

[4830-01-P]

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 9319]

RIN 1545-BD52

Limitations on Benefits and Contributions Under Qualified Plans; Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correcting amendments.

SUMMARY: This document contains corrections to final regulations (TD 9319) that were published in the **Federal Register** on Thursday, April 5, 2007 (72 FR 16878) regarding the limitations of section 415, including updates to the regulations for numerous statutory changes since comprehensive final regulations were last published under section 415.

DATES: These correcting amendments are effective **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

FOR FURTHER INFORMATION CONTACT: Vernon S. Carter at (202) 622-6060 or Linda S. F. Marshall at (202) 622-6090 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background

The final regulations that are the subject of this document are under sections 401(a), 401(a)(4), 401(a)(9), 401(k), 402, 414(s), 415, 416, 457, and 924 of the Internal Revenue Code.

Need for Correction

As published, final regulations (TD 9319) contain errors that may prove

to be misleading and are in need of clarification.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Correction of Publication

Accordingly, 26 CFR part 1 is corrected by making the following correcting amendments:

PART 1--INCOME TAXES

Paragraph 1. The authority citation for part 1 continues to read as follows:

Authority: 26 U.S.C. 7805 * * *

Par. 2. Section 1.402(c)-2, A-4 is revised by inserting colon to read as follows:

§1.402(c)-2 Eligible rollover distributions; questions and answers.

* * * * *

A-4: * * *

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Par. 3. Section 1.415(b)-1 is amended by revising the only sentence of paragraph (c)(5)(i)(A), and the second sentence of Example 6, paragraph(iv). The revisions read as follows:

§1.415(b)-1 Limitations for defined benefit plans.

* * * * *

(c) * * *

(5) * * *

(i) * * *

(A) The benefit is paid in a form to which section 417(e)(3) does not apply.

* * * * *

Example 6. * * *

(iv) * * * With respect to the single-sum distribution, the annual amount of the actuarially equivalent straight life annuity commencing at the same age determined using the plan's actuarial factors is equal to \$45,000. * * *

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Par. 4. Section 1.415(d)-1 is amended by revising the paragraph heading to read as follows:

§1.415(d)-1 Cost-of-living adjustments.

* * * * *

Par. 5. Section 1.415(f)-1 is amended by revising the last sentence of paragraph (d)(1) to read as follows:

§1.415(f)-1 Aggregating plans.

* * * * *

(d) * * *

(1) * * * Instead, the transferee plan takes into account the transferred benefits that are actually provided under the transferee plan (see §1.415(b)-1(b)(3)(i)(C)) and, pursuant to paragraph (c)(1) of this section, any nontransferred benefits provided under plans maintained by the predecessor employer with respect to a participant whose benefits have been transferred to the transferee plan.

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Par. 6. Section 1.457-5(d)Example 2. paragraphs (ii) and (iii) are amended by revising the third sentence of (ii) and (iii) to read as follows:

§1.457-5 Individual limitation for combined annual deferrals under multiple eligible plans.

* * * * *

(d) * * *

Example 2. * * *

(ii) * * * Alternatively, Participant E could instead elect to defer the following combination of amounts: an aggregate total of \$15,000 to Plans X, Y, and Z, if no contribution is made to Plan W; an aggregate total of \$20,000 to any of the four plans, assuming at least \$5,000 is contributed to Plan W; or \$22,000 to Plan W and none to any of the other three plans.

(iii) * * * If the underutilized amount under Plans W, X, and Y for year 2006 were in each case zero (because E had always contributed the maximum amount or E was a new participant) or an amount not in excess of \$5,000, the maximum exclusion under this section would be \$20,000 for Participant E for year 2006 (\$15,000 plus the \$5,000 age 50 catch-up amount), which Participant E could contribute to any of the plans assuming at least \$5,000 is contributed to Plan W.

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