of whether the plan has been amended to reflect PPA '06 provisions.

Terminating plans must include the applicable PPA '06 provisions that are in effect at the time of termination.

V. 2006 CUMULATIVE LIST OF CHANGES IN PLAN QUALIFICATION REQUIREMENTS

The following list consists of statutory provisions and associated guidance which reflect changes to plan qualification requirements. Miscellaneous guidance is also provided. The Service has identified below plan qualification requirements which were not on the 2005 Cumulative List as "(New)". Thus, the 2006 Cumulative List contains those plan qualification requirements listed in the 2004 and 2005 Cumulative Lists as well as additional 2006 plan qualification requirements.

1. 72(p): Section 1.72(p)-1 of the Income Tax Regulations relating to plan loans was published on December 3, 2002 (67 Fed. Reg. 71821). (2004 C. L.).
2. 401(a): Final Regulations under § 401(a) of the Code regarding permissible normal retirement ages will be published soon. (New).
3. 401(a)(4):

- Amendments to § 1.401(a)(4)-8 of the Regulations relating to new comparability plans were published on June 29, 2001 (66 Fed. Reg. 34535). (2004 C. L.).
 - Rev. Rul. 2001-30, 2001-2 C.B. 46. (2004 C. L.).
 - Amendments to § 1.401(a)(4)-9 of the Regulations relating to new comparability plans were published on June 29, 2001 (66 Fed. Reg. 34535). (2005 C. L.).
 - Rev. Rul. 2004-21, 2004-1 C.B. 544. (2005 C. L.).
4. 401(a)(9):
- Sections 1.401(a)(9)-1 through –9 of the Regulations were published on April 17, 2002 and June 15, 2004 (67 Fed. Reg. 18988 and 69 Fed. Reg. 33288). (2004 C. L.).
5. 401(a)(17): Section 401(a)(17) of the Code was amended by § 611(c) of EGTRRA to increase the compensation limit to \$200,000. (2004 C. L.).
- Notice 2001-56, 2001-2 C.B. 277. (2004 C. L.).
6. 401(a)(31):
- Section 401(a)(31) was amended by § 643(b) of EGTRRA to allow employees' after-tax contributions to be rolled over under certain circumstances. (2004 C. L.).
 - Section 401(a)(31)(B) was amended by § 657(a) of EGTRRA (as amended by § 411(t) of JCWAA) to provide for the automatic rollover of certain mandatory distributions. The effective date is March 28, 2005. (2004 C. L.).
 - Notice 2005-5, 2005-3 I.R.B. 337. (2004 C. L.).
 - Sections 641, 642 and 643 of EGTRRA (as amended by § 411(q) of JCWAA) amended the definition of eligible retirement plan in § 402 to include a § 403(b) annuity contract and eligible governmental § 457(b) plan. (2004 C. L.).
 - Section 636(b) of EGTRRA modified the definition of eligible rollover distribution to exclude hardship distributions. (2004 C. L.).
7. 401(k) & 401(m):
- Section 401(k)(2) and § 401(k)(10) of the Code were amended by § 646(a)(1) of EGTRRA to permit distributions of elective deferrals from a § 401(k) plan upon severance from employment. (2004 C. L.).
 - Notice 2002-4, 2002-1 C.B. 298. (2004 C. L.).
 - Section 636(a) of EGTRRA directed the Secretary of the Treasury to revise the regulations relating to safe harbor hardship distributions of elective deferrals from § 401(k) plans so that the time the employee is prohibited from making elective and employee contributions is reduced from one year to six months after a hardship distribution. (2004 C. L.).

- Notice 2001-56. (2004 C. L.).
 - Notice 2002-4. (2004 C. L.).
 - Section 401(k)(11) of the Code was amended by § 611(f) of EGTRRA to increase the maximum amount of qualified salary reduction contributions that can be made to SIMPLE 401(k) plans. (2004 C. L.).
 - Section 402(g) of the Code was amended by § 611(d) of EGTRRA to increase the applicable dollar amount. (2004 C. L.).
 - Section 401(m)(9) of the Code was amended by § 666 of EGTRRA to eliminate the multiple use test. (2004 C. L.).
 - Final Regulations under § 401(k) and § 401(m) of the Code were published on December 29, 2004 (69 Fed. Reg. 78144). (2004 C. L.).
8. 402A: Section 402A of the Code was added by § 617 of EGTRRA to offer optional treatment of elective deferrals as designated Roth contributions to defined contribution plans, effective for taxable years beginning after December 31, 2005. (2004 C. L.).
- Final Regulations under § 401(k) and § 401(m) of the Code relating to designated Roth contributions were published on January 3, 2006 (71 Fed. Reg. 6). (2005 C. L.).
 - Notice 2006-44, 2006-20 I.R.B. 889 provides a sample amendment for Roth § 401(k) plans. (New).
 - Final Regulations under § 402A will be issued soon.¹ (New).
9. 404:
- Section 404(k)(2)(A) of the Code was amended by § 662(a) of EGTRRA (as amended by § 411(w) of JCWAA) to allow ESOP dividends to be reinvested without the loss of dividend deductions. (2005 C. L.).
 - Notice 2002-2, 2002-1 C.B. 285 provides guidance with respect to the changes made to § 404(k) of the Code and on the effective date of § 409(p) of the Code. (2005 C. L.).
10. 408(q): Section 408(q) of the Code was added by § 602 of EGTRRA (as amended by § 411(i) of JCWAA) to allow for deemed individual retirement accounts (IRAs) in an eligible retirement plan. (2004 C. L.).
- Section 1.408(q)-1 of the Regulations was published on July 22, 2004 (69 Fed. Reg. 43735). (2004 C. L.).
11. 409: Section 409(p) of the Code was added § 656 of EGTRRA relating to restrictions on the allocation of employer securities in an ESOP maintained by an S corporation. (2005 C. L.).

¹ Proposed Regulations under § 402A were published on January 26, 2006 (71 Fed. Reg. 4320). (2005 C. L.).

- Section 1.409(p)-1T of the Regulations was published on July 21, 2003 (68 Fed. Reg. 42970). (2005 C. L.).
 - Section 1.409(p)-1T of the Regulations was published on December 17, 2004 (69 Fed. Reg. 75455). (2005 C. L.).
 - Rev. Proc. 2003-23, 2003-1 C.B. 599 as modified and superseded by Rev. Proc. 2004-14, 2004-1 C.B. 489 allows a direct rollover from an ESOP maintained by an S corporation to an individual retirement plan (IRA). (2005 C. L.).
 - Rev. Rul. 2003-6, 2003-1 C.B. 286 provides guidance with respect to whether an ESOP maintained by an S corporation is eligible for the delayed effective date of § 409(p) under § 656(d)(2) of EGTRRA. (2005 C. L.).
 - Rev. Rul. 2004-4, 2004-1 C.B. 414 provides guidance relating to synthetic equity owned by a disqualified person in a nonallocation year of an ESOP maintained by an S corporation. (2005 C. L.).
 - Final Regulations will be published soon that provide guidance concerning requirements under § 409(p) for ESOPs holding stock of S corporations. (New).
12. 410(b): Final Regulations were published on July 21, 2006 (71 Fed. Reg. 41357) permitting some employees of tax-exempt organizations to be excluded when determining whether a § 401(k) plan meets the § 410(b) minimum coverage requirements. (New).
13. 411(a):
- Section 411(a) of the Code was amended by § 633 of EGTRRA (as amended by § 411(o) of JCWAA) to provide for faster vesting of matching contributions. (2004 C. L.).
 - Rev. Rul. 2003-65, 2003-1 C.B. 1035. (2005 C. L.).
 - Amendments to § 1.411(d)-3 of the Final Regulations were published on August 9, 2006 (71 Fed. Reg. 45379) with respect to the interaction between the anti-cutback rules of § 411(d)(6) and the nonforfeitability requirements of § 411(a). (New).
14. 411(a)(11): Section 411(a)(11)(D) of the Code was added by § 648(a) of EGTRRA (as amended by § 411(r) of JCWAA) to allow amounts attributable to rollover contributions to be disregarded in determining the value of an account balance for involuntary distributions. (2004 C. L.).
15. 411(d)(6):
- *Central Laborers' Pension Fund v. Heinz*, 124 S.Ct. 2230 (2004). (2005 C. L.).
 - Rev. Proc. 2005-23, 2005-18 I.R.B. 991 as modified by Rev. Proc. 2005-76, 2005-50 I.R.B. 1139. (2005 C. L.).
 - Amendments to § 1.411(d)-3 of the Final Regulations were published on August 9, 2006 (71 Fed. Reg. 45379) with

respect to the interaction between the anti-cutback rules of § 411(d)(6) and the nonforfeitability requirements of § 411(a). (New).

- Section 645(b)(3) of EGTRRA directed the Secretary of the Treasury to issue regulations under § 411(d)(6)(B). (2005 C. L.).
 - Section 1.411(d)-3 of the Regulations was published on August 12, 2005 (70 Fed. Reg. 47109). (2005 C. L.).
 - Amendments to § 1.411(d)-3 of the Final Regulations were published on August 9, 2006 (71 Fed. Reg. 45379) with respect to a utilization test. (New).
- Section 411(d)(6)(D) and § 411(d)(6)(E) of the Code were added by § 645 of EGTRRA to permit the elimination of certain optional forms of benefit under certain conditions. (2005 C. L.).
 - Section 1.411(d)-4, Q&A-2(e) of the Regulations was published on January 25, 2005 (70 Fed. Reg. 3475) to implement § 411(d)(6)(E). (2005 C. L.).

16. 412:

- Rev. Rul. 2004-20, 2004-1 C.B. 546 provides guidance with respect to whether a qualified pension plan can be a § 412(i) plan if the plan holds life insurance contracts and annuity contracts for benefits at normal retirement age in excess of a participant's benefits at normal retirement age under the plan. (2005 C. L.).
- Notice 2004-59, 2004-2 C.B. 447 provides guidance with respect to restrictions placed on plan amendments following an employer's election of an alternative deficit reduction contribution. (2005 C. L.).

17. 414(v): Section 414(v) of the Code was added by § 631 of EGTRRA (as amended by § 411(o) of JCWAA) to allow for catch-up contributions for individuals age 50 or older. (2004 C. L.).

- Regulations under § 414(v) were published on July 8, 2003 (68 Fed. Reg. 40510). (2004 C. L.).
 - Notice 2002-4. (2004 C. L.).

18. 415:

- Section 415(b) of the Code was amended by § 611 of EGTRRA to increase the dollar limit and change the age when the limit is reduced or increased. (2005 C. L.).
 - Rev. Rul. 2001-51, 2001-2 C.B. 427. (2004 C. L.).
- Section 415(b)(2)(E)(ii) of the Code was amended by § 101(b)(4) of PFEA to fix the percentage at 5.5%. (2005 C. L.).
 - Notice 2004-78, 2004-2 C.B. 879 provides the actuarial assumptions that must be used for distributions with annuity starting dates occurring during the plans years beginning in 2004 and 2005. (2005 C. L.).

- Section 415(c) of the Code was amended by §§ 611(b) and 632 of EGTRRA (as amended by § 411(p) of JCWAA) to increase the maximum annual additions permitted to the lesser of \$40,000 or 100% of compensation. (2004 C. L.).
 - Rev. Rul. 2001-51, 2001-2 C.B. 427. (2004 C. L.).
 - Rev. Rul. 2002-27, 2002-1 C.B. 925 provided that “compensation” within the meaning of § 415(c) could in certain situations include “deemed § 125 compensation”. (2004 C. L.).
 - Final Regulations under § 415 with respect to pre-PPA '06 law will be published soon.² (New).
 - See section VI of this notice for PPA '06 provisions related to § 415 that will be reflected in the § 415 Final Regulations. (New).
19. 416: Section 416 of the Code was amended by § 613 of EGTRRA (as amended by § 411(k) of JCWAA) to make several changes to the top-heavy rules. (2004 C. L.).
- Section 416(g)(4)(H) of the Code was added by § 613(d) of EGTRRA to provide certain safe harbor § 401(k) plans and § 401(m) plans an exemption from the top-heavy rules. (2004 C. L.).
 - Rev. Rul. 2004-13, 2004-1 C.B. 485. (2004 C. L.).
 - Section 416(c)(1)(C) of the Code was amended by § 613(e) of EGTRRA (as amended by § 411(k)(1) of JCWAA) to provide when a frozen defined benefit plan is exempt from the minimum benefit requirements. (2005 C. L.).
20. 417:
- Section 1.417(e)-1 of the Regulations was published on July 16, 2003 (68 Fed. Reg. 41906) relating to retroactive annuity starting date. (2005 C. L.).
 - Final Regulations under § 417(a)(3) were published on March 24, 2006 (71 Fed. Reg. 14798) regarding the disclosure of the relative value of optional forms of benefit. (New).
21. 4975:
- Section 4975 of the Code was amended by § 612 of EGTRRA to allow plan loans for Subchapter S shareholder-employees. (2004 C. L.).
 - Section 4975(f) of the Code was amended by § 240 of AJCA to allow an S corporation distribution on allocated shares to pay off an exempt loan as long as equal amounts are allocated to participant accounts. (2005 C. L.).

² Section 1.415(c)-2(e) of the Proposed Regulations under § 415 was published on May 31, 2005 (70 Fed. Reg. 31214). (2004 C. L.).

22. Hurricane Relief:

- Katrina Emergency Tax Relief Act of 2005, P.L. 109-73. (2005 C. L.).
 - Notice 2005-92, 2005-51 I.R.B. 1165. (2005 C. L.).
- Announcement 2005-70, 2005-40 I.R.B. 682. (2005 C. L.).
- Gulf Opportunity Zone Act of 2005, P.L. 109-135, added § 1400M and § 1400Q to the Code to provide certain tax benefits to those areas affected by Hurricanes Katrina, Wilma, and Rita. (New).

23. Miscellaneous:

- Rev. Rul. 2001-62, 2001-2 C.B. 632 provides guidance with respect to the mortality table under § 415(b)(2)(E)(v) of the Code and the applicable mortality table under § 417(e)(3)(A)(ii)(I) of the Code. (2005 C. L.).
- Rev. Rul. 2002-42, 2002-1 C.B. 76, provides guidance with respect to a situation where a money purchase pension plan is merged or converted into a profit sharing plan. (2004 C. L.).
- Rev. Proc. 2002-21, 2002-1 C.B. 911, provides guidance with respect to defined contribution retirement plans maintained by professional employer organizations. (2004 C. L.).
- Rev. Proc. 2003-86, 2003-2 C.B. 1211, amplifies Rev. Proc. 2002-21 relating to relief provided for certain defined contribution plans maintained by professional employer organizations. (2004 C. L.).
- Rev. Rul. 2003-11, 2003-1 C.B. 285 provides guidance with respect to satisfying the nondiscrimination rules under § 401(a)(4) of the Code and the minimum coverage requirements under § 410(b) of the Code when applying the increased compensation limit to former employees. (2005 C. L.).
- Rev. Rul. 2004-10, 2004-1 C.B. 484, provides guidance with respect to charging administrative expenses to former and current employees. (2004 C. L.).
- Rev. Rul. 2004-12, 2004-1 C.B. 478 provides guidance with respect to the distribution restrictions applicable to rollover contributions. (2004 C. L.).
- Rev. Rul. 2005-55, 2005-34 I.R.B. 284 provides guidance with respect to medical reimbursement accounts under a profit sharing plan. (2005 C. L.).
- Section 1.401(a)-21 of the Final Regulations were published on October 20, 2006 (71 Fed. Reg. 61877) setting forth standards for the use of an electronic medium to applicable notices to recipients or to make participant elections. (New).

The following guidance contains sample or model amendments: Notice 2001-57, 2001-1 C.B. 279 (miscellaneous EGTRRA amendments); Rev. Rul. 2001-62, 2001-2 C.B. 632 (applicable mortality table); Rev. Proc. 2002-29, 2002-2 C.B. 1176 (required minimum distribution amendments); Rev. Proc. 2003-13, 2003-1

C.B. 317 (required language for deemed IRAs); Notice 2005-5 (automatic rollover); and Notice 2006-44, 2006-20 I.R.B. 889 (Roth section 401(k) plans).

VI. PENSION PROTECTION ACT OF 2006 PROVISIONS

The following is a list of PPA '06 provisions effective in 2007 or earlier. See section IV of this notice for rules that apply to the PPA '06 provisions identified below:

24. 401(a)(35): PPA '06 § 901(a)(1) added § 401(a)(35) requiring that defined contribution plans provide employees with the freedom to divest publicly traded securities. (New).
 - Notice 2006-107, 2006-51 I.R.B. (December 18, 2006). (New).
25. 401(k): PPA '06 § 826 modified the rules relating to distributions from a § 401(k) plan on account of a participant's hardship to permit the plan to treat a participant's beneficiary under the plan the same as the participant's spouse or dependent. (New).
 - Guidance regarding PPA '06 § 826 will be issued soon. (New).
26. 401(k)(2)(B)(i)(V): PPA '06 § 827 permits reservists called to active duty after September 11, 2001 and before 2008 to take in-service distributions from a § 401(k) plan. (New).
27. 402(c)(2)(A): PPA '06 § 822(a) amended § 402(c)(2)(A) to permit nontaxable distributions from a qualified plan to be directly rolled over tax-free to either another qualified plan or a § 403(b) plan if the separate accounting requirements are met. (New).
28. 402(c)(11): PPA '06 § 829(a)(1) added § 402(c)(11) to allow nonspouse beneficiaries to roll over distributions from a qualified plan to an individual retirement plan. (New).
 - Guidance regarding § 402(c)(11) will be issued soon. (New).
29. 411: PPA '06 § 701 provides rules for cash balance plans and other hybrid defined benefit plans. (New).
 - Guidance will be issued regarding cash balance plans and other hybrid defined benefit plans soon. (New).
30. 411(a): Section 411(a) of the Code was amended by § 904 of PPA '06 to provide for faster vesting of employer nonelective contributions. (New).
 - Guidance regarding § 411(a), as amended by § 904 of PPA '06, will be issued soon. (New).

31. 415(b)(2)(E)(ii): Section 415(b)(2)(E)(ii) of the Code was amended by § 303 of PPA '06 regarding the interest rate assumption for applying benefit limitations to lump sum distributions. (New).
 - Guidance regarding § 415(b)(2)(E)(ii), as amended by PPA '06, will be included in the § 415 Final Regulations, to be issued soon. (New).
32. 415(b)(11): PPA '06 § 867(a) removed the 100% of compensation limitation for a church plan participant if the participant has never been a highly compensated employee of the church. (New).
 - Guidance regarding § 415(b)(11), as added by PPA '06, will be included in the § 415 Final Regulations, to be issued soon. (New).
33. PPA '06 § 1102(a) provides that notice required to be provided under §§ 402(f), 411(a)(11), or 417 may be provided as much as 180 days before the annuity starting date. Section 1102(b) of PPA '06 provides that the notice under § 411(a)(11) also include a description of the consequences of failing to defer receipt of a distribution. (New).
 - Guidance regarding PPA '06 § 1102 will be issued soon. (New).

Drafting Information

The principal author of this notice is Angelique V. Carrington of the Employee Plans, Tax Exempt and Government Entities Division. For further information regarding this notice, please contact the Employee Plans' taxpayer assistance telephone service at 1-877-829-5500 (a toll-free number) between the hours of 8:30 a.m. and 4:30 p.m. Eastern Time, Monday through Friday. Ms. Carrington may be reached at (202) 283-9888 (not a toll-free number).