

How can financial brands set themselves apart through visual storytelling? Our experts explainhow.Learn MoreThe Motorsport Images CollectionCurated, compelling, and worth your time. Explore our latest gallery of EditorsPicks.Browse Editors' FavoritesHow can financial brands set themselves apart through visual storytelling? Our experts explainhow.Learn MoreThe Motorsport Images Collections captures events from 1895 to todays most recentcoverage.Discover The Collections captures events from the collections captures events f brands set themselves apart through visual storytelling? Our experts explainhow.Learn MoreThe Motorsport Images Collections captures events from 1895 to todays most recentcoverage.Discover The Collections final worth your time. Explore our latest gallery of Editors Favorites This document contains final storytelling? amendments to the Income Tax Regulations (26 CFR part 1) under sections 421, 422, 423 and 424 of the Code. Section 423 was added to the Code by section 221(a) of the Revenue Act of 1964, Public Law 88-272 (78 Stat. 63 (1964)). Changes to the applicable law concerning section 423 were made by sections 1402(b)(1)(C) and 1402(b)(2) of the Tax Reform Act of 1976, Public Law 94-455 (90 Stat. 1731 and 1732-1733 (1976)); section 1114 of the Deficit Reduction Act of 1984, Public Law 99-514 (100 Stat. 2451 (1986)); and sections 11801(c)(9)(E) of the Omnibus Budget Reconciliation Act of 1990, Public Law 101-508 (104 Stat. 1388-525 (1990)). Regulations under section 423 were published in the Federal Register on June 23, 1966 (TD 6887). These (printed page 59075) regulations were amended on September 27, 1979 (TD 7645), October 31, 1980 (TD 7728), and December 1, 1988 (TD 8235). In Notice 2004-55 (2004-34 IRB 319 (August 23, 2004)) (see 601.601(d)(2)(ii)(b)), the IRS and the Treasury Department requested comments concerning whether the existing regulations under section 423 should be addressed. On July 29, 2008, the Treasury Department requested comments concerning whether the existing regulations under section 423 should be addressed. 106251-08) in the Federal Register (73 FR 43875) under section 423. A public hearing on the proposed regulations was held on January 15, 2009. Written and electronic comments, the Treasury Department adopts the proposed regulations as final regulations, with the modifications set forth in this Treasury decision. The significant revisions are discussed in this preamble. In general, the income tax treatment of the grant of an option to purchase stock in connection with the performance of services and of the transfer of stock pursuant to the exercise of the option is determined under section 83 and the regulations thereunder. However, section 421 provides special rules for determining the income tax treatment of the transfer of shares of stock pursuant to the exercise of an option if the requirements of sections 422(a), as applies to options granted under an employee stock purchase plan (collectively, statutory options). Under section 421, if a share of stock is transferred to an individual pursuant to the exercise of a statutory option, there is no income at the time of exercise of a statutory option with respect to the transferred to an individual pursuant to the exercise of a statutory option. respect to the transfer. Section 423(a) provides that section 421 applies to the transfer of stock to an individual pursuant to the exercise of an option granted under an employee stock purchase plan if: (i) No disposition of the share, and (ii) at all times during the period beginning on the date of grant and ending on the day three months before the exercise of the option, the individual is an employee of either the corporation, or a parent or subsidiary of such corporation, or a parent or subsidiary of such corporation) issuing or assuming a stock option in a transaction to which section 424(a) applies. Section 423(b) sets forth several requirements that must be met for a plan to qualify as an employee stock purchase plan. Section 423(c) provides a special rule that is applicable where the option exercise price is between 85 and 100 percent of the fair market value of the stock at the time the option was granted. These final regulations provide a comprehensive set of rules governing stock options issued under an employee stock purchase plan and incorporate substantially all of the rules contained in the existing regulations are comprised of two sections. Section 1.423-1, applicability of section 421(a); and 1.423-2, employee stock purchase plan must meet the requirements of paragraphs (i) through (ix) of 1.423-2(a)(2) to qualify as an employee stock purchase plan under section 423(b). The proposed regulations also provide that the requirements of the plan or an offering made under the plan. The final regulations adopt these requirements of the proposed regulations, although the numerical designation of the requirements is modified. To emphasize that the requirements of paragraphs (iii) through (ix) of 1.423-2(a)(2) of the proposed regulations may be satisfied by the terms of the plan or an offering made under the plan. requested clarification of whether options with terms that are inconsistent with the terms of the plan will be eligible for the special tax treatment of section 421. As provided in 1.423-2(a)(3) of the proposed regulations, 1.423-2(a)(4) of these final regulations provides that, if the terms of an option are inconsistent with the terms of the employee stock purchase plan or an offering under the plan, then the option will not be treated as granted under an employee stock purchase plan. However, an option may still qualify for the special tax treatment of section 421, even if the option is not section 421, even if the option is a special tax treatment of section 421, even if the option is not section 421, even if the option is a special tax treatment of section 421, even if the option is not section 421, even if the option is a special tax treatment of section 421, even if the option is not section 421, even if the option are inconsistent as the option 421, even if the option are inconsistent as the option 421, even if t granted under an offering with terms that comply with the requirements of 1.423-2(a)(3). Example 2 of 1.423-2(a)(1) of these final regulations provide further guidance for employee stock purchase plans under which more than one offering is made. As set forth in 1.423-2(a)(1) of these final regulations illustrates this principle. one or more offerings may be made under a plan and the offerings may be consecutive or overlapping. Further, pursuant to section 423(b) and its flush language, the terms of each offering need not be identical. Although the terms of each offering need not be identical, the terms of each offering together must satisfy the requirements of 1.423-2(a)(2) and (3) of these final regulations. For example, if overlapping offering are made under an employee stock purchase plan, then each offering (together with the plan) satisfy the regulations. For example, if overlapping offerings are made under an employee stock purchase plan, then each offering (together with the plan) satisfy the regulations. corporation adopts an employee stock purchase plan, it may establish separate offerings with different terms under the plan and designate which subsidiary corporations of the parent corporations of the parent corporations of the parent corporation may participate in a particular offering, provided that the terms of each offering (together with the plan) satisfy the requirements of 1.423-2(a)(3). The terms parent corporation and subsidiary corporations and these final regulations. Paragraphs (i) through (iv) of 1.423-2(e)(1) of the proposed regulations and these final regulations and these final regulations. Paragraphs (i) through (iv) of 1.423-2(e)(1) of the proposed regulations and these final regulations and these final regulations are defined in 1.424-1(f) of the proposed regulations. proposed regulations provide that the exclusions for various categories of employees must be applied in an identical manner to all employees are granted options under the plan. Commenters noted that the requirement of identical exclusions for all offerings under a plan constrains the ability to make future and overlapping offerings that are more (or less) inclusive than prior offerings under the plan. Commenters suggested that the final regulations should permit multiple (printed page 59076) offerings under the plan. These final regulations generally adopt the approach suggested by the commenters. Pursuant to these final regulations, whether the terms of a plan and offering basis. The terms of a plan and offering basis. The terms of a plan and offering basis to get the satisfy the requirements of 1.423-2(a)(2) and (3) of these final regulations. With respect to satisfying the requirements of 1.423-2(e), (1), (2) and (3) of these final regulations. The exclusions established with respect to a particular offering must be applied in an identical manner to all employees of every corporation whose employees are granted options under that particular offering. Examples 7 and 8 of 1.423-2(e)(6) of these final regulations illustrate these principles. Some commenters suggested that the final regulations permit employees to exclude from plan participation employees who are nonresident aliens and who receive no earned income that constitutes income from sources within the United States. Other commenters suggested that the final regulations permit employees to exclude from plan participation employees who are nonresident aliens and the Treasury Department are aware of the complexities often associated with participation in an employee stock purchase plan by nonresident aliens or employees under a specified age. Accordingly, the IRS and the Treasury Department are constrained by statutory authority from providing a general exclusion from plan participation for employees who are nonresident aliens or employees (HCEs) (within the meaning of section 414(q)) on any basis. Section 1.423-2(e)(2)(ii) of the proposed regulations provides that the terms of an employee stock purchase plan may exclude HCEs: (a) with compensation above a certain level, or (b) who are officers or subject to the disclosure requirements of section 1.6(a) of the Securities Exchange Act of 1934, provided the exclusion is applied in an identical manner to all HCEs of every corporation whose employees are granted options under the plan. These final regulations do not adopt the suggestion that HCEs may be excluded from participation in an employee stock purchase plan on any basis. Instead, these final regulations do not adopt the suggestion that HCEs may be excluded from participation in an employee stock purchase plan on any basis. providing that, with respect to the exclusion of HCEs, the terms of each offering made under a plan need not be identical with respect to the HCEs, provided the HCEs are excluded as permitted and within the limitations described in 1.423-2(e)(2)(ii) of these final regulations. Commenters further suggested that the final regulations provide flexibility by permitting employers to make multiple offerings with different rights and privileges applicable to the participants of each offering under a plan. These final regulations, the determination of whether the terms of an offering satisfy the requirements of 1.423-2(f) is made on an offering-by-offering basis. The terms of each offering under a plan may be different, provided the plan and offering together satisfy the requirements of 1.423-2(a)(2) and (3) of these final regulations. However, the rights and privileges established with respect to a particular offering must be applied in an identical manner to all employees of every corporation whose employees are granted options under that particular offering. Examples 4 and 5 of 1.423-2(f)(7) of these final regulations illustrate these principles. Commenters asked whether the designation of a maximum number of shares that may be purchased by an employee during the offering is necessary in order for the first day of the offering period to be the date of grant. Consistent with the proposed regulations, 1.423-2(h)(3) of these final regulations provides that the date of grant will be the first day of an offering period if the terms of an employee stock purchased by each employee during the offering. Similarly, the date of grant will be the first day of an offering if the terms of the plan or offering require the application of a formula to establish, on the first day of the set final regulations does not require that an employee stock purchase plan or offering designate a maximum number of shares that may be purchased by each employee during the offering. If the maximum number of shares that can be purchased under an option is not fixed or determinable until the date of grant of the option. As discussed in the proposed regulations, the \$25,000 limit under section 423(b)(8) and the limit on the aggregate number of shares that may be issued under an employee stock purchase plan are not sufficient to establish the maximum number of shares that can be purchased by an employee under an option so that the date of grant will be the first day of the offering. Examples 1, 2, 3 and 4 in 1.423-2(h)(4) of these final regulations illustrate these principles. Commenters also asked whether any particular number of shares is necessary to satisfy the requirement to designate a maximum number of shares its necessary to satisfy this requirement and establish the first day of the offering period as the date of grant for the option. These final regulations adopt 1.423-2(h)(3) of the proposed regulations to provide that no employee may be that an employee may be permitted to accrue the right to purchase stock under all the employee stock purchase plans of his or her employee is outstanding. Section 423(b)(8)(A) provides that the right to purchase stock under an option accrues when the option first becomes exercisable. In drafting the proposed regulations, the Treasury Department and the IRS were aware that taxpayers interpreted section 423(b)(8)(8) to mean that the limit increases by \$25,000 for each calendar year during which the option is simply outstanding. Consistent with comments received by the Treasury Department and the IRS in response to Notice 2004-55 (2004-34 IRB 319 (August 23, 2004)), (see 601.601(d)(2)(ii)(b)), the proposed regulations adopted an approach that was generally consistent with the \$100,000 limitation for incentive stock options and interpreted section 423(b)(8) to mean that the limit increases by \$25,000 for each calendar year during which the option is outstanding and exercisable. In response to the proposed regulations, several commenters suggested that the Treasury Department and the IRS reconsider the calculation of the \$25,000 limitation in section 423(b)(8). Commenters suggested that the Treasury Department and the IRS reconsider the calculation of the \$25,000 for each calendar year that the option is simply outstanding. Specifically, even though section 423(b)(8) provides that the right to purchase stock actually accrues when the option first becomes exercisable during a calendar year, the first sentence of section 423(b)(8) provides that the right to purchase stock actually accrues when the option is simply outstanding. outstanding. Upon further consideration and in response to the foregoing comments, these final regulations modify 1.423-2(i) of the proposed regulations to provide that the limit increases by \$25,000 for each calendar year that an option is outstanding. Example 5 in 1.423-2(i)(5) of these final regulations has been modified to illustrate this principle To qualify as an employee stock purchase plan, section 423(b)(2) requires that the plan is adopted. These final regulations clarify that new stockholder approval is required if there is a change in the shares with respect to which options are issued or a change in the granting corporation. In particular, these final regulations clarify that the stockholders of a subsidiary corporation include the parent corporation include the parent corporation and any other stockholders of the subsidiary. Accordingly, these final regulations adopt Example 1(iii) in 1.423-2(c)(5) and Example 1(iii) in 1.422-2(b)(6) of the proposed regulations. One commenter to the proposed regulations suggested that a conforming change be made to Example 9(iii) in 1.424-1(a)(10), as previously set forth in the regulations, requires the stockholders of an acquiring company to approve an amendment of the option plan of an acquired corporate subsidiary stock. The commenter proposed that the example be amended to require the acquiring company (instead of subsidiary stock. This amendment is consistent with Example 1(iii) in 1.423-2(c)(5) and Example 1(iii) in 1.422-2(b)(6) of these final regulations. Accordingly, Example 9(iii) in 1.424-1(a)(10) of these final regulations has been modified to reflect the adoption of the commenter's suggestion. These regulations apply as of January 1, 2010, and will apply to any statutory option granted on or after that date. Taxpayers may rely on these final regulatory option granted prior to January 1, 2010. It has been determined that this Treasury decision is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory action as defined in Executive Order 12866. section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations and because the regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Pursuant to section 7805(f) of the Code, the notice of proposed rulemaking preceding these regulations was submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business. The principal authors of these regulations are Thomas Scholz and Ilya Enkishev, Office of the Division Counsel/Associate Chief Counsel (Tax Exempt and Government Entities). However, other personnel from the IRS and the Treasury Department participated in their development. Paragraph 1. The authority citation for part 1 continues to read as follows: Par. 2. Section 1.421-1, paragraphs (c)(1) and (j)(1) are revised to read as follows: Par. 3. Section 1.422-2, paragraph (b)(6), Example 1 (iii) is revised to read as follows: Par. 4. Section 1.422-2 5, paragraph (f)(1) is revised to read as follows: Applicability of section 421(a). (a) General rule. Subject to the provisions of section 423(c) and 1.423-2(k), the special rules of income tax treatment provided in section 423(c) and 1.423-2(k). under an employee stock purchase plan, as defined in 1.423-2, if the following conditions are satisfied (1) The individual makes no disposition of the expiration of the one-year period from the date of transfer of such share to the individual; and (2) At all times during the period beginning on the date of the grant of the option, a related corporation, or a corporation, or a corporation) substituting or assuming the stock option in a transaction to which section 424(a) applies. (b) Cross-references. For rules relating to the requisite employment relationship, see 1.421-1(h). For the definition of the term disposition, see section 424(c) and 1.424-1(c). For the definition of the term related corporation, see 1.421-1(i). (c) Effective/applicability date. The regulations under this section apply to options granted under an employee stock purchase plan on or after January 1, 2010. Employee stock purchase plan defined. (a) In general (1) The term employee stock purchase plan means a plan that meets the requirements of paragraphs (a)(3) of this section, then such requirements of paragraphs (a)(3) of this section, then such requirements of paragraphs (a)(3) of this section. paragraph (a)(3) of this section are satisfied by the terms of an offering, such requirements will be treated as satisfied only with respect to options exercised under that offering may be consecutive or overlapping, and the terms of each offering need not be identical provided the terms of the plan and the offering together satisfy the requirements of paragraphs (a)(2) and (a)(3) of this section. The plan and the terms of the plan or offering, as applicable. (2) To satisfy the requirements of this paragraph (a)(2) and 1.423-1, the plan must meet both of the following requirements (i) The plan must provide that options can be granted only to employees of the employees of the employees of the section); and (ii) The plan must be approved by the stockholders of the granting corporation within 12 months before or after the date the plan is adopted (see paragraph (a)(3) and 1.423-1, the terms of this paragraph (a)(3) and 1.423-1, the terms of the solution (c) of this section). granted an option if, immediately after the option is granted, the employee owns stock possessing 5 percent or more of the total combined voting power or value of all classes of stock of the employer corporation or of a related corporation); (ii) Options must be granted to all employees of any corporation whose employees are granted any options by reason of their employment by the corporation (see paragraph (e) of this section); (iv) The option price cannot be less than the lesser of (A) An amount equal to 85 percent of the fair market value of their employees granted options; (iv) The option price cannot be less than the lesser of (A) An amount equal to 85 percent of the fair market value of their employees granted options; (iv) The option price cannot be less than the lesser of (A) An amount equal to 85 percent of the fair market value of their employees granted options must have the same rights and privileges (see paragraph (f) of this section); (iv) The option price cannot be less than the lesser of (A) An amount equal to 85 percent of the fair market value of the stock at the time the option is granted, or (B) An amount not less than 85 percent of the stock at the time the option is granted if, under the terms of such plan, the option price cannot be less than 85 percent of the fair market value of the stock at the time the option is exercised, or (B) Twenty-seven months from the date the option is exercised, or (B) Twenty-seven months from the time the option is exercised, or (B) Twenty-seven months from the date the option is exercised, or (B) Twenty-seven months from the date the option is exercised, or (B) Twenty-seven months from the date the option is exercised, or (B) Twenty-seven months from the date the option is exercised, or (B) Twenty-seven months from the date the option is exercised, or (B) Twenty-seven months from the date the option is exercised, or (B) Twenty-seven months from the date the option is exercised, or (B) Twenty-seven months from the date the option is exercised, or (B) Twenty-seven months from the date the option is exercised, or (B) Twenty-seven months from the date the option is exercised, or (B) Twenty-seven months from the date the option is exercised, or (B) Twenty-seven months from the date the option is exercised, or (B) Twenty-seven months from the date the option is exercised, or (B) Twenty-seven months from the date the option is exercised, or (B) Twenty-seven months from the date the option is exercised, or (B) Twenty-seven months from the date the option is exercised, or (B) Twenty-seven months from the date the option is exercised, or (B) Twenty-seven months from the date the option is exercised, or (B) Twenty-seven months from the date the option is exercised, or (B) Twenty-seven months from the date the option is exercised, or (B) Twenty-seven months from the date the option is exercised, or (B) Twenty-seven months from the date the option is exercised, or (B) Twenty-seven months from the date the option is exercised, or (B) Twenty-seven months from the date the option is exercised, or (B) Twenty-seven months from the date the option is exercised, or (B) Twenty-seven months from the date the option is exercised, or (B) Twenty-seven months from the date the option is exercised, or (B) Twenty-seven months from the the employee's rights to purchase stock under all employee stock purchase plans of the employer corporation and its related corporation is granted) for each calendar year in which the option is outstanding at any time (see paragraph (i) of this section); and (vii) Options are not transferable by the optionee other than by will or the laws of descent and distribution, and are exercisable, during the lifetime of the optionee (see paragraph (j) of this section). (4) The determination of whether a particular option is an option granted under an employee stock purchase plan is made at the time the option is granted. If the terms of an option are inconsistent with the terms of the employee stock purchase plan or the offering under the plan pursuant to which the option will not be treated as granted under an employee stock purchase plan. If an option with terms that are inconsistent with the terms of the plan or an offering under the plan is granted to an employee who is entitled to the grant of an option under the terms of the plan or offering, and the employee is not granted an option under the requirements of paragraph (e) of this section. Accordingly, none of the options granted under the glan or an offering will be eligible for the special tax treatment of section 421. However, if an option under the terms of the plan or an offering under the terms of the plan or an offering under the terms of the plan is granted to an individual who is not entitled to the grant of an option under the terms of the plan or offering, the option will not be treated as an option granted under an employee stock purchase plan but the grant of the options granted under an employee stock purchase plan, but after the time of grant, an option granted under an employee stock purchase plan but the grant of the option will not disqualify the option service as an option granted under an employee stock purchase plan, but after the time of grant one or more of the option will not disqualify the option granted under an employee stock purchase plan but the grant of the option will not disqualify the option will not disqualify the option granted under an employee stock purchase plan but the grant of the option granted under an employee stock purchase plan but the grant of the option granted under an employee stock purchase plan but the grant of the option granted under an employee stock purchase plan but the grant of the option granted under an employee stock purchase plan but the grant of the option granted under an employee stock purchase plan but the grant of the option granted under an employee stock purchase plan but the grant of the option granted under an employee stock purchase plan but the grant of the option grant of the opti the requirements of paragraph (a)(3) of this section is not satisfied with respect to the option will not be treated as granted under an employee stock purchase plan but this failure to comply with the terms of the option will not disqualify the other options granted under the plan or offering. (5) Examples. The following examples illustrate the principles of paragraph (a): Example 1. Corporation A operates an employee stock purchase plan under which options for A stock are granted to employee Stock purchase plan under the offering to Employee Z, and the option price will be 90 percent of the fair market value of A stock on the date of exercise. A grants an option under the offering to Employee Z, employee of A. The terms of the option provide that the option price will be 85 percent of the fair market value of A stock on the date of exercise. Because the terms of Z's option are inconsistent with the terms of the offering, the option granted to Z will not be treated as an option granted under the employee stock purchase plan. Further, unless Z is granted an option under the offering will not meet the requirements of paragraph (e) of this section and none of the options granted under the offering will be eligible for the special tax treatment of section 421. Example 2. Corporation B operates an employee stock purchase plan that provides that options for B stock may only be granted to employees of B. Under the terms of the plan, options may not be granted to consultant Y, a consultant of B. Because Y is ineligible to receive an option under the plan because Y is not an employee, the grant of the option to Y is inconsistent with the terms of the plan and the option granted to Y will not be treated as an option granted under the employee stock purchase plan. However, the grant of the option s granted under the plan or any offering because Y was not entitled to the grant of an option under the plan. Example 3. Corporation C operates an employee stock purchase plan under which options for C stock are granted to employees of C. C grants an option pursuant to an offering under the plan to Employee stock purchase plan exclude highly compensated employees from participation in the plan. Because X is ineligible to receive an option granted under the plan by reason of X's exclusion from participation in the plan. However, the grant of the option to X will not disqualify the options granted under the plan or offering because X was not entitled to the grant of an option under the plan. Example 4. Corporation D operates an employee stock purchase plan under the plan to Employee of D. The terms of the option provide that the option price will be 90 percent of the fair market value of D stock on the date of exercise. On the date of exercise, W pays only 85 percent of the fair market value of D stock. Because the terms of W's option are not satisfied, the option granted to W will not be treated as an option granted to W are comply with the terms of the option granted to W will not disqualify the options granted under the plan or offering. (b) Options restricted to employees of the employees of its related corporations) to purchase stock in the employee corporation (or one of its related corporations). If such a provision is not included in the terms of the plan will not granted under the plan will not qualify for the special tax treatment of section 421. For rules relating to the employee stock purchase plan and options granted under the plan will not granted under the plan wi stock purchase plan must be approved by the stockholders must comply with all applicable provisions of the corporate charter and bylaws and of applicable State law prescribing the method and degree of stockholder approval required for the issuance of corporate stock or options. If the applicable State law does not prescribe a method and degree of stockholder approved (i) By a majority of the votes cast at a duly held stockholder's meeting at which a quorum representing a majority of all outstanding voting stock is, either in person or by proxy, present and voting on the plan; or (ii) By a method and in a degree that would be treated as adequate under approval (such as, an action on which stockholders would be entitled to vote if the action were taken at a duly held stockholders' meeting). (2) For purposes of the stockholder approval required by this paragraph (c), ordinarily, a plan is adopted when it is approved by the granting corporation's board of directors, and the date of the board's action is the reference point for determining whether stockholder approval occurs within the applicable 24-month period. However, if the board's action is the reference point for determining whether stockholder approved by the granting corporation's board of directors, and the date of the board's action is the reference point for determining whether stockholder approved by the granting corporation's board of directors, and the date of the board's action is the reference point for determining whether stockholder approved by the granting corporation's board of directors, and the date of the board's action is the reference point for determining whether stockholder approved by the granting corporation's board of directors, and the date of the board's action is the reference point for determining whether stockholder approved by the granting corporation's board of directors, and the date of the board's action is the reference point for determining whether stockholder approved by the granting corporation's board of directors, and the date of the board's action is the reference point for determining whether stockholder approved by the granting corporation's board of directors, and the date of the board's action is the reference point for determining whether stockholder approved by the grant directors, and the date of the board's action is the reference point for determining whether stockholder approved by the grant directors, and the date of the board's action is the reference point for determining whether stockholder approved by the grant directors, and the date of the board's action is the reference point directors, and the date of the board's action directors, and the date of the boa is subject to a condition (such as stockholder approval) or the happening of a particular event, the plan is adopted on the date of the board's action. (3) An employee stock purchase plan, as adopted and approved, must designate the maximum aggregate number of shares that may be issued under the plan, and the corporations or class of corporations whose employees may be offered options under the plan may not exceed a stated percentage of the shares outstanding at the time of each offering or grant under the plan does not satisfy the requirements of this paragraph (c)(3). However, the maximum aggregate number of shares that may be issued under the plan may be issued under the plan may be stated in terms of a percentage of the authorized, issued. or outstanding shares on the date of the adoption of the plan. The plan may be stated in terms of a percentage of the authorized, issued under the plan may be issued under the plan may be issued. number of shares available for grants under the plan may increase annually by a specified percentage of the authorized, issued, or outstanding shares on the date of the adoption of the plan. A plan that provides that the maximum aggregate number of shares that may be issued as options under the plan may change based on any other specific circumstances satisfies the requirements of this paragraph only if the stockholders approve an immediately determinable maximum number of shares that may be granted and stockholders of the granting corporation merely determinable maximum number of shares that may be issued under the plan in any event. If there is more than one employee stock purchase plan under which options may be granted and stockholders of the granting corporation merely determinable maximum number of shares that may be issued under the plan in any event. approve a maximum aggregate number of shares that are (printed page 59080) available for issuance under the plans, the stockholder approved for issuance under the plans, the stockholder approved for issuance under the plans, the stockholder approved for issuance under the plans approved for issuance under the plans, the stockholder approved for issuance under the plans ap each plan. (4) Once an employee stock purchase plan is approved by the stockholders of the granting corporation, the plan must be reapproved within the elan must be reapproved within the plan must be reapproved within the stockholders of the granting corporation. prescribed 24-month period. Any increase in the aggregate number of shares, such as a stock dividend or stock split) will be considered the adoption of a new plan requiring stockholder approval within the prescribed 24-month period. Similarly, a change in the designation of corporations whose employees may be offered options under the plan will be considered the adoption of a new plan requiring stockholder approval within the prescribed 24-month period unless the plan will be considered the adoption of a new plan requiring stockholder approval within the prescribed 24-month period unless the plan provides that designations of participating corporations may be made from time to time from among a group consisting of the granting corporation and its related corporations. The group from among which such changes and designations are permitted without addition, a change from among which such changes and designations are permitted without addition, a change from among which such changes and designations are permitted without addition. in the granting corporation or the stock available for purchase under the plan will be considered the adoption of a new plan requiring stockholder approval within the prescribed 24-month period. Any other changes in the terms of an employee stock purchase plan are not considered the adoption of a new plan require stockholder approval. (5) Examples. The following examples illustrate the principles of this paragraph (c): Example 1. (i) Corporation F, a publicly traded corporation F, a publicly traded corporation F, a publicly traded to E employees. (ii) To meet the requirements of paragraph (c)(1) of this section, the plan must be approved by the stockholders of E (in this case, F) within 12 months before or after January 1, 2010. (iii) Assume the same facts as in paragraph (i) of this Example 1, except that the plan was approved by the stockholders of E (in this case, F) within 12 months before or after January 1, 2012, E changes the plan was approved by the stockholders of E (in this case, F) within 12 months before or after January 1, 2012, E changes the plan was approved by the stockholders of E (in this case, F) within 12 months before or after January 1, 2012, E changes the plan was approved by the stockholders of E (in this case, F) within 12 months before or after January 1, 2010. (iii) Assume the same facts as in paragraph (i) of this Example 1, except that the plan was approved by the stockholders of E (in this case, F) within 12 months before or after January 1, 2012, E changes the plan was approved by the stockholders of E (in this case, F) within 12 months before or after January 1, 2010. (iii) Assume the same facts as in paragraph (i) of this Example 1, except that the plan was approved by the stockholders of E (in this case, F) within 12 months before or after January 1, 2010. (iii) Assume the same facts as in paragraph (i) of this Example 1, except that the plan was approved by the stockholders of E (in this case, F) within 12 months before or after January 1, 2010. (iii) Assume the same facts as in paragraph (i) of this Example 1, except that the plan was approved by the stockholders of E (in this case, F) within 12 months before or after January 1, 2010. (iii) Assume the same facts as in paragraph (i) of this Example 1, except that the plan was approved by the stockholders of E (in this case, F) within 12 months before or after January 1, 2010. (iii) Assume the same facts as in paragraph (i) of this Example 1, except that the plan was approved by the stockholders of E (in this case, F) was approved by the stockholders of E (in this case, F) was approved by the stockhold to provide that options for F stock will be granted to E employees under the plan. Because there is a change in the stock available for grant under the plan, under paragraph (c)(4) of this section, the change is considered the adoption of a new plan that must be approved by the stockholders of E (in this case, F) within 12 months before or after January 1, 2012. Example 2. (i) Assume the same facts as in paragraph (i) of Example 1, except that on March 15, 2011, F completely disposes of its interest in E. Thereafter, E continues to grant options for E stock to E employees under the plan. (ii) The new E options are granted under a plan that meets the stockholder approval requirements of paragraph (c)(1) of this section without regard to whether E seeks approval of the plan from the stockholders of E after F disposes of its interest in E. (iii) Assume the same facts as in paragraph (i) of this Example 2, except that under the plan as adopted on January 1, 2010, only options for F stock are granted to E employees. Assume further that, after F disposes of its interest in E, E changes the plan to provide for the grant of options for E stock to E employees. Because there is a change in the stockholders of E must approve the plan within 12 months before or after the change to the plan to meet the stockholder approval requirements of paragraph (c) of this section. Example 3. (i) Corporation G maintains an employee stock purchase plan. On May 15, 2010, G and H consolidate under State law to form one corporation. The new corporation is named Corporation H. The consolidation agreement describes the G plan, including the maximum aggregate number of shares available for issuance under the plan will be continued by H after the consolidation. The consolidation agreement is approved by the stockholders of G and H on May 1, 2010. H assumes the plan to all eligible employees, but the options under the plan to all eligible employees, but the options are for H stock. (ii) Because there is a change in the granting corporation (from G to H) and the stock available for purchase, under paragraph (c)(4) of this section, H is considered to have adopted a new plan. Because the plan is fully described in the consolidation agreement, including the maximum aggregate number of shares available for issuance under the plan. Thus, the stockholder approval of the consolidation agreement satisfies the stockholder approval requirements of paragraph (c)(1) of this section, and the plan is considered to be adopted by H and approved by its stockholders on May 1, 2010. Example 4. Corporation I adopts an employee stock purchase plan on November 1, 2010. maximum aggregate number of shares that may be issued under the plan may not exceed 15 percent of the number of shares that may be issued under the plan, the requirements of paragraph (c)(3) of this section are met. Example 5. (i) Corporation J adopts an employee stock purchase plan on March 15, 2010. The plan provides that the maximum aggregate number of shares of J stock available for issuance under the plan is 50,000, increased on each anniversary date of the adoption of the plan by 5 percent of the then outstanding shares. Because the maximum aggregate number of shares is not designated under the plan, the requirements of paragraph (c)(3) of this section are not met. (ii) Assume the same facts as in paragraph (i) of this Example 5, except that the plan provides that the maximum aggregate number of shares is not designated under the plan is the lesser of (a) 50,000 shares, increased each anniversary date of the adoption of the plan by 5 percent of the then-outstanding shares, or (b) 200,000 shares that may be issued under the plan is designated as the lesser of two numbers, one of which provides an immediately determinable maximum aggregate number of shares that may be issued under the plan in any event, the requirements of paragraph (c)(3) of this section are met. (d) Options granted to certain shareholders (1) An employee cannot be granted an option if the employee, immediately after the option is granted, owns stock possessing 5 percent or more of the total combined voting power or value of all classes of stock ownership) shall apply, and stock that the employee may purchase under outstanding options (whether or not the options qualify for the special tax treatment afforded by section 421(a)) shall be treated as stock owned by the employee. An option is outstanding for purposes of this paragraph (d) although under its terms it may be exercised only in installments or after the expiration of a fixed period of time. If an option is granted to an employee whose stock ownership (as determined under this paragraph (d)) exceeds the limitation set forth in this paragraph (d), no portion of the option will be treated as having been granted under an employee stock purchase plan. (printed page 59081) (2) The determination of the percentage of the total combined voting power or value of all classes of stock of the employer corporation (or a related corporation) that is owned by the employee to the aggregate voting power or value of all shares actually issued and outstanding immediately after the grant of the option to the employee. The aggregate voting power or value of all shares actually issued and outstanding immediately after the grant of the option does not include the voting power or value of treasury shares or shares authorized for issue under outstanding immediately after the grant of the option does not include the voting power or value of treasury shares or shares authorized for issue under outstanding immediately after the grant of the option does not include the voting power or value of the option does not include the voting power or value of the option does not include the voting power or value of the option does not include the voting power or value of the option does not include the voting power or value of the option does not include the voting power or value of the option does not include the voting power or value of the option does not include the voting power or value of the option does not include the voting power or value of the option does not include the voting power or value of the option does not include the voting power or value of the option does not include the voting power or value of the option does not include the voting power or value of the option does not include the voting power or value of the option does not include the voting power or value of the option does not include the voting power or value of the option does not include the voting power or value of the option does not include the voting power or value of the option does not include the voting power or value of the voting power or value of the option does not include the voting power or value of the voting power or v examples illustrate the principles this paragraph (d): Example 1. Employee V, an employee of Corporation K, owns 6,000 shares of K stock, K cannot grant and and grant and and grant and g option to V under K's employee stock purchase plan. If V's father and brother each owned 3,000 shares of K stock, then the result would be the same because, under section 424(d), an individual is treated as owning stock held by the person's father and brother. Similarly, the result would be the same if, instead of actually owning 6,000 shares, V merely held an option on 6,000 shares of K stock, irrespective of whether the transfer of stock under the option could qualify for the special tax treatment of section 421, because this paragraph (d) provides that stock the employee may purchase under outstanding options is treated as stock owned by such employee Example 2. Assume the same facts as in Example 1, except that K is a 50 percent subsidiary corporation of Corporation of L under L's employee stock purchase plan because he owns 5 percent of the total combined voting power of all classes of stock of a subsidiary of L, in this example, K. An employee who owns (or is treated as owning) stock in excess of the limitation of this paragraph (d), in any corporations, cannot receive an option under an employee stock purchase plan from any corporation in the group. Example 3. Employee U is an employee of Corporation M. M has only one class of stock, of which 100,000 shares are issued and outstanding. Assuming U does not own (and is not treated as owning) any stock in M or in any related corporation of M, M may grant an option to U under its employee stock purchase plan for 4,999 shares, because immediately after the grant of the option, U would not own 5 percent or more of the combined voting power or value of all classes of M stock actually issued and outstanding at such time. The 4,999 shares that U would be treated as owning under this paragraph (d) would not be added to the 100,000 shares actually issued and outstanding immediately after the grant for purposes of determining whether U's stock ownership exceeds the limitation of this paragraph (d). Example 3 but instead of an option, purportedly under its employee stock purchase plan, for 5,000 shares. No portion of this option will be treated as granted under an employee stock purchase plan because U's stock ownership exceeds the limitations of this paragraph (d). (e) Employees covered by plan (1) Subject to the provisions of this paragraph (e) and the limitations of paragraphs (d), (f) and (i) of this section, an employee stock purchase plan or offering must, by its terms, provide that options are to be granted to all employees of any corporation whose employees are granted any of such options by reason of their employees may be excluded from the coverage of the plan or offering (i) Employees whose customary employment is 20 hours or less per week; (iii) Employees (within the meaning of section 414(q)). (2) A plan or offering does not fail to satisfy the coverage provision of paragraph (e)(1) of this section in the following does not fail to satisfy the coverage provision of paragraph (e)(1) of this section in the following does not fail to satisfy the coverage provision of paragraph (e)(1) of this section in the following does not fail to satisfy the coverage provision of paragraph (e)(2) A plan or offering does not fail to satisfy the coverage provision of paragraph (e)(1) of this section in the following does not fail to satisfy the coverage provision of paragraph (e)(1) of this section in the following does not fail to satisfy the coverage provision of paragraph (e)(1) of this section in the following does not fail to satisfy the coverage provision of paragraph (e)(1) of this section in the following does not fail to satisfy the coverage provision of paragraph (e)(1) of this section in the following does not fail to satisfy the coverage provision of paragraph (e)(1) of this section in the following does not fail to satisfy the coverage provision of paragraph (e)(1) of this section in the following does not fail to satisfy the coverage provision of paragraph (e)(1) of this section in the following does not fail to satisfy the coverage provision of paragraph (e)(1) of this section (e)(1) of the following does not fail to satisfy the coverage provision of paragraph (e)(1) of the following does not fail to satisfy the coverage provision of paragraph (e)(1) of the following does not fail to satisfy the coverage provision (e)(1) of the following does not fail to satisfy the coverage provision (e)(1) of the following does not fail to satisfy the coverage provision (e)(1) of the following does not fail to satisfy the coverage provision (e)(1) of the following does not fail to satisfy the coverage provision (e)(1) of the following does not fail to satisfy the coverage provision (e)(1) of the following does not fail to s circumstances (i) The plan or offering excludes employees who have completed a shorter period of service or whose customary employees of every corporation whose employees are granted options under the plan or offering excludes highly compensated employees (within the meaning of section 16(a) of the Securities Exchange Act of 1934, provided the exclusion is applied in an identical manner to all highly compensated employees of every corporation, employees are granted options under the plan or offering. (3) Notwithstanding paragraph (e)(1) of this section, employees are granted options under the plan or offering. the United States or resident aliens (within the meaning of section 7701(b)(1)(A))) may be excluded from the coverage of an employee stock purchase plan or offering to a citizen or resident of the foreign jurisdiction is prohibited under the laws of such jurisdiction or (ii) Compliance with the laws of the foreign jurisdiction would cause the plan or offering to violate the requirements of section 423. (4) No option granted under a plan or offering that excludes from participation by reason of paragraphs (d), (f) and (i) of this section, can be regarded as having been granted under an employee stock purchase plan. If an option is not granted under an employee who is entitled to the grant of an option under the terms of the plan or offering, none of the plan or offering will be treated as having been granted under an employee stock purchase plan. However, a plan that, by its terms, permits all eligible employees to elect to participate in an offering will not violate the requirements of this paragraph solely because eligible employees to elect to participate in an offering will not violate the requirements of this paragraph (e), (3) of this section except that options are not required to be granted to employees, irrespective of their weekly rate of pay. Even though N's plan is operated in compliance with the requirements of this paragraph (e), N's plan is not an employee stock purchase plan because the terms of the plan exclude a category of employees that is not permitted under N's plan provides that options will be granted to all employees of N. The terms of ( printed not printed not printed not printed not printed not printed not permitted under this paragraph (e). 59082) the first offering will be treated as part of the terms of N's plan, but only for purposes of the first offering. Because the terms of the first offering will be treated as stock transferred pursuant to the exercise of options granted under an employee stock purchase plan for purposes of section 421. Example 3. Corporation O has a stock purchase plan that excludes from participation all employee stock purchase plan under section 423. Example 4. Corporation P has a stock purchase plan that excludes from participate in the plan. P's plan is not an employee stock purchase plan because the exclusion of employees who have been employees of P. If, instead, P's plan excludes from participation all employees of P. If, instead, P's plan excludes from participation all employees of P. If, instead, P's plan would qualify as an employee stock purchase plan under section 423 assuming all other requirements of paragraphs (a)(2) and (a)(3) of this section are satisfied. Example 5. Corporation O has a stock purchase plan that excludes from participation all officers who are highly compensated employees (within the meaning of section 414(g)). Assuming all other requirements of paragraphs (a)(2) and (a)(3) of this section are satisfied, Q's plan qualifies as an employee stock purchase plan under section 423. Example 6. Corporation R maintains an employee stock purchase plan that excludes from participation all highly compensated employees (within the meaning of section 414(q)), except highly compensated employees who are officers of R. R's plan is not an employee stock purchase plan because the exclusion of all highly compensated employees except highly compensated employees except highly compensated employees except highly compensated employees are officers of R is not a permissible exclusion of all highly compensated employees except highly compensated employ maintains an employee stock purchase plan with both YY and ZZ participating in the same offering under the plan. Under the plan with the exception of ZZ's highly compensated employees with annual compensation greater than \$300,000. None of the options granted under the offering will be considered granted under an employees of YY and ZZ granted options in the same facts as plied in an identical manner to all employees of YY and ZZ granted options in the same facts as plied in an identical manner to all employees of YY and ZZ granted options in the same facts as plied in an identical manner to all employees of YY and ZZ granted options in the same facts as plied in an identical manner to all employees of YY and ZZ granted options in the same facts as plied in an identical manner to all employees of YY and ZZ granted options in the same facts as plied in an identical manner to all employees of YY and ZZ granted options in the same facts as plied in an identical manner to all employees of YY and ZZ granted options in the same facts as plied in an identical manner to all employees of YY and ZZ granted options in the same facts as plied in an identical manner to all employees of YY and ZZ granted options in the same facts as plied in an identical manner to all employees of YY and ZZ granted options in the same facts as plied in an identical manner to all employees of YY and ZZ granted options in the same facts as plied in an identical manner to all employees of YY and ZZ granted options in the same facts as plied in an identical manner to all employees of YY and ZZ granted options in the same facts as plied in an identical manner to all employees of YY and ZZ granted options in the same facts as plied in an identical manner to all employees of YY and ZZ granted options in the same facts as plied in an identical manner to all employees of YY and ZZ granted options in the same facts as plied in an identical manner to all employees of YY and ZZ granted options in the same facts as plied in an identical manner to all employees of YY and ZZ granted options in the same facts as plied in an identical manner to all employees of YY and ZZ granted options in the same facts as plied in an identical manner to all employees of YY and ZZ granted options in the same fact in Example 7, except that Corporation S establishes separate offering for YY, all employees of ZZ are permitted to participate in the plan with the exception of ZZ's highly compensated employees with annual compensation greater than \$300,000. The options granted under an employee stock purchase plan because the exclusion of highly compensated employees with annual compensation greater than \$300,000 is applied in an identical manner to all employees of ZZ granted options granted to residents of Country A require that options granted to resident of the option recipient. Corporation T has a stock purchase plan that excludes residents of Country A from participation in the plan. Assuming all other requirements of Country A from participation in the plan. Assuming all other requirements of paragraph (a)(2) of this section are satisfied, T's plan qualifies as an employee stock purchase plan under section 423. (f) Equal rights and privileges (1) Except as otherwise provided in paragraphs (f)(2) through (f)(6) of this section, an employee stock purchase plan or offering must, by its terms, provide that all employees granted options under the plan or offering shall have the same rights and privileges. Thus, the provisions applying to one option under an offering (such as the provisions relating to the method of payment for the stock and the determination of the purchase price per share) must apply to all other options under the offering in the same manner. If all the options granted under a plan or offering do not, by their terms, give the respective optionees the same rights and privileges, none of the options will be treated as having been granted under an employee stock that an employee may purchase from being determined on the basis of a uniform relationship to the total compensation, or the basic or regular rate of compensation, of all employees. (3) A plan or offering will not fail to satisfy the requirements of this paragraph (f) because the plan or offering will not fail to satisfy the requirements of this paragraph. under the plan or offering. (4) A plan or offering will not fail to satisfy the requirements of this paragraph (f) if, in order to comply with the laws of a foreign jurisdiction, the terms of an option granted under a plan or offering to citizens or residents of such foreign jurisdiction. resident aliens (within the meaning of section 7701(b)(1)(A))) are less favorable than the terms of options granted under the same plan or offering permitting one or more employees to carry forward amounts that were withheld but not applied toward the purchase of additional stock under a subsequent plan or offering will be a violation of the equal rights and privileges under paragraph (f)(1) of this section. However, the carry forward of amounts withheld but not applied toward the purchase of stock under an earlier plan or offering will not violate the equal rights and privileges requirement of paragraph (f)(1) of this section, if all other employees participating in the current plan or offering are permitted to make direct payments toward the purchase of shares under a subsequent plan or offering in an amount equal to the excess of the greatest amount which any employee is allowed to carry forward from an earlier plan or offering will not fail to satisfy the requirements of this section merely because employees are permitted to carry forward amounts representing a fractional share, that were withheld but not applied toward the purchase of stock under a subsequent plan or offering. (6) Paragraph (f) does not prohibit the delaying of the grant of an option to any employee who is barred from being granted an option solely by reason of the employee's failing to meet a minimum service requirement. (7) Examples. The following examples illustrate the principles of this paragraph (e)(1) of this section until the employee stock purchase plan that provides (printed page 59083) that the maximum amount of stock that each employee may purchase under the offering is one share for each \$100 of annual gross pay. The plan meets the requirements of this paragraph (f). Example 2. Corporation V has an employee stock purchase plan that provides that the maximum amount of stock that each employee may purchase under the offering is one share for each \$100 of annual gross pay up to and including \$10,000, and two shares for each \$10,000. The plan will not meet the requirements of this paragraph (f) because the amount of stock that may be purchased under the plan is not based on a uniform relationship to the total compensation of all employees. Example 3. Corporation W has an employee stock purchase plan that provides that options to purchase plan that provides that options to purchase plan that provides that options to all employees. other than those who have been employed less than 18 months. In addition, the plan provides that employees who have not vet met the minimum service requirements on the date the 18 month service requirements of this paragraph (f). Example 4. Corporation X is the parent corporation of Subsidiary AA, Subsidiary BB and Subsidiary CC. X maintains an employee stock purchase plan with AA, BB and CC participating in the same offering under the plan. Under the terms of the fair market value at the time the option is exercised will be granted to all employees. Certain employees of AA are residents of Country B must have a purchase price not less than 95 percent of the fair market value at the time the option is exercised. The plan will not fail to satisfy the requirements of this paragraph (f) merely because the residents of Country B are granted options under the plan to purchase stock at a price equal to 95 percent of the fair market value at the time the option is exercised. Example 5. Assume the same facts as in Example 5. Assume the plan: A separate offering for the employees of BB and CC, options are granted to all employees of BB and CC. Under the separate offering for the employees of BB and CC, options are granted to all employees of BB and CC. employees of AA, options are granted to all employees with an exercise price equal to 95 percent of the fair market value at the time the option is exercise price of options granted under one offering is less than the exercise price of options granted under a separate offering. Example 6. Corporation Y maintains an employee stock purchase plan. Employee T is employee to stock at an option price equal to 85 percent of the fair market value of the stock at exercise. The plan permits the carry forward of withheld but unused amounts from an earlier offering. Prior to the exercise date, \$2000 of T's salary has been withheld and is available to be applied toward the purchase of Y stock at \$17 per share for an aggregate purchase price of \$1700. T can carry forward \$300 to the subsequent offering. Each employee in the subsequent offering. The plan does not violate the equal rights and privileges requirement of this paragraph (f). (g) Option price (1) An employee stock purchase plan or offering must, by its terms, provide that the option is granted, or (ii) An amount that under the terms of the option may not be less than 85 percent of the fair market value of the stock at the time the option is exercised. (2) For purposes of determining the valuation methods permitted under 20.2031-2. However, the option price must meet the minimum pricing requirements of this paragraph (g). For general rules relating to the option price, see 1.421-1(c) and 1.423-2(h)(2). Any option that does not meet the minimum pricing requirements of this paragraph (g) will not be treated as an option granted under an employee stock purchase plan irrespective of whether the plan or offering satisfies those requirements. If an option that does not meet the minimum pricing requirements. If an option that does not meet the minimum pricing requirements are option that does not meet the minimum pricing requirements. under such offering that qualifies as an option granted under an employee stock purchase plan, the offering will be eligible for the special tax treatment of section 421. (3) The option price may be stated either as a percentage or as a dollar amount. If the option price is stated as a dollar amount, then the requirement of this paragraph (g) can only be met by a plan or offering in which the price is fixed at not less than 85 percent of the fair market value of the stock at grant, then the option cannot meet the requirement of this paragraph (g) even if a decline in the fair market value of the stock at the time the option is exercised, because that result was not certain to occur under the terms of the option. (4) Examples. The following examples illustrate the principles of this paragraph (g): Example 1. Corporation Z has an employee stock purchase plan that provides that the option price will be 85 percent of the fair market value of the stock at exercise, whichever amount is the lesser. Upon the exercise of an option price that is less than the minimum amount allowable under Z's plan, Z agrees to accept an option price that is less than the minimum amount allowable under Z's plan, Z agrees to accept an option price that is less than the minimum amount allowable under Z's plan, Z agrees to accept an option price that is less than the minimum amount allowable under Z's plan, Z agrees to accept an option price that is less than the minimum amount allowable under Z's plan, Z agrees to accept an option price that is less than the minimum amount allowable under Z's plan, Z agrees to accept an option price that is less than the minimum amount allowable under Z's plan, Z agrees to accept an option price that is less than the minimum amount allowable under Z's plan, Z agrees to accept an option price that is less than the minimum amount allowable under Z's plan, Z agrees to accept an option price that is less than the minimum amount allowable under Z's plan, Z agrees to accept an option price that is less than the minimum amount allowable under Z's plan, Z agrees to accept an option price that is less than the minimum amount allowable under Z's plan, Z agrees to accept an option price that is less than the minimum amount allowable under Z's plan, Z agrees to accept an option price that is less than the minimum amount allowable under Z's plan, Z agrees to accept an option price that is less than the minimum amount allowable under Z's plan, Z agrees to accept an option price that is less than the minimum amount allowable under Z's plan, Z agrees to accept an option price that is less than the minimum amount allowable under Z's plan, Z agrees to accept an option price that is less than the minimum amount allowable under Z's plan, Z agrees to accept an option price that is less than the minimum amount allowable under Z's plan, Z agrees to accept an option price that is less than the minimum amount allowable under Z's plan, Z agrees to accept an option price that is option does not satisfy the requirement of this paragraph (g) and cannot qualify for the special tax treatment of section 421. Example 2. Corporation AA has an employee stock purchase plan that provides that the option price is set at 85 percent of the fair market value of AA stock at exercise, but not less than \$80 per share. On the first day of the offering (which is the date of grant in this case), the fair market value of AA stock is \$100 per share. The option satisfies the requirement of this paragraph (g), and can qualify for the special tax treatment of section 421. Example 3. Assume the same facts as in Example 3. Assume tage as in Example stock at exercise, but not more than \$80 per share. This option cannot satisfy the requirement of this paragraph (g) irrespective of whether, at the time the option is exercised, 85 percent of the fair market value of AA stock is \$80 or less. (h) Option period (1) An employee stock purchase plan or offering must, by its terms, provide that options granted under the plan cannot be exercised after the expiration of 27 months from the date of grant unless, under the terms of the plan or offering, the option. If the option price is not less than 85 percent of the fair market value of the stock at the time the option is exercised, then the option period provided under the plan must (printed page 59084) not exceed five years from the date of grant. If the requirements of this paragraph (h) are not met by the terms of the plan or offering, then options issued under such plan or offering will not be treated as options granted under an employee stock purchase plan irrespective of whether the options, by their terms, are exercisable beyond the period allowable under this paragraph (h). An option that provides that the option price is not less than 85 percent of the stock at exercise may have an option period of 5 years irrespective of whether the fair market value of the stock at exercise may have an option period of 5 years irrespective of whether the fair market value of the stock at exercise may have an option period of 5 years irrespective of whether the fair market value of the stock at exercise may have an option period of 5 years irrespective of whether the fair market value of the stock at exercise may have an option period of 5 years irrespective of whether the fair market value of the stock at exercise may have an option period of 5 years irrespective of whether the fair market value of the stock at exercise may have an option period of 5 years irrespective of whether the fair market value of the stock at exercise may have an option period of 5 years irrespective of whether the fair market value of the stock at exercise may have an option period of 5 years irrespective of whether the fair market value of the stock at exercise may have an option period of 5 years irrespective of whether the fair market value of the stock at exercise may have an option period of 5 years irrespective of the stock at exercise may have an option period of 5 years irrespective of the stock at exercise may have an option period of 5 years irrespective of the stock at exercise may have an option period of 5 years irrespective of the stock at exercise may have an option period of 5 years irrespective of the stock at exercise may have at exercis

at exercise is more or less than the fair market value of the stock at grant. However, if the option provides that the option price is 85 percent of the fair market value of the stock at exercise, but not more than some other fixed amount determined in accordance with the provisions of paragraph (g) of this section, then irrespective of the price paid on exercise, the option period must not be more than 27 months. (2) Section 1.421-1 (c) provides that, for purposes of 1.421-1 through 1.424-1, the language the date or time when the granting corporation completes the corporate action constituting and offer of stock for sale to an individual under the terms and conditions of a statutory option. With respect to options granted under an employee stock purchase plan, the principles of 1.421-1(c) shall be applied without regard to the requirement that the minimum option price must be fixed or determinable in order for the corporate action constituting an offer of stock to be considered complete. (3) The date of grant will be the first day of an offering if the terms of the plan or offering if the terms of the plan or offering require the application of a formula to establish, on the first day of the offering, the maximum number of shares that may be purchased by each employee during the offering designate a maximum number of shares that may be purchased by each employee during the offering designate a maximum number of shares that may be purchased by each employee during the offering designate a maximum number of shares that may be purchased by each employee during the offering designate a maximum number of shares that may be purchased by each employee during the offering designate a maximum number of shares that may be purchased by each employee during the offering designate a maximum number of shares that may be purchased by each employee during the offering designate a maximum number of shares that may be purchased by each employee during the offering designate a maximum number of shares that may be purchased by each employee during the offering designate a maximum number of shares that may be purchased by each employee during the offering designate a maximum number of shares that may be purchased by each employee during the offering designate a maximum number of shares that may be purchased by each employee during the offering designate a maximum number of shares that may be purchased by each employee during the offering designate a maximum number of shares that may be purchased by each employee during the offering designate a maximum number of shares that may be purchased by each employee during the offering designate a maximum number of shares that may be purchased by each employee during the offering designate a maximum number of shares that may be purchased by each employee during the offering designate a maximum number of shares that may be purchased by each employee during the offering designate a maximum number of shares that may be purchased by each employee during the offering designate a maximum number of shares that may be purchased by each employee during the offering designate during the offering designate or incorporate a formula to establish a maximum number of shares that may be purchased by each employee during the offering. If the maximum number of shares that can be purchased under an option. (4) Examples. The following examples illustrate the principles of this paragraph (h): Example 1. (i) Corporation BB has an employee stock purchase plan that provides that the option price will be the lesser of 85 percent of the fair market value of the stock on the last day of the offering. Options are exercised on the last day of the offering. One million shares of BB stock under the plan at a rate that exceeds \$25,000 in fair market value of the BB stock (determined on the date of grant) for each calendar year during which an option granted to the employee is outstanding. The terms of each option granted under an offering, the date of grant for the option is the first day of the offering. (ii) Assume the same facts as in paragraph (i) of Example 1, except that BB's plan excludes all employees who have not yet met the minimum service requirements on the first day of an offering will be granted an option on the date the 18-month service requirement has been attained. With respect to those employees who have been employees who have been employees than 18 months on the first day of an offering, the date the 18-month service requirement has been attained. Example 1. except that the terms of each option granted do not provide that a maximum of 500 shares may be purchased by the option recipient during the fixed number of shares reserved for issuance under the plan, the maximum number of shares that can be purchased under the option is not fixed or determinable until the last day of the offering when the option is exercised. Example 3. Corporation CC has an employee stock purchase plan that provides that the option price will be 85 percent of the fair market value of the stock on the last day of the offering. Options are exercised on the last day of the offering under the plan begins on January 1 and ends on December 31 of the same calendar year. The terms of each option granted under an offering provide that the maximum number of shares that may be purchased by any employee during the offering. equals \$25,000 divided by the fair market value of the offering. The maximum number of shares that can be purchased under the option is fixed and determinable on the first day of the offering. Example 4. Assume the same facts as in Example 3. except that the terms of each option granted under an offering provide that the maximum number of shares that may be purchased by any employee's annual salary (determined as of January 1 of the year in which the offering commences) divided by the fair market value of the stock on the first day of the offering. The maximum number of shares that can be purchased under the option is fixed and determinable on the first day of the offering must, by its terms, provide that no employee may be permitted to purchase stock under all the employee stock purchase plans of the employee is outstanding at any time. In applying the foregoing limitation (i) The right to purchase stock under an option accrues when the option, but in no case may such rate exceed \$25,000 of fair market value of such stock under an option accrues at the rate provided in the option, but in no case may such rate exceed \$25,000 of fair market value of such stock under an option accrues at the rate provided in the option, but in no case may such rate exceed \$25,000 of fair market value of such stock under an option accrues at the rate provided in the option (or any portion thereof) first becomes exercisable during the calendar year; (ii) The right to purchase stock under an option accrues at the rate provided in the option (or any portion thereof) first becomes exercisable during the calendar year; (ii) The right to purchase stock under an option accrues at the rate provided in the option (or any portion thereof) first becomes exercisable during the calendar year; (ii) The right to purchase stock under an option accrues at the rate provided in the option (or any portion thereof) first becomes exercisable during the calendar year; (ii) The right to purchase stock under an option accrues at the rate provided in the option (or any portion thereof) first becomes exercisable during the calendar year; (ii) The right to purchase stock under an option accrues at the rate provided in the option (or any portion thereof) first becomes exercisable during the calendar year; (ii) The right to purchase stock under an option (or any portion thereof) first becomes exercisable during the calendar year; (ii) The right to purchase stock under an option (or any portion thereof) first becomes exercisable during the calendar year; (ii) The right to purchase stock under an option (or any portion thereof) first becomes exercisable during the calendar year; (ii) The right to purchase stock under an option (or any portion thereof) first becomes exercisable during the calendar year; (ii) The right to purchase stock under an option (or any portion thereof) first becomes exercisab (determined at the time such option is granted) for any one calendar year; and (iii) A right to purchase stock that has accrued under one option. (2) If an option is granted under an employee stock purchase plan that satisfies the requirement of this paragraph (i), but the option gives the optionee the right to buy stock in excess of the maximum rate allowable under this paragraph (i), then no portion will be treated as having been granted to an employee stock purchase plan. Furthermore, if the option will be treated as having been granted under the terms of the plan or offering, and the employee is not granted an option under the offering will be eligible for the special tax treatment of section 421. (printed page 59085) (3) The limitation of this paragraph (i) applies only to options granted under employee stock purchase plans and does not limit the amount of stock that an employee may purchase under options to which section 423 does not apply will not limit the amount that an employee may purchase under an employee stock purchase plan, except for purposes of the 5-percent stock ownership provision of paragraph (d) of this section. (4) Under the limitation of this paragraph (i), an employee may purchase under an employee stock purchase plan, except for purposes of the 5-percent stock ownership provision of paragraph (d) of this section. value of the stock at the time the option was granted) in each calendar year during which an option granted to the employee may purchase more than \$25,000 of stock (based on the fair market value of such stock at the time the option was granted) in a calendar year. so long as the total amount of stock that the employee purchases does not exceed \$25,000 in fair market value of the stock (determined at the time the option was outstanding. If, in any calendar year in which any options granted under employee stock purchase plans of the employer corporation, or a related corporation, then the employee's purchases of stock attributable to that year under all options granted under employee stock purchase plans, an employee may not purchase stock in anticipation that the option will be outstanding in some future year. Thus, the employee may purchase and for preceding years during which the option was outstanding. Thus, the amount of stock that may be purchased under an option depends on the number of years in which the option is actually outstanding. The amount of stock that may be purchased under an employee stock purchased under an earlier option. For example, if an option is granted to an individual and expires without having been exercised at all, then the failure to exercise the option does not increase the amount of stock which such individual may be permitted to purchase under an employee stock. purchase plan is outstanding in more than one calendar year, then stock purchased pursuant to the exercise of such an option will be applied first, to the extent allowable under this paragraph (i), against the \$25,000 limitation for the earliest year in which the option was outstanding, then, against the \$25,000 limitation for each succeeding year, in order. (5) Examples. The following examples illustrate the principles of this paragraph (i): Example 1. Assume that Corporation DD maintains an employee S is employee by DD. On June 1, 2010, DD grants S an option under the plan to purchase a total of 750 shares of DD stock at \$85 per share. On that date, the fair market value of DD stock is \$100 per share. The option must not permit S to purchase more than 250 shares of DD stock during the calendar year 2010, because 250 shares are equal to \$25,000 in fair market value of DD stock determined at the time of grant. During the calendar year 2011, S may purchase under the option an amount of DD stock (determined at the time the option) purchased during the year 2010. During the calendar year 2012, S may purchase an amount of DD stock equal to the difference between \$75,000 in fair market value of the stock (determined at the time of grant of the option) purchased under the option during the calendar years 2010 and 2011. S may purchase \$25,000 of stock for the year 2010, and \$25,000 of stock for the years. However, S may not be granted another option under an employee stock purchase plan of DD or a related corporation to purchase stock of DD or a related corporation during the calendar years 2010, 2011, and 2012, so long as the option granted June 1, 2010, is outstanding. Example 2. Assume the same facts as in Example 1, except that the option granted to S in 2010 is terminated in 2011 without any part of the option having been exercised, and that subsequent to the termination and during 2011, S is granted another option under DD's employee stock for 2011. The failure of S to exercise the option granted to S in 2010, does not increase the amount of stock that S may be permitted to purchase plan. Under that option, S may be permitted to S in 2011. Example 3. Assume the same facts as in Example 1, except that, on May 31, 2012, S exercised the option granted to S in 2010, and purchased 600 shares of DD stock. Five hundred shares, the maximum amount of stock that could have been purchased for the years 2010 and 2011. Only 100 shares of the stock are treated as having been purchased for 2012. After S's exercise of the option on May 31, 2012, S is granted another option is granted another option is granted. Example 4 to stock having a fair market value of no more than \$15,000 at the time the new option is granted. Corporation EE maintains an employee stock purchase plan and Employee R is employee R is employee R is employee to be stock at \$85 per share during each of the calendar years 2010, 2011, and 2012. On that date, the fair market value of EE stock is \$100 per share. The option provides that it may be exercised at any time during years 2010, 2011, and 2012. Because this option permits R to purchase only \$15,000 of EE's stock for each year the option is outstanding, R could be granted another option by EE, or by a related corporation, in year 2010, permitting R to purchase an additional \$10,000 of stock during each of the calendar years 2010, 2011, and 2012. Example 5. Corporation FF maintains an employee stock purchase plan and Employee Q is employee A is employee by FF. On September 1, 2010, FF grants Q an option under the plan that will be automatically exercised on August 31, 2011, and August 31, 2012. The terms of the option provide that no more than 150 shares may be purchased on each date that the option is automatically exercised. On August 31, 2011, Q may purchase under the option an amount of FF stock (determined at the time the option an amount of FF stock equal to the difference between \$75,000 in fair market value of Q stock (determined at the time of grant of the option) purchased during year 2011. (j) Restriction on transferability. An employee stock purchase plan or offering must, by its terms, provide that options granted under the plan are not transferable by the optionee other than by will or the laws of descent and distribution, and must be exercisable, during the optionee's lifetime, only by the section 424(h)(3). (k) Special rule where option price is between 85 percent and 100 percent of value of stock (1)(i) If all the conditional rules that are applicable in cases where, at the time the option is granted, the option price per share is less than 100 percent (but not less than 85 percent) of the fair market value of the share. In that case, upon the employee's death while owning the share (whether occurring before or after the expiration of such periods), there shall be included in the employee's gross income as compensation (and not as gain upon the sale or exchange of a capital asset) the lesser of (A) The amount, if any, by which the price paid under the option was exceeded by the fair market value of the share at the time of such disposition or death. (ii) For purposes of applying the rules of this paragraph (k), if the option price is not fixed or determinable at the time the option price is not fixed or determinable at the time the option price is not fixed or determinable at the time the option price will be computed as if the option had been exercised at such time. The amount of compensation resulting from the application of this paragraph (k) shall be included in the employee's gross income for the taxable year in which the employee's death, whichever event results in the application of this paragraph (k). (iii) The application of the special rules provided in this paragraph (k) shall not affect the rules provided in section 421(a) with respect to the employee exercising the option, the employee at the time the stock is transferred to the employee, and no deduction under section 162 is allowable at any time to the employee exercises an option granted under an employee stock purchase plan, but the employee dies before the stock is transferred to the employee stock purchase plan, but the employee stock purchase plan, but the employee dies before the stock is transferred to the employee stock purchase plan, but the employee stock purchase plan, but the employee dies before the stock is transferred to the employee stock purchase plan, but the employee dies before the stock is transferred to the employee dies before the stock is transferred to the employee stock purchase plan, but the employee dies before the stock is transferred to the employ e dies before the employee dies before dies before the emplo transferred to the employee pursuant to the employee of sections 421 and 423, on the employee's death, the stock is deemed to be transferred immediately thereafter, the employee is deemed to be transferred immediately thereafter, the employee is deemed to be transferred immediately thereafter, the employee is deemed to be transferred immediately thereafter, the employee is deemed to be transferred immediately thereafter, the employee is deemed to be transferred immediately thereafter, the employee is deemed to be transferred immediately thereafter, the employee is deemed to be transferred immediately thereafter, the employee is deemed to be transferred immediately thereafter, the employee is deemed to be transferred immediately thereafter, the employee is deemed to be transferred immediately thereafter, the employee is deemed to be transferred immediately thereafter, the employee is deemed to be transferred immediately thereafter, the employee is deemed to be transferred immediately thereafter, the employee is deemed to be transferred immediately thereafter, the employee is deemed to be transferred immediately thereafter, the employee is deemed to be transferred immediately thereafter, the employee is deemed to be transferred immediately thereafter, the employee is deemed to be transferred immediately thereafter, the employee is deemed to be transferred immediately thereafter, the employee is deemed to be transferred immediately thereafter, the employee is deemed to be transferred immediately thereafter, the employee is deemed to be transferred immediately thereafter, the employee is deemed to be transferred immediately thereafter, the employee is deemed to be transferred immediately thereafter, the employee is deemed to be transferred immediately thereafter, the employee immediately thereafter, the employee immediately thereafter, the employee immediately the emp by operation of law, heir, or legatee, as the case may be. (2) If the special rules provided in this paragraph (k) are applicable to the disposition, determined under section 1011, shall be increased by an amount equal to the amount includible as compensation in the employee's gross income under this paragraph (k). However, the basis of a share of stock acquired after the death of an employee stock purchase plan shall be determined in accordance with the rules of section 421(c) and 1.421-2(c). If the special rules provided in this paragraph (k) are applicable to a share of stock upon the decedent's death of an employee, then the basis of the estate or the person receiving the stock by bequest or inheritance shall be determined under section 1014, and shall not be increased by reason of the inclusion upon the decedent's death of an amount in the decedent's gross income under this paragraph (k). See Example (9) of this paragraph (k): Example 1. On June 1, 2010, Corporation GG grants to Employee P, an employee of GG, an option under GG's employee stock purchase plan to purchase a share of GG stock for \$85. The fair market value on that date GG transfers the share of stock to P. On January 1, 2013, P sells the share for \$150, its fair market value on that date. P's income tax return is filed on the basis of the calendar year. The income tax consequences to P and GG are as follows (i) Compensation in the amount of \$15 is includible in P's gross income for the year 2013, the year of the disposition of the share. The share includible in P's gross income for the year 2013, the year of the disposition of the share. the share on the date of disposition (\$150). For the purpose of computing P's gain or loss on the sale of the share, P's cost basis of \$85 is increased by \$15, the amount includible in P's gross income as compensation. Thus, P's basis for the share is \$100. Because the share was sold for \$150, P realizes a gain of \$50, which is treated as long-term capital gain; and (ii) GG is not entitled to any deduction under section 162 at any time with respect to the share transferred to P. Example 2. Assume the same facts as in Example 1, except that P sells the share of GG stock on January 1, 2014, for \$75, its fair market value on that date. Because \$75 is less than the option price (\$85), no amount in respect of the sale is includible as compensation in P's gross income for \$75, P realized a loss of \$10 on the sale that is treated as a long-term capital loss. Example 3. Assume the same facts as in Example 1, except that the option provides that the option price shall be 90 percent of the stock. On June 1, 2011, when the option is exercised, the fair market value of the stock is \$120 per share so that P pays \$108 for the share of the stock. Compensation in the amount of \$10 is includible in P's gross income for the year 2013, the year of the disposition (\$150) over the price paid for the share (\$108) is \$42; and the excess of the fair market value of the stock at the time the option was granted (\$100) over the option price, computed as if the option had been exercised at such time (\$90), is \$10. Accordingly, \$10, the lesser, is includible in gross income. In this situation, P's cost basis of \$108 is increased by \$10, the lesser, is includible in gross income as compensation. Thus, P's basis for the share is \$118. Because the share was sold for \$150, P realizes a gain of \$32 that is treated as long-term capital gain. Example 4. Assume the same facts as in Example 4. Assume the same facts as in Example 4. Assume the same facts as in Example 4. market value of the stock on the day the option is exercised. On June 1, 2011, when the option is exercised, the fair market value of the stock. Compensation in the amount of \$5 is includible in P's gross income for the stock is \$120 per share. P pays \$95 for the share of the stock is \$120 per share. following manner: The excess of the fair market value of the stock at the time of the stock at t \$5, the lesser, is includible in gross income. In this situation, P's cost basis of \$95 is increased by \$5, the amount includible in P's gross income as compensation. Thus, P's basis for the share is \$100. Because the share is \$100. Because the share is \$100. Because the share was sold for \$150, P realizes a gain of \$50 that is treated as long-term capital gain. Example 5. Assume the same facts as in Example 1, except that instead of selling the share on January 1, 2013, P makes a gift of the share on that day. In that case \$15 is includible in P's gross income as compensation. Thus, P's basis for the share is \$100, which becomes ( printed page 59087) the donee's basis, as of the time of the gift, for determining gain or loss. Example 6. Assume the same facts as in Example 2, except that instead of selling the share on that day (\$75) is less than the option price (\$85), no amount in respect of the disposition by way of gift is includible as compensation in P's gross income for 2014. P's basis for the share is \$85, which becomes the donee's basis for the purpose of determining gain. The donee's basis for the share at the date of gift). Example 7. Assume the same facts as in Example 1, except that after acquiring the share of stock on June 1, 2012, at which time the share of stock on June 1, 2012, at which time the share of stock on June 1, 2012, at which time the share has a fair market value of \$150. Compensation in the amount of \$15 is includible in P's gross income for the taxable year closing with P's death, \$15 being the difference between the option price (\$85) and the fair market value of the share when the option was granted (\$100), because such value is less than the fair market value at date of death (\$150). The basis of the share in the hands of P's estate is determined under section 1014 without regard to the \$15 includible in the decedent's gross income. Example 8.100), because such value is less than the fair market value at date of death (\$150). Assume the same facts as in Example 7, except that P dies on August 1, 2011, at which time the share has a fair market value of \$150. Although P's death occurred within one year after the transfer of the share to P, the income tax consequences are the same facts as in Example 1, except that the share of \$150. Although P's death occurred within one year after the transfer of the share to P, the income tax consequences are the same facts as in Example 1, except that the share of \$150. Although P's death occurred within one year after the transfer of the share to P, the income tax consequences are the same facts as in Example 1, except that the share of \$150. Although P's death occurred within one year after the transfer of the share to P, the income tax consequences are the same facts as in Example 1, except that the share of \$150. Although P's death occurred within one year after the transfer of the share to P, the income tax consequences are the same facts as in Example 1, except that the share of \$150. Although P's death occurred within one year after the transfer of the share to P, the income tax consequences are the same facts as in Example 1, except that the share of \$150. Although P's death occurred within one year after the transfer of the share to P, the income tax consequences are the same facts as in Example 1, except that the share of \$150. Although P's death occurred within one year after the transfer of the share to P, the income tax consequences are the same facts as in Example 1, except that the share of \$150. Although P's death occurred within one year after the transfer of \$150. Although P's death occurred within one year after the transfer of \$150. Although P's death occurred within one year after the transfer of \$150. Although P's death occurred within one year after the transfer of \$150. Although P's death occurred within one year after the transfer of \$150. Although P's death occurred within one year after the transfer of \$150. Although P's death occurred within one year after the transfer o stock was issued in the names of P and P's spouse jointly with right of survivorship, and that P and P's spouse sold the share on June 15, 2012, for \$150, its fair market value on that date. Compensation in the amount of \$15 is includible in P's gross income for the year 2012, the year of the disposition of the share in the hands of P and P's spouse for the purpose of determining gain or loss on the sale is \$100, that is, the cost of \$85 increased by the amount of \$15 includible as compensation in P's gross income. The gain of \$50 on the sale is treated as long-term capital gain, and is divided equally between P and P's spouse. Example 10. Assume the same facts as in Example 1, except that the share of stock was issued in the names of P and P's spouse jointly with right of survivorship, and that P predeceased P's spouse on August 1, 2012, at which time the share had a fair market value of \$150. Compensation in the amount of \$15 is includible in P's gross income for the taxable year closing with his death. See Example 7. The basis of the share in the hands of P's spouse as survivor is determined under section 1014 without regard to the \$15 includible in the decedent's gross income. Example 10, except that P's spouse. Upon the subsequent death of P on August 1, 2012, the income tax consequences in respect of P's taxable year closing with the date of P's death, and in respect of the basis of the share on July 15, 2012 (after the death of P's spouse), for \$150, its fair market value at that time, the lences would be the same as in Example 1. (1) Effective/applicability date. The regulations under this section are effective on November 17, 2009. The regulations under this section apply to options granted under an employee stock purchase plan on or after January 1, 2010. Par. 6. Section 1.424-1, paragraphs (a)(10) Example 9 (iii and (g)(1) are revised to read as follows: Inflation Adjusted Items for Certain YearsFor inflation adjustment of certain items in this section, see Internal Revenue Notices listed in a table under section, see Internal Revenue Notices listed in a table under section (v)(2)Pub. L. 117328, div. T, title I, 109, Dec. 29, 2022, 136 Stat. 5290, provided that, applicable to taxable years beginning after Dec. 31, 2024, subsection (v)(2) of this section is amended as follows:(1) in subparagraph (B)(A) in clause (i), by inserting the following before the period: (the adjusted dollar amount, in the case of an eligible participant who would attain age 60 but would not attain age 64 before the close of the taxable year); and(B) in clause (ii), by inserting the following before the period: (the adjusted dollar amount, in the case of an eligible participant who would attain age 60 but would not attain age 60 but would not attain age 64 before the close of the taxable year);(2) in subparagraph (C), by adding at the end the following: In the case of a year beginning after December 31, 2025, the Secretary shall adjust annually the adjusted dollar amounts applicable under clauses (i) and (ii) of subparagraph (E) for increases in the cost-of-living at the same time and in the same tim time and in the same tim tim t following new subparagraph: (E) Adjusted dollar amount For purposes of subparagraph (B), the adjusted dollar amount is(i) in the case of clause (i) of subparagraph (B), the greater of(I) \$10,000, or(II) an amount is(i) in the case of clause (i) of subparagraph (B), the greater of(I) \$10,000, or(II) an amount is(i) in the case of clause (i) of subparagraph (B), the adjusted dollar amount is(i) in the case of clause (i) of subparagraph (B), the greater of(I) \$10,000, or(II) an amount is(i) in the case of clause (i) of subparagraph (B), the greater of(I) \$10,000, or(II) an amount is(i) in the case of clause (i) of subparagraph (B), the greater of(I) \$10,000, or(II) an amount is(i) in the case of clause (i) of subparagraph (B), the greater of(I) \$10,000, or(II) an amount is(i) in the case of clause (i) of subparagraph (B), the greater of(I) \$10,000, or(II) an amount is(i) in the case of clause (i) of subparagraph (B), the greater of(I) \$10,000, or(II) an amount is(i) in the case of clause (i) of subparagraph (B), the greater of(I) \$10,000, or(II) an amount is(i) in the case of clause (i) of subparagraph (B), the greater of(I) \$10,000, or(II) an amount is(i) in the case of clause (i) of subparagraph (B), the greater of(I) \$10,000, or(II) an amount is(i) in the case of clause (i) of subparagraph (B), the greater of(I) \$10,000, or(II) an amount is(i) in the case of clause (i) of subparagraph (B), the greater of(I) \$10,000, or(II) an amount is(i) in the case of clause (i) of subparagraph (B), the greater of(I) \$10,000, or(II) an amount is(i) in the case of clause (i) of subparagraph (B), the greater of(I) \$10,000, or(II) an amount is(i) in the case of clause (i) of subparagraph (B), the greater of(I) \$10,000, or(II) an amount is(i) in the case of clause (i) of subparagraph (B), the greater of(I) \$10,000, or(II) an amount is(i) and the greater of(I) \$10,000, or(II) an amount is(i) and the greater of(I) \$10,000, or(II) an amount is(i) and the greater of(I) \$10,000, or(II) and the greater of(I) \$10,000, or(II) and the gre parenthetical in such clause, or(ii) in the case of clause (ii) of subparagraph (B), the greater of(I) \$5,000, or(II) an amount equal to 150 percent of the dollar amount which would be in effect under such clause for 2025 for eligible participants not described in the parenthetical in such clause. See 2022 Amendment notes below. References in TextThe Railroad Retirement Act of 1935 or 1937, referred to in subsec. (d), means act Aug. 29, 1935, ch. 812, 49 Stat. 867, known as the Railroad Retirement Act of 1935. The Railroad Retirement Act of 1935. The Railroad Retirement Act of 1937. The Railroad Retirement Act of 1937 was amended generally and redesignated the Railroad Retirement Act of 1974 by Pub. L. 93444, title I, Oct. 16, 1974, 88 Stat. 1305 and is classified generally to subchapter IV (231 et seq.) of Chapter 9 of Title 45, Railroads. For complete classification of this Act to the Code, see Tables. The International Organizations Immunities Act (59 Stat. 669), referred to in subsec. (d), is act Dec. 29, 1945, ch. 652, title I, 59 Stat. 669, which is classified principally to subchapter XVIII (288 et seq.) of chapter 7 of Title 22, Foreign Relations and Intercourse. The Act also amended several other laws including the Internal Revenue Code of 1939. For exemption from taxation of income of international organizations and of the compensation of employees thereof, see sections 892 and 893 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 288 of Title 22 and Tables. The Employee Retirement Income Security Act of 1974, referred to in subsecs. (f)(3), (5), (6)(B), (F), (l)(1), (2) (E), and (bb)(2)(B), (3), is Pub. L. 93406, Sept. 2, 1974, 88 Stat. 829, which is classified principally to chapter 18 (1001 et seq.) of Title 29, Labor. Title IV of the Act is classified principally to subchapter 18 (1001 et seq.) of Title 29, Labor. Title IV of the Act is classified principally to chapter 18 (1001 et seq.) of Title 29, Labor. Title IV of the Act is classified principally to subchapter III (1301 et seq.) of Title 29, Labor. Title IV of the Act is classified principally to subchapter 18 (1001 et seq.) of Title 29, Labor. Title IV of the Act is classified principally to subchapter 18 (1001 et seq.) of Title 29, Labor. Title IV of the Act is classified principally to subchapter 18 (1001 et seq.) of Title 29, Labor. Title IV of the Act is classified principally to subchapter 18 (1001 et seq.) of Title 29, Labor. Title IV of the Act is classified principally to subchapter 18 (1001 et seq.) of Title 29, Labor. Title IV of the Act is classified principally to subchapter 18 (1001 et seq.) of Title 29, Labor. Title IV of the Act is classified principally to subchapter 18 (1001 et seq.) of Title 29, Labor. Title IV of the Act is classified principally to subchapter 18 (1001 et seq.) of Title 29, Labor. Title IV of the Act is classified principally to subchapter 18 (1001 et seq.) of Title 29, Labor. Title IV of the Act is classified principally to subchapter 18 (1001 et seq.) of Title 29, Labor. Title IV of the Act is classified principally to subchapter 18 (1001 et seq.) of Title 29, Labor. Title IV of the Act is classified principally to subchapter 18 (1001 et seq.) of Title 29, Labor. Title IV of the Act is classified principally to subchapter 18 (1001 et seq.) of Title 29, Labor. Title IV of the Act is classified principally to subchapter 18 (1001 et seq.) of Title 29, Labor. Title IV of the Act is classified principally to subchapter 18 (1001 et seq.) of Title 29, Labor. Title IV of the Act is classified principally to subchapter 18 (1001 et seq.) of Title 29, Labor. Title IV of the Act is classifie 1031(c), respectively, of Title 29. Section 4403(b) and (c) of the Employee Retirement Income Security Act of 1974 probably means section 1453(b) and (c) of Title 29 and Tables. The date of the enactment of the Multiemployer Pension Plan Amendments Act of 1980, referred to in subsec. (f)(4), (5), means the date of the Multiemployer Pension Plan Amendments Act of 1980, referred to in subsec. (f)(5), probably means the date of enactment of Pub. L. 96364, which was approved Sept. 26, 1980. Effective date of the enactment of Pub. L. 96364, which was approved Sept. 26, 1980. Effective date of the Multiemployer Pension Plan Amendments Act of 1980, referred to in subsec. (f)(5), probably means the date of the enactment of Pub. L. 96364, which was approved Sept. 26, 1980. Effective date of the Multiemployer Pension Plan Amendments Act of 1980, referred to in subsec. (f)(5), probably means the date of the Multiemployer Pension Plan Amendments Act of 1980, referred to in subsec. (f)(5), probably means the date of the Multiemployer Pension Plan Amendments Act of 1980, referred to in subsec. (f)(5), probably means the date of the Multiemployer Pension Plan Amendments Act of 1980, referred to in subsec. (f)(5), probably means the date of the Multiemployer Pension Plan Amendments Act of 1980, referred to in subsec. (f)(5), probably means the date of the Multiemployer Pension Plan Amendments Act of 1980, referred to in subsec. (f)(5), probably means the date of the Multiemployer Pension Plan Amendments Act of 1980, referred to in subsec. (f)(5), probably means the date of the Multiemployer Pension Plan Amendments Act of 1980, referred to in subsec. (f)(5), probably means the date of the Multiemployer Pension Plan Amendments Act of 1980, referred to in subsec. (f)(5), probably means the date of the Multiemployer Pension Plan Amendments Act of 1980, referred to in subsec. (f)(5), probably means the date of the Multiemployer Pension Plan Amendments Act of 1980, referred to in subsec. (f)(5), probably means the date of the Multiemployer Pension Plan Amendments Act of 1980, referred to in subsec. (f)(5), probably means the date of the Multiemployer Pension Plan Amendments Act of 1980, referred to in subsec. ( the Multiemployer Pension Plan Amendments Act of 1980, which was approved Sept. 26, 1980. The Pension Protection Act of 2006, referred to in subsecs. (f)(6)(A) and (y)(1)(A), (3)(B), is Pub. L. 109280, Aug. 17, 2006, 120 Stat. 780. Section 104 of the Act is set out as a note under section 401 of this title. For complete classification of this Act to the Code, see Short Title of 2006 Amendment note set out under section 1001 of Title 29, Labor, and Tables. Section 403(b)(7)(A)(ii), referred to in subsec. (u)(12)(B)(i), probably means section 403(b)(7)(A)(ii), referred to in subsec. (u)(12)(B)(i), referred to i Medicare Beneficiaries and Pension Relief Act of 2010, referred to in subsec. (y)(1)(A)(ii), (3)(B), is Pub. L. 11192, June 25, 2010, 124 Stat. 1280. For complete classification of this Act to the Code, see Short Title of 2010 Amendment note set out under section 1001 of Title 29, Labor, and Tables. Amendments2022Subsec. (b). Pub. L. 117328, 315(a) (1), designated existing provisions as par. (1), inserted heading, and added par. (2).Subsec. (m)(6)(B). Pub. L. 117328, 315(a)(2)(C), substituted apply, except that community property laws shall be disregarded for purposes of determining ownership for apply.Subsec. (p)(1)(B). Pub. L. 117328, 339(a)(2), inserted concluding provisions.Subsec. (p)(1)(B)(i). Pub. L. 117328, 109(a)(1), inserted concluding provisions.Subse attain age 60 but would not attain age 64 before the close of the taxable year). Subsec. (v)(2)(B)(ii). Pub. L. 117328, 117(b)(1)(A), substituted except as provided in clause (iii), the applicable. Pub. L. 117328, 117(b)(1)(A), substituted except as provided in clause (iii), the applicable for the taxable year). 60 but would not attain age 64 before the close of the taxable year). Subsec. (v)(2)(B)(iii). Pub. L. 117328, 117(b)(2), designated existing provisions as cl. (i), inserted heading, and added cl. (ii). Pub. L. 117328, 117(b)(2), designated existing provisions as cl. (i), inserted heading, and added cl. (iii). Subsec. (v)(2)(C). Pub. L. 117328, 117(b)(2), designated existing provisions as cl. (i), inserted heading, and added cl. (iii). Subsec. (v)(2)(C). Pub. L. 117328, 117(b)(2), designated existing provisions as cl. (i), inserted heading, and added cl. (iii). Subsec. (v)(2)(C). Pub. L. 117328, 117(b)(2), designated existing provisions as cl. (i), inserted heading, and added cl. (iii). Subsec. (v)(2)(C). Pub. L. 117328, 117(b)(2), designated existing provisions as cl. (i), inserted heading, and added cl. (iii). Subsec. (v)(2)(C). Pub. L. 117328, 117(b)(2), designated existing provisions as cl. (i), inserted heading, and added cl. (iii). Subsec. (v)(2)(C). Pub. L. 117328, 117(b)(2), designated existing provisions as cl. (i), inserted heading, and added cl. (iii). Subsec. (v)(2)(C). Pub. L. 117328, 117(b)(2), designated existing provisions as cl. (i), inserted heading, and added cl. (iii). Subsec. (v)(2)(C). Pub. L. 117328, 117(b)(2), designated existing provisions as cl. (i), inserted heading, and added cl. (iii). Subsec. (v)(2)(C). Pub. L. 117328, 117(b)(2), designated existing provisions as cl. (i), inserted heading, and added cl. (iii). Subsec. (v)(2)(C). Pub. L. 117328, 117(b)(2), designated existing provisions as cl. (i), inserted heading, and added cl. (iii). Subsec. (v)(2)(C). Pub. L. 117328, 117(b)(2), designated existing provisions as cl. (i), inserted heading, and added cl. (iii). Subsec. (v)(2)(C). Pub. L. 117328, 117(b)(2), designated existing provisions as cl. (i), inserted heading, and added cl. (iii). Pub. L. 117328, 117(b)(2), designated existing provisions as cl. (i), inserted heading, and added cl. (iii). Pub. L. 117328, 117(b)(2), designated existing provisions as cl. (i), inserted heading, ad the Secretary shall adjust annually the adjusted dollar amounts applicable under clauses (i) and (ii) of subparagraph (E) for increases in the cost-of-living at the same time and in the same manner as adjustments under the preceding sentence; except that the base period taken into account shall be the calendar quarter beginning July 1, 2024. Subsec. (v)(2)(E). Pub. L. 117328, 109(b), added subsec. (v)(7). Pub. L. 117328, 603(a), added par. (7). Subsec. (v)(1), added subsec. (b). Pub. L. 117328, 320(b), added subsec. (cc). 2020Subsec. (v)(1)(D). Pub. L. 116136 added subpar. (D). 2018Subsec. (cc). Pub. L. 117328, 350(a), added subsec. (v)(7). Pub. L. 117328, 301(b)(1), added subsec. (b). Pub. L. 117328, 320(b), added subsec. (cc). 2020Subsec. (v)(1)(D). Pub. L. 117328, 301(b)(1), added subsec. (cc). 2020Subsec. (v)(7). Pub. L. 117328, 320(b), added subsec. (cc). 2020Subsec. (v)(7). Pub. L. 117328, 320(b), added subsec. (v)(7). Pub. L. 117328, 320(b), added subsec. (b). Pub. L. 117328, 320(b), added subsec. (cc). 2020Subsec. (v)(7). Pub. L. 117328, 320(b), added subsec. (cc). 2020Subsec. (v)(7). Pub. L. 117328, 320(b), added subsec. (cc). 2020Subsec. (v)(7). Pub. L. 117328, 320(b), added subsec. (cc). 2020Subsec. (v)(7). Pub. L. 117328, 320(b), added subsec. (cc). 2020Subsec. (v)(7). Pub. L. 117328, 320(b), added subsec. (cc). 2020Subsec. (v)(7). Pub. L. 117328, 320(b), added subsec. (cc). 2020Subsec. (v)(7). Pub. L. 117328, 320(b), added subsec. (cc). 2020Subsec. (v)(7). Pub. L. 117328, 320(b), added subsec. (cc). 2020Subsec. (v)(7). Pub. L. 117328, 320(b), added subsec. (cc). 2020Subsec. (v)(7). Pub. L. 117328, 320(b), added subsec. (cc). 2020Subsec. (v)(7). Pub. L. 117328, 320(b), added subsec. (cc). 2020Subsec. (v)(7). Pub. L. 117328, 320(b), added subsec. (cc). 2020Subsec. (v)(7). Pub. L. 117328, 320(b), added subsec. (cc). 2020Subsec. (v)(7). Pub. L. 117328, 320(b), added subsec. (cc). 2020Subsec. (v)(7). Pub. L. 117328, 320(b), added subsec. (v)( (1)(2)(G). Pub. L. 115141, 401(a)(87), substituted depository instituted depository instituted section 457(b)). Fub. L. 115141, 401(a)(88), substituted is for are. Subsec. (y)(1)(C)(i). Pub. L. 115141, 401(a)(90), struck out of such Code after section 501(c)(3). Subsection 457(b)). Subsec. (y)(1)(C)(i). Pub. L. 115141, 401(a)(87), substituted is for are. Subsec. (y)(1)(C)(i). Pub. L. 115141, 401(a)(87), substituted is for are. Subsec. (y)(1)(C)(i). Pub. L. 115141, 401(a)(87), substituted is for are. Subsec. (y)(1)(C)(i). Pub. L. 115141, 401(a)(87), substituted is for are. Subsec. (y)(1)(C)(i). Pub. L. 115141, 401(a)(87), substituted is for are. Subsec. (y)(1)(C)(i). Pub. L. 115141, 401(a)(87), substituted is for are. Subsec. (y)(1)(C)(i). Pub. L. 115141, 401(a)(87), substituted is for are. Subsec. (y)(1)(C)(i). Pub. L. 115141, 401(a)(87), substituted is for are. Subsec. (y)(1)(C)(i). Pub. L. 115141, 401(a)(87), substituted is for are. Subsec. (y)(1)(C)(i). Pub. L. 115141, 401(a)(87), substituted is for are. Subsec. (y)(1)(C)(i). Pub. L. 115141, 401(a)(87), substituted is for are. Subsec. (y)(1)(C)(i). Pub. L. 115141, 401(a)(87), substituted is for are. Subsec. (y)(1)(C)(i). Pub. L. 115141, 401(a)(87), substituted is for are. Subsec. (y)(1)(C)(i). Pub. L. 115141, 401(a)(87), substituted is for are. Subsec. (y)(1)(C)(i). Pub. L. 115141, 401(a)(87), substituted is for are. Subsec. (y)(1)(C)(i). Pub. L. 115141, 401(a)(87), substituted is for are. Subsec. (y)(1)(C)(i). Pub. L. 115141, 401(a)(87), substituted is for are. Subsec. (y)(1)(C)(i). Pub. L. 115141, 401(a)(87), substituted is for are. Subsec. (y)(1)(C)(i). Pub. L. 115141, 401(a)(87), substituted is for are. Subsec. (y)(1)(C)(i). Pub. L. 115141, 401(a)(87), substituted is for are. Subsec. (y)(1)(C)(i). Pub. L. 115141, 401(a)(87), substituted is for are. Subsec. (y)(1)(C)(i). Pub. L. 115141, 401(a)(87), substituted is for are. Subsec. (y)(1)(C)(i). Pub. L. 115141, 401(a)(87), substituted is for are. Subsec. (y)(1)(C)(i). Pub. L. 115141, 401(a)(87), substitu (y)(2). Pub. L. 115141, 401(a)(91), substituted subparagraphs for subparagraph.2015Subsec. (c). Pub. L. 114113, 336(a)(1), added subsec. (c). Pub. L. 114113, added subsec. (c). Pub. L. 114113 (z).2014Subsec. (n)(3)(C). Pub. L. 113295, 221(a)(19)(B)(i), struck out 120, after 117(d), Subsec. (v)(2)(B)(i), struck ou and thereafter for an applicable employer plan other than a plan described in section 401(k)(11) or 408(p), respectively. Subsec. (y). Pub. L. 113235, 3(b)(1), added subpar. (C). Subsec. (y)(2). Pub. L. 113235, 3(b)(2), substituted subparagraph (B) and (C) of paragraph (1) for paragraph (1)(B).Subsec. (y)(3). Pub. L. 11397, 203(a), added par. (3).2008Subsec. (l)(2)(B)(i)(I). Pub. L. 110458, 101(d)(2)(E), amended subcl. (I) read as follows: the amount determined under section 431(c)(6)(A)(i) in the case of a multiemployer plan (and the sum of the funding shortfall and target normal cost determined under section 430 in the case of any other plan), over. Subsec. (1)(2)(G). Pub. L. 110289, 1604(b)(4), which directed substitution of bridge depository institution for bridge depository institution for bridge bank, was executed by making the substitution wherever appearing in text, to reflect the probable intent of Congress.Subsec. (u). Pub. L. 110245, 105(b)(1)(B), inserted and to differential wage payments to members on active duty after USERRA in heading.Subsec. (u)(9) to (11). Pub. L. 110245, 105(b)(1)(A), added par. (9) and redesignated former pars. (9) and (10) as (10) and (11), respectively.Subsec. (u)(12). Pub. L. 110245, 105(b)(1)(A), added par. (9) and redesignated former pars. (9) and (10) as (10) and (11), respectively.Subsec. (u)(2). Pub. L. 110245, 105(b)(1)(A), added par. (9) and redesignated former pars. (9) and (10) as (10) and (11), respectively.Subsec. (u)(2). Pub. L. 110245, 105(b)(1)(A), added par. (9) and redesignated former pars. (9) and (10) as (10) and (11), respectively.Subsec. (u)(2). Pub. L. 110245, 105(b)(1)(A), added par. (9) and redesignated former pars. (9) and (10) as (10) as (10) and (11), respectively.Subsec. (u)(2). Pub. L. 110245, 105(b)(1)(A), added par. (9) and redesignated former pars. (9) and (10) as (10) and (11), respectively.Subsec. (u)(2). Pub. L. 110245, 105(b)(1)(A), added par. (9) and redesignated former pars. (9) and (10) as (10) and (11), respectively.Subsec. (u)(2). Pub. L. 110245, 105(b)(1)(A), added par. (9) and redesignated former pars. (9) and (10) as (10) and (11), respectively.Subsec. (u)(2). Pub. L. 110245, 105(b)(1)(A), added par. (9) and redesignated former pars. (9) and (10) as (10) and (11), respectively.Subsec. (u)(2). Pub. L. 110245, 105(b)(1)(A), added par. (9) and (10) as (10) and (10) as ( (12).Subsec. (w)(3)(B) to (D). Pub. L. 110458, 109(b)(4), inserted and after comma at end of subpar. (B), redesignated subpar. (C) which read as follows: under which, in the absence of an investment election by the participant, contributions described in accordance with regulations prescribed by the Secretary of Labor under section 404(c)(5) of the Employee Retirement Income Security Act of 1974, and Subsec. (w)(6). Pub. L. 110458, 109(b)(6), inserted or for purposes of applying the limitation under section 402(g)(1) before period at end.Subsec. (x)(1). Pub. L. 110458, 109(c)(1), inserted at end In the case of a termination of the defined benefit plan and the applicable defined contribution plan forming part of an eligible combined plan, the plan administrator shall terminate each such plan administrator shall terminate each of a termination of the defined benefit plan administrator shall terminate each of a terminate each such plan administrator shall terminate each such plan administrator shall terminate each of a terminate each of a terminate each of a termination of the defined benefit plan administrator shall terminate each such plan administrator shall terminate each the 3 plan years immediately preceding the first plan year for which the election under this paragraph is effective with respect to the plan, for for each of the 3 plan years immediately before the date of enactment of the Pension Protection Act of 2006, Subsec. (f)(6)(B). Pub. L. 11028, 6611(a)(2)(B), substituted starting with any plan year beginning on or after January 1, 1999, and ending before January 1, 2008, as designated by the plan in the election made under subparagraph (A)(ii) for starting with the first plan year ending after the date of the enactment of the Pension Protection Act of 2006. Subsec. (f)(6)(E). Pub. L. 11028, 6611(b)(2), substituted if it is a plan sponsored by an organization which is described in section 501(c)(5) and exempt from tax under section 501(a) and which was established in Chicago, Illinois, on August 12, 1881; and(ii) sponsored by an organization described in section 501(c)(5) and exempt from tax under section 501(a). Subsec. (f) (6)(F). Pub. L. 11028, 6611(a)(2)(C), added subpar. (F).2006Subsec. (d). Pub. L. 109280, 906(a)(1), inserted at end The term governmental plan includes a plan which is established and maintained by an Indian tribal governmental plan includes a plan which is established and maintained by an Indian tribal governmental plan includes a plan which is established and maintained by an Indian tribal governmental plan includes a plan which is established and maintained by an Indian tribal governmental plan includes a plan which is established and maintained by an Indian tribal governmental plan includes a plan which is established and maintained by an Indian tribal governmental plan includes a plan which is estable by an Indian tribal governmental plan includes a plan which is estable by an Indian tribal governmental plan includes a plan which is estable by an Indian tribal governmental plan includes a plan which is estable by an Indian tribal governmental plan includes a plan which is estable by an Indian tribal governmental plan includes a plan which is estable by an Indian tribal governmental plan includes a plan which is estable by an Indian tribal governmental plan includes a plan which is estable by an Indian tribal governmental plan includes a plan which is estable by an Indian tribal governmental plan includes a plan which is estable by an Indian tribal governmental plan includes a plan which is estable by an Indian tribal governmental plan includes a plan which is estable by an Indian tribal governmental plan includes a plan which is estable by an Indian tribal governmental plan includes a plan which is estable by an Indian tribal governmental plan includes a plan which is estable by an Indian tribal governmental plan includes a plan which is estable by an Indian tribal governmental plan includes a plan which is estable by an Indian tribal governmental plan includes a plan which is estable by an Indian tribal governmental plan includes a plan which is estable by an Indian tribal governmental plan includes a pla 7871(d)), or an agency or instrumentality of either, and all of the participants of which are employees of such entity substantially all of whose services as such an employee are in the performance of essential government function). Subsec. (f)(6) Pub. L. 109280, 1106(b), added par. (6).Subsec. (h)(2). Pub. L. 109280, 906(b)(1)(C), inserted or a governmental plan described in the last sentence of section 414(d) (relating to plans of Indian tribal governmental plan described in the last sentence of section 414(d) (relating to plans of Indian tribal governmental plan described in the last sentence of section 414(d) (relating to plans of Indian tribal governmental plan described in the last sentence of section 414(d) (relating to plans of Indian tribal governmental plan described in the last sentence of section 414(d) (relating to plans of Indian tribal governmental plan described in the last sentence of section 414(d) (relating to plans of Indian tribal governmental plan described in the last sentence of section 414(d) (relating to plans of Indian tribal governmental plan described in the last sentence of section 414(d) (relating to plans of Indian tribal governmental plan described in the last sentence of section 414(d) (relating to plans of Indian tribal governmental plan described in the last sentence of section 414(d) (relating to plans of Indian tribal governmental plan described in the last sentence of section 414(d) (relating to plans of Indian tribal governmental plan described in the last sentence of section 414(d) (relating to plans of Indian tribal governmental plan described in the last sentence of section 414(d) (relating to plans of Indian tribal governmental plan described in the last sentence of section 414(d) (relating to plans of Indian tribal governmental plan described in the last sentence of section 414(d) (relating to plans of Indian tribal governmental plan described in the last sentence of section 414(d) (relating to plans of Indian tribal governmental plan described in the last sentence of section 414(d) (relating to plans of Indian tribal governmental plan described in the last sentence of section 414(d) (relating to plans of Indian tribal governmental plan described in the last sentence of section 414(d) (relating to plans of Ind follows: the amount determined under section 412(c)(7)(A)(i) with respect to the plan, over. Subsec. (w). Pub. L. 109280, 902(d)(1), added subsec. (x). 2004Subsec. (x). Pub. L. 109280, 903(a), added subsec. (x). Pub. L. 109280, 902(d)(1), added subsec. (x). Pub. L. 109280, 903(a), added subsec. (x). Pub. L. 109280, 902(d)(1), added subsec. (x). Pub. L. 109280, 902(d)(1), added subsec. (x). Pub. L. 109280, 902(d)(1), added subsec. (x). Pub. L. 109280, 903(a), added subsec. (x). Pub. L. 109280, 902(d)(1), added subsec. (x). Pub. L. 109280, 903(a), added subsec. (x). Pub. L. 10 (v)(3)(A)(i). Pub. L. 107147, 411(o)(4), substituted section 402(g), 402(h), 403(b), 408(k), 408(p), 415(c), and 457(b)(2) (determined without regard to section 401(a)(4), 404(h), 403(b), 403(b), 404(a), 404(h), 403(b), 403(b), 403(b), 403(b), 404(a), 404(h), 403(b), 408(k), 410(b), or 416 for section 401(a)(4), 401(a)(26), 401(k)(3), 401(k)(11), 403(b)(12), 408(k), 408(p), 408(p), 408(k), 408(p), 408(p), 408(p), 401(a)(26), 401(k)(12), 403(b)(12), 403transition period with respect to such plan (as determined under clause (ii) of such section). Subsec. (v)(5). Pub. L. 107147, 411(o)(7)(B), amended subpar. (A) generally. Prior to amendment, subpar (A) read as follows: who has attained the age of 50 before the close of the plan year, and.Subsec. (v)(5)(B). Pub. L. 107147, 411(o)(7)(C), substituted plan (or other applicable) year for plan year. Subsec. (v)(6)(C). Pub. L. 107147, 411(o)(7)(C), substituted plan (or other applicable) year for plan year. Subsec. (v)(5)(B). Pub. L. 107147, 411(o)(7)(C), substituted plan (or other applicable) year for plan year. Subsec. (v)(6)(C). Pub. L. 107147, 411(o)(7)(C), substituted plan (or other applicable) year for plan year. Subsec. (v)(6)(C). Pub. L. 107147, 411(o)(7)(C), substituted plan (or other applicable) year for plan year. Subsec. (v)(6)(C). Pub. L. 107147, 411(o)(7)(C), substituted plan (or other applicable) year for plan year. Subsec. (v)(6)(C). Pub. L. 107147, 411(o)(7)(C), substituted plan (or other applicable) year for plan year. Subsec. (v)(6)(C). Pub. L. 107147, 411(o)(7)(C), substituted plan (or other applicable) year for plan year. Subsec. (v)(6)(C). Pub. L. 107147, 411(o)(7)(C), substituted plan (or other applicable) year for plan year. Subsec. (v)(6)(C). Pub. L. 107147, 411(o)(7)(C), substituted plan (or other applicable) year for plan year. Subsec. (v)(6)(C). Pub. L. 107147, 411(o)(7)(C), substituted plan (or other applicable) year for plan year. Subsec. (v)(6)(C). Pub. L. 107147, 411(o)(7)(C), substituted plan (or other applicable) year for plan year. Subsec. (v)(6)(C). Pub. L. 107147, 411(o)(7)(C), substituted plan (or other applicable) year for plan year. Subsec. (v)(6)(C). Pub. L. 107147, 411(o)(7)(C), substituted plan (or other applicable) year for plan year. Subsec. (v)(6)(C). Pub. L. 107147, 411(o)(7)(C), substituted plan (or other applicable) year for plan year. Subsecc. (v)(6)(C). Pub. L. 107147, 411(o)(7)(C), substituted plan (or other applicable) year for plan year. Subsecc. (v)(6)(C)(C) (or other applicable) year for plan year. Subsecc. (v)(6)(C)(C)(C) (or other applicable) year for plan year. Subsecc. (v)(6)(C)(C)(C)(C)(C) (or other applicable) year for plan year. Subsecc. (v)(6)(C)(C)(C)(C)(C)(C)( shall not apply to an applicable employer plan described in subparagraph (A)(iii) for any year to which section 457(b)(3) applies.2001Subsec. (p)(10). Pub. L. 10716, 635(b), substituted section 409(d), and section 457(d) for and section 409(d). Subsec. (p)(11). Pub. L. 10716, 635(a), in heading substituted certain other plans for governmental and church plans and in text inserted or an eligible deferred compensation plan (within the meaning of section 457(b)) after subsection (e)). Subsec. (v). Pub. L. 10716, 631(a), added par. (12) and redesignated former par. (12) as (13). Subsec. (v). 2000Subsec. (v) In general. An employee of a church or a convention of churches shall include a duly ordained, commissioned, or licensed minister of a church who, in connection with the exercise of his or her ministry(I) is a self-employed individual (within the meaning of section 401(c)(1)(B)), or(II) is employed by an organization other than an organization described in section 501(c)(3).(ii) Treatment as employee and employee.(I) Self-employed. A minister described in section 501(c)(3) and which is exempt from tax under section 501(a).(II) Others. A minister described in clause (i)(II) shall be treated as his or her own employee. (I) Self-employed. A minister described in clause (i)(II) shall be treated as his or her own employee which is an organization described in section 501(c)(3) and which is exempt from tax under section 501(c)(3).(II) Others. A minister described in clause (i)(II) shall be treated as his or her own employee. treated as employed by an organization described in section 501(c)(3) and exempt from tax under section 501(a).(C). Pub. L. 10534, 1522(a)(2), added subpar. (E).Subsec. (n)(3)(C). Pub. L. 10534, 1601(h)(2)(D)(i), inserted as employed by an organization described in section 501(a).(C). Pub. L. 10534, 1522(a)(1), substituted not otherwise participate. Subsec. (e)(5)(C). Pub. L. 10534, 1522(a)(2), added subpar. (E).Subsec. (a)(3)(C). Pub. L. 10534, 1522(a)(2), added subpar. (E).Subsec. (a)(3)(C). Pub. L. 10534, 1522(a)(2), added subpar. (E).Subsec. (b)(3)(C). Pub. L. 10534, 1522(a)(2), 1522(a137, after 132, Subsec. (q)(7), (9). Pub. L. 10534, 1601(d)(7), redesignated par. (7), relating to certain employees not considered highly compensated and excluded employees not considered highly compensated par. (7), relating to certain employees not considered highly compensated par. (7), relating to certain employees not considered highly compensated and excluded employees not considered highly compensated par. (7), relating to certain employees not considered highly compensated par. (7), relating to certain employees not considered highly compensated par. (7), relating to certain employees not considered highly compensated par. (7), relating to certain employees not considered highly compensated par. (7), relating to certain employees not considered highly compensated par. (7), relating to certain employees not considered highly compensated par. (7), relating to certain employees not considered highly compensated par. (7), relating to certain employees not considered highly compensated par. (7), relating to certain employees not considered highly compensated par. (7), relating to certain employees not considered highly compensated par. (7), relating to certain employees not considered highly compensated par. (7), relating to certain employees not considered highly compensated par. (7), relating to certain employees not considered highly compensated par. (7), relating to certain employees not considered highly compensated par. (7), relating to certain employees not considered highly compensated par. (7), relating to certain employees not considered highly compensated par. (7), relating to certain employees not considered highly compensated par. (7), relating to certain employees not considered highly compensated par. (7), relating to certain employees not considered highly compensated par. (7), relating to certain employees not considered highly compensated par. (7), relating to certain employees not considered highly compensate par. (7), relating to certain employees not constrain employees not constrain em inserted 408(p), after 408(k),.Subsec. (e)(5). Pub. L. 104188, 1461(a), added par. (5).Subsec. (m)(4)(B). Pub. L. 104188, 1421(b)(9)(C), inserted 408(p), after 408(k),.Subsec. (n)(2)(C). Pub. L. 104188, 1454(a), amended subpar. (C) generally. Prior to amendment, subpar. (C) read as follows: such services are of a type historically performed, in the business field of the recipient, by employees. Subsec. (n)(3)(B). Pub. L. 104188, 1421(b)(9)(C), inserted 408(p), after 408(k),. Subsec. (q)(1). Pub. L. 104188, 1431(a), amended par. (1) generally. Prior to amendment, par. (1) read as follows: In general. The term highly compensated employee means any employee who, during the year or the preceding year(A) was at any time a 5-percent owner,(B) received compensation from the employer in excess of \$50,000 and was in the top-paid group of employees for such year, or(D) was at any time an officer and received compensation greater than 50 percent of the amount in effect under section 415(b)(1)(A) for such year. The Secretary shall adjust the \$75,000 and \$50,000 amounts under this paragraph at the same time and in the same time and in the same time and in the same time and sfollows: (3) and (4) as (2) and (3), respectively, and struck out former par. (2) which read as follows: Special rule for current year. In the case of the year for which the relevant determination is being made, an employee not described in subparagraph (B), (C), or (D) of paragraph (1) unless such employee is a member of the group consisting of the 100 employees paid the greatest compensation during the year for which such determination is being made. Subsec. (q)(4). Pub. L. 104188, 1434(b)(1), amended heading and text of par. (4) generally. Prior to amendment, text read as follows: For purposes of this subsection(A) In general. The term compensation means compensation within the meaning of section 415(c)(3). (B) Certain provisions not taken into account. The determination under subparagraph (A) shall be made(i) without regard to sections 125, 402(e)(3), and 402(h)(1)(B), and(ii) in the case of employer contributions made pursuant to a salary reduction agreement, without regard to section 403(b).Pub. L. 104188, 1431(c)(1)(A), redesignated par. (7) as (4).Subsec. (q)(5). Pub. L. 104188, 1434(c)(1)(E), as amended by Pub. L. 105206, 6018(c), struck out under paragraph (4) or the number of officers taken into account under paragraph (5) after top-paid group in introductory provisions.Pub. L. 104188, 1431(c)(1)(A), redesignated par. (8) as (5) and struck out former par. (5) which read as follows: Special rules for treatment of officers.(A) Not more than 50 employees (or, if lesser, the greater of 3 employees or 10 percent of the employees) shall be treated as officers.(B) At least 1 officer taken into account. If for any year no officer of the employer is described in paragraph. (1)(D), the highest paid officer of the employer for such year shall be treated as described in such paragraph. Subsec. (q)(6). Pub. L. 104188, 1431(b)(1), (c)(1)(A), redesignated par. (9) as (6) and struck out former par. (6) which related to treatment of families of 5-percent owners or of the employer for such year shall be treated as described in such paragraph. highly compensated employees. Subsec. (q)(7). Pub. L. 104188, 1462(a), added par. (7) relating to certain employees not considered highly compensated and excluded employees not considered highly compensated and excluded employees not considered highly compensated and excluded employees. (q)(7). Pub. L. 104188, 1462(a), added par. (7) relating to certain employees not considered highly compensated and excluded employees. (q)(7). Pub. L. 104188, 1462(a), added par. (7) relating to certain employees not considered highly compensated and excluded employees. redesignated (4).Subsec. (q)(8) to (12). Pub. L. 104188, 1431(c)(1)(A), redesignated pars. (8) to (11) as (5) to (8), respectively, and struck out par. (12) which related to simplified method for determining highly compensated employees. (s)(2)(A). Pub. L. 104188, 1431(c)(1)(D), substituted subsection (q)(5) for subsection (q)(8). Subsec. (s)(2)(A). Pub. L. 104188, 1431(c)(1)(D), substituted subsection (q)(5) for subsection (q)(8). Subsec. (s)(2)(A). Pub. L. 104188, 1431(c)(1)(D), substituted subsection (q)(8). Subsec. (s)(2)(A). Pub. L. 104188, 1431(c)(1)(D), substituted subsection (q)(8). Subsec. (s)(2)(A). Pub. L. 104188, 1431(c)(1)(D), substituted subsection (q)(8). Subsec. (s)(2)(A). Pub. L. 104188, 1431(c)(1)(D), substituted subsection (q)(8). Subsec. (s)(2)(A). Pub. L. 104188, 1431(c)(1)(D), substituted subsection (q)(8). Subsec. (s)(2)(A). Pub. L. 104188, 1431(c)(1)(D), substituted subsection (q)(8). Subsec. (s)(2)(A). Pub. L. 104188, 1431(c)(1)(D), substituted subsection (q)(8). Subsec. (s)(2)(A). Pub. L. 104188, 1431(c)(1)(D), substituted subsection (q)(8). Subsec. (s)(2)(A). Pub. L. 104188, 1431(c)(1)(D), substituted subsection (q)(8). Subsec. (s)(2)(A). Pub. L. 104188, 1431(c)(1)(D), substituted subsection (q)(8). Subsec. (s)(2)(A). Pub. L. 104188, 1431(c)(1)(D), substituted subsection (q)(8). Subsec. (s)(2)(A). Pub. L. 104188, 1431(c)(1)(D), substituted subsection (q)(8). Subsec. (s)(2)(A). Pub. L. 104188, 1431(c)(1)(D), substituted subsection (q)(8). Subsec. (s)(2)(A). Pub. L. 104188, 1431(c)(1)(D), substituted subsection (q)(8). Subsec. (s)(2)(A). Pub. L. 104188, 1431(c)(1)(D), substituted subsection (q)(8). Subsec. (s)(2)(A). Pub. L. 104188, 1431(c)(1)(D), substituted subsection (q)(8). Subsec. (s)(2)(A). Pub. L. 104188, 1431(c)(1)(D), substituted subsection (q)(8). Subs substituted 402(e)(3) for 402(a)(8).1990Subsec. (n)(2)(B). Pub. L. 101508 struck out (6 months in the case of core health benefits) after 1 year.1989Subsec. (n)(3)(C). Pub. L. 101239, 7813(b), amended directory language of Pub. L. 100647, 3011(b)(4), see 1988 Amendment note below. Pub. L. 101140, 203(a)(6)(A), struck out 89, after 79, Subsec. (p) (10). Pub. L. 101239, 7811(m)(5), inserted section before 403(b).Subsec. (p)(11). Pub. L. 101140, 204(b)(2), substituted sections 89 and 410(b) for sections 129(d)(8) and 410(b) for section 410(b). Pub. L. 101140, 203(a)(6)(B), substituted section 410(b) for sections 89 and 410(b).Subsec. (t)(2). Pub. L. 101239, 7813(b), amended directory language of Pub. L. 100647, 3011(b)(5), see 1988 Amendment note below.Pub. L. 100647, 1011A(b)(3), inserted 72(d) (relating to treatment of employee contributions as separate contract), after purposes of sections. Subsec. (l). Pub. L. 100647, 2005(c)(1), (2), substituted Merger for Mergers in heading, designated existing provision as par. (1), inserted par. (2). Subsec. (m)(4)(A). Pub. L. 100647, 1011(h)(5), substituted (16), (17), and (26) for and (16). Subsec. (m)(4) (C), (D). Pub. L. 100647, 1011B(a)(16), struck out subpars. (C) and (D) which read as follows: (C) section 125.Subsec. (n)(3)(C). Pub. L. 100647, 3011(b)(4), as amended by Pub. L. 101239, 7813(b), struck out 162(i)(2), 162(k), after 132, and (16). Subsec. (n)(3)(C). Pub. L. 100647, 3011(b)(4), as amended by Pub. L. 101239, 7813(b), struck out 162(i)(2), 162(k), after 132, and (16). Subsec. (n)(3)(C). Pub. L. 100647, 1011(b)(4), as amended by Pub. L. 101239, 7813(b), struck out 162(i)(2), 162(k), after 132, and (16). Subsec. (n)(3)(C). Pub. L. 100647, 1011(b)(4), as amended by Pub. L. 101239, 7813(b), struck out 162(i)(2), 162(k), after 132, and (16). Subsec. (n)(3)(C). Pub. L. 100647, 1011(b)(4), as amended by Pub. L. 101239, 7813(b), struck out 162(i)(2), 162(k), after 132, and (16). Subsec. (n)(3)(C). Pub. L. 100647, 1011(b)(5), substituted (16), (17), and (26) for and (16). Subsec. (n)(3)(C). Pub. L. 100647, 1011(b)(5), substituted (16), (17), and (26) for and (16). Subsec. (n)(3)(C). Pub. L. 100647, 1011(b)(5), substituted (16), (17), and (26) for and (16). Subsec. (n)(3)(C). Pub. L. 100647, 1011(b)(5), substituted (16), (17), and (26) for and (16). Subsec. (n)(3)(C). Pub. L. 100647, 1011(b)(5), substituted (16), (17), and (26) for and (16). Subsec. (n)(3)(C). Pub. L. 100647, 1011(b)(5), substituted (16), (17), and (26) for and (16). Subsec. (n)(3)(C). Pub. L. 100647, 1011(b)(5), substituted (16), (17), and (16). Subsec. (n)(3)(C). Pub. L. 100647, 1011(b)(5), substituted (16), (17), and (16), (17), (17), and (16), (17), (1 substituted 505, and 4980B for and 505.Pub. L. 100647, 1011B(a)(19), inserted 162(i)(2), 162(k), after 132,.Subsec. (o). Pub. L. 100647, 1011(e)(4), inserted or any requirement under section 457 after or (n)(3).Subsec. (o). Pub. L. 100647, 1011(e)(4), inserted or any requirement under section 457 after or (n)(3).Subsec. (o). Pub. L. 100647, 1011(e)(4), inserted 162(i)(2), 162(k), after 132,.Subsec. (o). Pub. L. 100647, 1011(e)(4), inserted or any requirement under section 457 after or (n)(3).Subsec. (o). Pub. L. 100647, 1011(e)(4), inserted or any requirement under section 457 after or (n)(3).Subsec. (o). Pub. L. 100647, 1011(e)(4), inserted or any requirement under section 457 after or (n)(3).Subsec. (o). Pub. L. 100647, 1011(e)(4), inserted or any requirement under section 457 after or (n)(3).Subsec. (o). Pub. L. 100647, 1011(e)(4), inserted or any requirement under section 457 after or (n)(3).Subsec. (o). Pub. L. 100647, 1011(e)(4), inserted or any requirement under section 457 after or (n)(3).Subsec. (o). Pub. L. 100647, 1011(e)(4), inserted or any requirement under section 457 after or (n)(3).Subsec. (o). Pub. L. 100647, 1011(e)(4), inserted or any requirement under section 457 after or (n)(3).Subsec. (o). Pub. L. 100647, 1011(e)(4), inserted or any requirement under section 457 after or (n)(3).Subsec. (o). Pub. L. 100647, 1011(e)(4), inserted or any requirement under section 457 after or (n)(3).Subsec. (o). Pub. L. 100647, 1011(e)(4), inserted or any requirement under section 457 after or (n)(3).Subsec. (o). Pub. L. 100647, 1011(e)(4), inserted or any requirement under section 457 after or (n)(3).Subsec. (o). Pub. L. 100647, 1011(e)(4), inserted or any requirement under section 457 after or (n)(3).Subsec. (o). Pub. L. 100647, 1011(e)(4), inserted or any requirement under section 457 after or (n)(3).Subsec. (o). Pub. L. 100647, 1011(e)(4), inserted or any requirement under section 457 after or (n)(3).Subsec. (o). Pub. L. 100647, 1011(e)(4), inserted or any requirement under section 457 after or (n)(3).Subs and (ii).Subsec. (p)(9). Pub. L. 100647, 1018(t)(8)(G), inserted at end For purposes of this title, except as provided in regulations, any distribution from an annuity contract under section 403(b) pursuant to a qualified domestic relations order shall be treated in the same manner as a distribution from a plan to which section 401(a)(13) applies.Subsec. (p)(10). Pub. L. 100647, 1018(t)(8)(F), inserted at end The same time and in the same time and 415(b)(1)(A) for 415(c)(1)(A). Subsec. (q)(6)(C). Pub. L. 100647, 1011(i)(2), added subpar. (C). Subsec. (q)(8). Pub. L. 100647, 1011(i)(4), inserted or the number of officers taken into account under paragraph (5) after under paragraph (5) after under paragraph (6). Pub. L. 100647, 1011(i)(4), inserted or the number of officers taken into account under paragraph (5) after under paragraph (6). Pub. L. 100647, 1011(i)(4), inserted or the number of officers taken into account under paragraph (7) after under paragraph (7) afte employer in last sentence. Subsec. (q)(8)(F). Pub. L. 100647, 1011(i)(3)(A)(i), struck out subpar. (F) which read as follows: employees who are nonresident aliens and who receive no earned income (within the meaning of section 911(d)(2)) from the employees who are nonresident aliens and who receive no earned income (within the meaning of section 911(d)(2)) from the employees who are nonresident aliens and who receive no earned income (within the meaning of section 911(d)(2)) from the employees who are nonresident aliens and who receive no earned income (within the meaning of section 911(d)(2)) from the employees who are nonresident aliens and who receive no earned income (within the meaning of section 911(d)(2)) from the employees who are nonresident aliens and who receive no earned income (within the meaning of section 911(d)(2)) from the employees who are nonresident aliens and who receive no earned income (within the meaning of section 911(d)(2)) from the employees who are nonresident aliens and who receive no earned income (within the meaning of section 911(d)(2)) from the employees who are nonresident aliens and who receive no earned income (within the meaning of section 911(d)(2)) from the employees who are nonresident aliens and who receive no earned income (within the meaning of section 911(d)(2)) from the employees who are nonresident aliens and who receive no earned income (within the meaning of section 911(d)(2)) from the employees (within the meaning of section 911(d)(2)) from the employees (within the meaning of section 911(d)(2)) from the employees (within the meaning of section 911(d)(2)) from the employees (within the meaning of section 911(d)(2)) from the employees (within the meaning of section 911(d)(2)) from the employees (within the employee) from the employee (within the employee) from the emp 861(a)(3)). Subsec. (q)(11). Pub. L. 100647, 1011(i)(3)(B), added par. (11). Subsec. (q)(12). Pub. L. 100647, 3021(b)(2)(A), amended par. (3) generally. Prior to amendment, par. (3) read as follows: The requirements of subparagraph (C) of paragraph (2) shall not apply to any line of business if (1). Subsec. (q)(11). Pub. L. 100647, 3021(b)(2)(A), amended par. (12). Subsec. (q)(12). Pub. L. 100647, 3021(b)(2)(A), amended par. (12). Subsec. (q)(12). Pub. L. 100647, 3021(b)(2)(A), amended par. (12). Subsec. (q)(12). Pub. L. 100647, 3021(b)(2)(A), amended par. (12). Subsec. (q)(12). Pub. L. 100647, 3021(b)(2)(A), amended par. (12). Subsec. (q)(12). Pub. L. 100647, 3021(b)(2)(A), amended par. (12). Subsec. (q)(12). Pub. L. 100647, 3021(b)(2)(A), amended par. (12). Subsec. (q)(12). Pub. L. 100647, 3021(b)(2)(A), amended par. (12). Subsec. (q)(12). Pub. L. 100647, 3021(b)(2)(A), amended par. (12). Subsec. (q)(12). Pub. L. 100647, 3021(b)(2)(A), amended par. (12). Subsec. (q)(12). Pub. L. 100647, 3021(b)(2)(A), amended par. (12). Subsec. (q)(12). Pub. L. 100647, 3021(b)(2)(A), amended par. (12). Subsec. (q)(12). Pub. L. 100647, 3021(b)(2)(A), amended par. (12). Subsec. (q)(12). Pub. L. 100647, 3021(b)(2)(A), amended par. (12). Subsec. (q)(12). Pub. L. 100647, 3021(b)(2)(A), amended par. (12). Subsec. (q)(12). Pub. L. 100647, 3021(b)(2)(A), amended par. (12). Subsec. (q)(12). Pub. L. 100647, 3021(b)(2)(A), amended par. (12). Subsec. (q)(12). Pub. L. 100647, 3021(b)(2)(A), amended par. (12). Subsec. (q)(12). Pub. L. 100647, 3021(b)(2)(A), amended par. (12). Subsec. (q)(12). Pub. L. 100647, 3021(b)(2)(A), amended par. (12). Subsec. (q)(12). Pub. L. 100647, 3021(b)(2)(A), amended par. (12). Subsec. (q)(12). Pub. L. 100647, 3021(b)(2)(A), amended par. (12). Subsec. (q)(12). Pub. L. 100647, 3021(b)(2)(A), amended par. (12). Subsec. (q)(12). Pub. L. 100647, 3021(b)(2)(A), amended par. (12). Subsec. (q)(12). Pub. L. 100647, 3021(b)(2)(A), amended par. (12). Subsec. (q)(12)(A), amended par. (12)(A), amended par. (12)(A), ame the highly compensated employee percentage with respect to such line of business is(A) not less than one-half, and(B) not more than twice, the percentage with respect to such line of all employees are of all employees of the employees of the employees are of all highly compensated employees are of all employees are of all highly compensated employees are of all em compensated employees of the employees. (s). Pub. L. 100647, 1011(j)(1), amended par. (1) generally. Prior to amendment, par. (1) read as follows: The term compensation means compensation for service performed for an employer which (taking into account the provisions of this chapter) is currently includible in gross income. Subsec. (s)(2) to (4). Pub. L. 100647, 1011(j)(2), added par. (4), redesignated former pars. (3) and (4) as (2) and (3), respectively, and struck out former pars. (3) and (4) as (2) and (3), respectively, and struck out former pars. (3) and (4) as (2) and (3), respectively, and struck out former pars. (3) and (4) as (2) and (3), respectively, and struck out former pars. (3) and (4) as (2) and (3), respectively, and struck out former pars. (4), redesignated former pars. (5) and (6) as (2) and (7) and (7) as (2) prescribe regulations for the determination of the compensation of an employee who is a self-employed individual (within the meaning of section 401(c)(1)) which are based on the principles of paragraph (1). Subsec. (t)(1). Pub. L. 100647, 1011B(a)(20), struck out of section 414 before shall be treated and shall apply with. Subsec. (t)(2). Pub. L. 100647, 1010647, 1011B(a)(20), struck out of section 414 before shall be treated and shall apply with. Subsec. (t)(2). Pub. L. 100647, 1010647, 1011B(a)(20), struck out of section 414 before shall be treated and shall apply with. Subsec. (t)(2). Pub. L. 100647, 1010647, 1011B(a)(20), struck out of section 414 before shall be treated and shall apply with. Subsec. (t)(2). Pub. L. 100647, 1010647, 1011B(a)(20), struck out of section 414 before shall be treated and shall apply with. Subsec. (t)(2). Pub. L. 100647, 1010647, 1011B(a)(20), struck out of section 414 before shall be treated and shall apply with. Subsec. (t)(2). Pub. L. 100647, 1010647, 1011B(a)(20), struck out of section 414 before shall be treated and shall apply with. Subsec. (t)(2). Pub. L. 100647, 1010647, 1011B(a)(20), struck out of section 414 before shall be treated and shall apply with. Subsec. (t)(2). Pub. L. 100647, 1010647, 1011B(a)(20), struck out of section 414 before shall be treated and shall apply with. Subsec. (t)(2). Pub. L. 100647, 10106 3011(b)(5), as amended by Pub. L. 101239, 7813(b), struck out 162(i)(2), 162(k), after 132, and substituted 505, or 4980B for or 505. Pub. L. 100203 struck out the minimum funding standard of section 412, the tax imposed by section 4971, and after one such corporation, 1986Subsec. (k)(2). Pub. L. 99514, 1117(c), inserted reference to section 401(m) (relating to nondiscrimination tests for matching requirements and employees (within the meaning of section 414(q)) for officers, highly compensated employees, or owners.Subsec. (m)(5). Pub. L. 99514, 1301(j)(4), substituted section 103(b)(6)(C).Subsec. (m)(7). Pub. L. 99514, 1151(i)(1), substituted section 103(b)(C).Subsec. (m)(7). Pub. L. 99514, 1151(i)(1), substituted section 103(b)(C), substituted requirements for pension requirements. Pub. L. 99514, 1146(b)(2), struck out except to the extent otherwise provided in regulations, after listed in paragraph (3), Subsec. (n)(2)(B). Pub. L. 99514, 1151(i)(3), substituted Requirements for Pension requirements in heading, substituted requirements in text, and added subpar. (C). Subsec. (n)(4). Pub. L. 99514, 1146(a)(2), substituted Time when first considered as employee for Time when first considered as employee is first considered as employee for Time when first considered as employee for Tim amendment, text read as follows: In the case of any leased employee, paragraph (1) shall apply only for purposes of determining whether the pension requirements listed in paragraph (2); except that years of service for the recipient shall be determined by taking into account the entire period for which the leased employee performed services for the recipient (or related persons). Subsec. (n)(5). Pub. L. 99514, 1146(a)(1), amended par. (5) read as follows: This subsection shall not apply to any leased employee if such employee is covered by a plan which is maintained by the leasing organization if, with respect to such employee, such plan(A) is a money purchase pension plan with a nonintegrated employer contribution rate of at least 7 percent, and(B) provides for immediate participation and for full and immediate vesting. Subsec. (n)(6). Pub. L. 99514, 1301(j)(4), substituted section 144(a)(3) for section 103(b)(6)(C) in subpar. (A). Pub. L. 99514, 1146(a)(3), substituted Other rules for Related persons in heading and amended text generally. Prior to amendment, text read as follows: For purposes of this subsection, the term related persons has the same meaning as when used in section 103(b)(6)(C). Subsec. (o). Pub. L. 99514, 1146(b)(1), inserted provision relating to regulations to minimize recordkeeping requirements in case of employers total workload.Subsec. (p)(1)(B)(i). Pub. L. 99514, 1898(c)(7)(A)(ii), inserted former spouse,.Subsec. (p)(3)(B). Pub. L. 99514, 1899A(12), struck out the comma after benefits.Subsec. (p)(4)(A). Pub. L. 99514, 1898(c)(7)(A)(vi), substituted A for In the case of any payment before a participant has separated from service, a in introductory provisions and inserted in the case of any payment before a participant has separated from service, a in introductory provisions and inserted in the case of any payment before a participant has separated from service, a in introductory provisions and inserted in the case of any payment before a participant has separated from service, a in introductory provisions and inserted in the case of any payment before a participant has separated from service, a in introductory provisions and inserted in the case of any payment before a participant has separated from service, a in introductory provisions and inserted in the case of any payment before a participant has separated from service, a in introductory provisions and inserted in the case of any payment before a participant has separated from service, a in introductory provisions and inserted in the case of any payment before a participant has separated from service, a in introductory provisions and inserted in the case of any payment before a participant has separated from service, a in introductory provisions and inserted in the case of any payment before a participant has separated from service, a in introductory provisions and inserted in the case of any payment before a participant has separated from service, a in introductory provisions and inserted in the case of any payment before a participant has separated from service, a in the case of any payment before a participant has separated from service, a in the case of any payment before a participant has separated from service, a in the case of any payment before a participant has separated from service, a payment before a participant has separated from service, a payment before a participant has separated from service, a payment before amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: For purposes of this paragraph, the term earliest retirement age has the meaning given such term by section 417(f)(3), except that in the case of any defined contribution plan, the earliest retirement age has the meaning given such term by section 417(f)(3), except that in the case of any defined contribution plan, the term earliest retirement age has the meaning given such term by section 417(f)(3), except that in the case of any defined contribution plan, the term earliest retirement age has the meaning given such term by section 417(f)(3), except that in the case of any defined contribution plan, the term earliest retirement age has the meaning given such term by section 417(f)(3), except that in the case of any defined contribution plan, the term earliest retirement age has the meaning given such term by section 417(f)(3), except that in the case of any defined contribution plan, the term earliest retirement age has the meaning given such term by section 417(f)(3), except that in the case of any defined contribution plan, the term earliest retirement age has the meaning given such term by section 417(f)(3), except that in the case of any defined contribution plan, the term earliest retirement age has the meaning given such term by section 417(f)(3), except that in the case of any defined contribution plan, the term earliest retirement age has the meaning given such term by section 417(f)(3), except that in the case of any defined contribution plan, the term earliest retirement age has the meaning given such term by section 417(f)(3), except that in the case of any defined contribution plan, the term earliest retirement age has the meaning given such term by section 417(f)(3), except term earliest retirement age has the meaning given such term earliest retirement age has the meaning given such term earliest retirement age has the meaning given such term earliest retirement age has the meaning given such term earliest retirement a age (within the meaning of section 411(a)(8)). Subsec. (p)(5). Pub. L. 99514, 1898(c)(7)(A)(v), struck out last sentence which read as follows: A plan shall not be treated as failing to meet the requirements of subsection (a) or (k) of section 401 which prohibit payment of benefits before termination of employment solely by reason of payments to an alternate payee pursuant to a qualified domestic relations order. Subsec. (p)(5)(A). Pub. L. 99514, 1898(c)(6)(A), inserted (and any spouse of the participant for such purposes). Subsec. (p)(5)(B). Pub. L. 99514, 1898(c)(7)(A)(iv), substituted the surviving former spouse for the surviving spouse. Subsec. (p)(6)(A)(i). Pub. L. 99514, 1898(c)(7)(A)(iii), substituted each alternate payee for any other alternate payee for any other alternate payee. (p)(7)(A). Pub. L. 99514, 1898(c)(2)(A)(iii), substituted each alternate payee for any other alternate payee for any other alternate payee. account the amounts.Subsec. (p)(7)(B). Pub. L. 99514, 1898(c)(2)(A)(ii), substituted the 18-month period described in subparagraph (E) for 18 months and including any interest. Subsec. (p)(7)(C). Pub. L. 99514, 1898(c)(2)(A)(iii), substituted the 18-month period described in subparagraph (E) for 18 months and including any interest. interest for plus any interest. Subsec. (p)(7)(D). Pub. L. 99514, 1898(c)(2)(A)(iv), inserted described in subparagraph (E). Subsec. (p)(7)(E). Pub. L. 99514, 1898(c)(2)(A)(v), added par. (9). Former par. (9) redesignated (11). Subsec. (p)(10). Pub. L. 99514, 1898(c)(7)(A)(v), added par. (9). Former par. (9) redesignated (11). Subsec. (p)(10). Pub. L. 99514, 1898(c)(7)(A)(v), added par. (9). Former par. (9) redesignated (11). Subsec. (p)(10). Pub. L. 99514, 1898(c)(7)(A)(v), added par. (9). Former par. (9) redesignated (11). Subsec. (p)(10). Pub. L. 99514, 1898(c)(7)(A)(v), added par. (9). Former par. (9) redesignated (11). Subsec. (p)(10). Pub. L. 99514, 1898(c)(7)(A)(v), added par. (9). 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(p). 1982Subsecs. (b), (c). Pub. L. 97248, 240(c)(1), inserted reference to section 416.Subsec. (m)(4)(B). Pub. L. 97248, 246(a), added par. (5) and (6) as (6) and (7), respectively.Subsec. (n). 1980Subsec. (n with respect to general requirements, exclusion of certain plans, definitions and other provisions, and correction of failures to meet church plan with respect to general requirements, certain church agencies under church plan.Subsec. (f). Pub. L. 96364, 207, substituted provisions setting forth definition, cases of common control, continuation of status after termination, transitional rule, and special election with respect to a multiemployer plan. Subsec. (l). Pub. L. 96364, 207, substituted provisions setting forth definition, cases of common control, continuation of status after termination, transitional rule, and special election with respect to a multiemployer plan. 208(a), substituted provisions relating to applicability to multiemployer plans subject to title IV of the Employee Retirement Income Security Act of 1974 of provisions relating to applicability of paragraph to multiemployer plans to extent determined by Corporation. Subsec. (m). Pub. L. 96605 and Pub. L. 96613 added an identical subsec. (m).1978Subsecs. (b), (c). Pub. L. 95600 inserted 408(k), after sections 401, wherever appearing.1976Subsecs. (a) to (c). Pub. L. 94455, 1906(b)(13)(A), struck out or his delegate after Secretary.Subsec. (f). Pub. L. 94455, 1906(b)(13)(A), struck out or his delegate after Secretary.Subsec. (g) (2)(C). Pub. L. 94455, 1906(b)(13)(A), struck out or his delegate after Secretary.Subsec. (g) (2)(C). Pub. L. 94455, 1906(b)(13)(A), struck out or his delegate after Secretary.Subsec. (g) (2)(C). Pub. L. 94455, 1906(b)(13)(A), struck out or his delegate after Secretary.Subsec. (g) (2)(C). Pub. L. 94455, 1906(b)(13)(A), struck out or his delegate after Secretary.Subsec. (g) (2)(C). Pub. L. 94455, 1906(b)(13)(A), struck out or his delegate after Secretary.Subsec. (g) (2)(C). Pub. L. 94455, 1906(b)(13)(A), struck out or his delegate after Secretary.Subsec. (g) (2)(C). Pub. L. 94455, 1906(b)(13)(A), struck out or his delegate after Secretary.Subsec. (g) (2)(C). Pub. L. 94455, 1906(b)(13)(A), struck out or his delegate after Secretary.Subsec. (g) (2)(C). Pub. L. 94455, 1906(b)(13)(A), struck out or his delegate after Secretary.Subsec. (g) (2)(C). Pub. L. 94455, 1906(b)(13)(A), struck out or his delegate after Secretary.Subsec. (g) (2)(C). Pub. L. 94455, 1906(b)(13)(A), struck out or his delegate after Secretary.Subsec. (g) (2)(C). Pub. L. 94455, 1906(b)(13)(A), struck out or his delegate after Secretary.Subsec. (g) (2)(C). Pub. L. 94455, 1906(b)(13)(A), struck out or his delegate after Secretary.Subsec. (g) (2)(C). Pub. L. 94455, 1906(b)(13)(A), struck out or his delegate after Secretary.Subsec. (g) (2)(C). Pub. L. 94455, 1906(b)(13)(A), struck out or his delegate after Secretary.Subsec. (g) (2)(C). Pub. L. 94455, 1906(b)(13)(A), struck out or his delegate after Secretary.Subsec. (g) (2)(C). Pub. L. 94455, 1906(b)(13)(A), struck out or his delegate after Secretary.Subsec. (g) (2)(C). Pub. L. 94455, 1906(b)(13)(A), struck out or his delegate after Secretary.Subsec. (g) (2)(C). Pub. Pub. Pub. Pub. Pub. struck out or his delegate after Secretary.Subsec. (l). Pub. L. 94455, 1901(a)(64)(B), substituted reference to Sept. 2, 1974, for reference to Sept. 2, 1974, for reference to the date of enactment Income Security Act of 1974.Statutory Notes and Related SubsidiariesEffective Date of 2022 AmendmentPub. L. 117328, div. T, title I, 109(d), Dec. 29, 2022, 136 Stat. 5290, provided that: The amendments made by this section [amending this section] shall apply to taxable years beginning after Dec. 31, 2024. Amendment by section 117(b) of Pub. L. 117328, set out as a note under section 401 of this title.Pub. L. 117328, div. T, title III, 315(b), Dec. 29, 2022, 136 Stat. 5352, provided that: The amendments made by this section [enacting] shall apply to plan years beginning after December 31, 2023.Pub. L. 117328, div. T, title III, 320(c), Dec. 29, 2022, 136 Stat. 5356, provided that: The amendments made by this section [enacting] shall apply to plan years beginning after December 31, 2023.Pub. L. 117328, div. T, title III, 320(c), Dec. 29, 2022, 136 Stat. 5356, provided that: The amendments made by this section [enacting] shall apply to plan years beginning after December 31, 2023.Pub. L. 117328, div. T, title III, 315(b), Dec. 29, 2022, 136 Stat. 5356, provided that: The amendments made by this section [enacting] shall apply to plan years beginning after December 31, 2023.Pub. L. 117328, div. T, title III, 320(c), Dec. 29, 2022, 136 Stat. 5356, provided that: The amendments made by this section [enacting] shall apply to plan years beginning after December 31, 2023.Pub. L. 117328, div. T, title III, 320(c), Dec. 29, 2022, 136 Stat. 5356, provided that: The amendments made by this section [enacting] shall apply to plan years beginning after December 31, 2023.Pub. L. 117328, div. T, title III, 320(c), Dec. 29, 2022, 136 Stat. 5356, provided that: The amendments made by this section [enacting] shall apply to plan years beginning after December 31, 2023.Pub. L. 117328, div. T, title III, 320(c), Dec. 29, 2022, 136 Stat. 5356, provided that: The amendments made by this section [enacting] shall apply to plan years beginning after December 31, 2023.Pub. L. 117328, div. T, title III, 320(c), Dec. 29, 2022, 136 Stat. 5356, provided that: The amendments made by this section [enacting] shall apply to plan years beginning after December 31, 2023.Pub. L. 117328, div. T, title III, 320(c), Dec. 29, 2022, 136 Stat. 5356, provided that: The amendments made by this section [enacting] shall apply to plan years beginning after December 31, 2023.Pub. L. 117328, div. T, title III, 320(c), Dec. 29, 2022, 136 Stat. 5356, provid section 1030a of Title 29, Labor, and amending this section, sections 664, 1027, and 1954 of Title 18, Crimes and Criminal Procedure, and sections 441 and 1031 of Title 29] shall apply to plan years beginning after December 31, 2022. Pub. L. 117328, div. T, title III, 339(c), Dec. 29, 2022, 136 Stat. 5375, provided that: The amendments made by this section [amending this section and section 1056 of Title 29, Labor] shall apply to domestic relations orders received by plan administrators after December 31, 2022, including any such order which is submitted for reconsideration after section and section 1056 of Title 29, Labor] shall apply to domestic relations orders received by plan administrators after section after sectio made by this section [amending this section] shall apply with respect to any errors with respect to any errors with respect to any regulations or other guidance prescribed under paragraph (3) of section 414(cc) of the Internal Revenue Code of 1986 (as added by this section), taxpayers may rely upon their reasonable good faith interpretations of the provisions of such section 603(a) of Pub. L. 117328, set out as a note under section 402 of this title. Effective Date of 2015 AmendmentPub. L. 114113, div. Q, title III, 336(a)(3), Dec. 18, 2015, 129 Stat. 3110, provided that: The amendments made by paragraph (1) [amending this section] shall apply to years beginning before, on, or after the date of the enactment of this Act [Dec. 18, 2015]. Pub. L. 114113, div. Q, title III, 336(d)(2), Dec. 18, 2015, 129 Stat. 3113, provided that: The amendment made by this subsection [amending this section] shall apply to transfers or mergers occurring after the date of the enactment of this Act [Dec. 18, 2015]. Effective Date of 2014 AmendmentAmendment by Pub. L. 113295 effective Date of 2014, subject to a savings provision, see section 221(b) of Pub. L. 113295, set out as a note under section 1 of this title.Pub. L. 113235, div. P, 3(c), Dec. 16, 2014, 128 Stat. 2829, provided that: The amendments made by this section [amending this section and section 1060 of Title 29, Labor] shall take effect as if included in the amendments made by the Cooperative and Small Employer Charity Pension Flexibility Act [Pub. L. 11397] (29) U.S.C. 401 note) [probably means 26 U.S.C. 401 note]. Amendment by section 201 of Pub. L. 11397, set out as a note under section 401 of this title. Pub. L. 11397, title II, 203(b), Apr. 7, 2014, 128 Stat. 1139, provided that: The amendment made by this section [amending this section] shall apply as of the date of enactment of this Act [Apr. 7, 2014]. Effective Date of 2008 AmendmentAmendment relates, except as otherwise provided, see section 112 of Pub. L. 110458, set out as a note under section 72 of this title.Amendment by section 104(b) of Pub. L. 110245 applicable with respect to deaths and disabilities occurring on or after Jan. 1, 2007, see section 105(b)(1) of Pub. L. 110245 applicable to years beginning after December 31, 2008, see section 105(b) (3) of Pub. L. 110245, set out as a note under section 219 of this title. Effective Date of 2006 Amendment by section 114(g)(1) of Pub. L. 109280, as added by Pub. L. 110458, set out as a note under section 401 of this title. Amendment by section 902(d)(1) of Pub. L. 109280, as added by Pub. L. 110458, set out as a note under section 401 of this title. Amendment by section 902(d)(1) of Pub. L. 109280, as added by Pub. Pub. L. 109280 applicable to plan years beginning after Dec. 31, 2007, see section 902(g) of Pub. L. 109280, set out as a note under section 401 of this title. Pub. L. 109280, title IX, 903(c), Aug. 17, 2006, 120 Stat. 1048, provided that: The amendments made by this section and section 1060 of Title 29, Labor] shall apply to plan years beginning after December 31, 2009. Pub. L. 109280, title IX, 906(c), Aug. 17, 2006, 120 Stat. 1052, provided that: The amendments made by this section, section [amending this section, section, section] shall apply to any year beginning on or after the date of the enactment of this Act [Aug. 17, 2006, 120 Stat. 1052, provided that: The amendments made by this section] shall apply to any year beginning on or after the date of the enactment of this Act [Aug. 17, 2006, 120 Stat. 1052, provided that: The amendments made by this section] shall apply to any year beginning on or after the date of the enactment of this Act [Aug. 17, 2006, 120 Stat. 1052, provided that: The amendments made by this section] shall apply to any year beginning on or after the date of the enactment of this Act [Aug. 17, 2006, 120 Stat. 1052, provided that: The amendments made by this section] shall apply to any year beginning on or after the date of the enactment of this Act [Aug. 17, 2006, 120 Stat. 1052, provided that: The amendments made by this section] shall apply to any year beginning on or after the date of the enactment of this Act [Aug. 17, 2006, 120 Stat. 1052, provided that: The amendments made by this section] shall apply to any year beginning on or after the date of the enactment of this Act [Aug. 17, 2006, 120 Stat. 1052, provided that] shall apply to any year beginning on or after the date of the enactment of this Act [Aug. 17, 2006, 120 Stat. 1052, provided that] shall apply to any year beginning on or after the date of the enactment of this Act [Aug. 17, 2006, 120 Stat. 1052, provided that] shall apply to any year beginning on or after the date of the enactment of this Act [Aug. 17, 2006, 120 Stat. 1052, provided that] shall apply to any year beginning on or after the date of the enactment of the enactm made by this section [amending this section] shall apply to transfers, distributions, and payments made after December 31, 2001. Effective Date of 1997 AmendmentPub. L. 10534, title XV, 1522(b), Aug. 5, 1997, 111 Stat. 1070, provided that: The amendments made by this section] shall apply to years beginning after December 31, 2001. 31, 1997. Amendment by section 1601(d)(6)(A), (7), (h)(2)(D)(i), (ii) of Pub. L. 10534 effective as if included in the provisions of the Small Business Job Protection Act of 1996, Pub. L. 10534, set out as a note under section 23 of this title. Effective Date of 1996 Amendment by section 404, 408, and 416 of this title, and provisions set out as a note below] shall apply to years beginning in 1996. (2) Family compensated employee for years beginning in 1997, such amendments shall be treated as having been in effect for years beginning in 1996. (2) Family to years beginning after December 31, 1997. Pub. L. 104188, title I, 1454(b), Aug. 20, 1996, 110 Stat. 1817, provided that: The amendment made by subsection (a) [amending this section] shall apply to years beginning after December 31, 1996, but shall not apply to years begin the date of the enactment of this Act [Aug. 20, 1996] pursuant to section 414(n)(2)(C) of the Internal Revenue Code of 1986 (as in effect on the day before such date) not to involve a leased employee. Amendment by section 1461(a) of Pub. L. 104188, set out as a note under section 404 of this title.Pub. L. 104188, title I, 1462(c), Aug. 20, 1996, 110 Stat. 1886, provided that: The amendments made by this section] shall apply to years beginning after December 31, 1996.Pub. L. 104188, title I, 1704(n)(3), Aug. 20, 1996, 110 Stat. 1886, provided that: The amendments made by this subsection [amending this section and section 1108 of Title 29, Labor] shall be effective as of December 12, 1994. Effective, except as otherwise provided, as if included in the provision of the Technical and Miscellaneous Revenue Act of 1988, Pub L. 100647, to which such amendment relates, see section 7817 of Pub. L. 101239, set out as a note under section 1 of this title. Amendment by section 7841(a)(2) of Pub. L. 101239 applicable to transfers after Dec. 19, 1989, in taxable years ending after such date, see section 7841(a)(3) of Pub. L. 101239, set out as a note under section 408 of this title.Amendment by section 203(a)(6) of Pub. L. 101140 effective as if included in section 1151 of Pub. L. 101140, set out as a note under section 204(b)(2) of Pub. L. 101140, set out as a note under section 129 of this title. Effective Date of 1988 AmendmentAmendment by sections 1011(d)(8), (e)(4), (h)(5), (i)(1)(4)(A), (j)(1), (2), 1011A(b)(3), 1011B(a)(16), (17), (19), (20), and 1018(t)(8)(E)(G) of Pub. L. 100647 effective, except as otherwise provided, as if included in the provision of the Tax Reform Act of 1986, Pub. L. 99514, to which such amendment relates, see section 1019(a) of Pub. L. 100647, set out as a note under section 1 of this title.Pub. L. 100647, title II, 2005(c)(3), Nov. 10, 1988, 102 Stat. 3612, provided that: Amendment by section 3011(b)(4), (5) of Pub. L. 100647, title II, 2005(c)(3), Nov. 10, 1988, 102 Stat. 3612, provided that: Amendment by section 3011(b)(4), (5) of Pub. L. 100647, title II, 2005(c)(3), Nov. 10, 1988, 102 Stat. 3612, provided that: Amendment by section 3011(b)(4), (5) of Pub. L. 100647, title II, 2005(c)(3), Nov. 10, 1988, 102 Stat. 3612, provided that: Amendment by section 3011(b)(4), (5) of Pub. L. 100647, title II, 2005(c)(3), Nov. 10, 1988, 102 Stat. 3612, provided that: Amendment by section 3011(b)(4), (5) of Pub. L. 100647, title II, 2005(c)(3), Nov. 10, 1988, 102 Stat. 3612, provided that: Amendment by section 3011(b)(4), (5) of Pub. L. 100647, title II, 2005(c)(3), Nov. 10, 1988, 102 Stat. 3612, provided that: Amendment by section 3011(b)(4), (5) of Pub. L. 100647, title II, 2005(c)(3), Nov. 10, 1988, 102 Stat. 3612, provided that: Amendment by section 3011(b)(4), (5) of Pub. L. 100647, title II, 2005(c)(3), Nov. 10, 1988, 102 Stat. 3612, provided that: Amendment by section 3011(b)(4), (5) of Pub. L. 100647, title II, 2005(c)(3), Nov. 10, 1988, 102 Stat. 3612, provided that: Amendment by section 3011(b)(4), (5) of Pub. L. 100647, title II, 2005(c)(3), Nov. 10, 1988, 102 Stat. 3612, provided that: Amendment by section 3011(b)(4), (5) of Pub. L. 100647, title II, 2005(c)(3), Nov. 10, 1988, 102 Stat. 3612, provided that: Amendment by section 3011(b)(4), (5) of Pub. L. 100647, title II, 2005(c)(3), Nov. 10, 1988, 102 Stat. 3612, provided that: Amendment by section 3011(b)(4), (5) of Pub. L. 100647, title II, 2005(c)(3), Nov. 10, 1988, 102 Stat. 3612, provided that: Amendment by section 3011(b)(4), (5) of Pub. L. 100647, title II, 2005(c)(3), Nov. 10, 1988, 102 Stat. 3612, provided that: Amendment by section 3011(b)(4), (5) of Pub. L. 100647, title II, 2005(c)(3), (5) Stat. 3612, provided that: Amendm

year to which section 162(k) of this title (as in effect on the day before Nov. 10, 1988) did not apply by reason of section 3011(d) of Pub. L. 100647, set out as a note under section 3021(b)(1), (2)(A) of Pub. L. 100647 applicable to years beginning after Dec. 31, 1986, see section 3021(d)(2) of Pub. L. 100647, set out as a note under section 129 of this title.Pub. L. 100647, title VI, 6067(c), Nov. 10, 1988, 102 Stat. 2421, provided that: The amendment made by this section [amending this section] shall take effect as if included in the amendments made by section 2005(c) of this Act [amending this section]. Effective Date of 1986 AmendmentPub. L. 99514, title XI, 1114(c), Oct. 22, 1986, 100 Stat. 2452, as amended by Pub. L. 104188, title I, 1431(c)(2), Aug. 20, 1996, 110 Stat. 1803; Pub. L. 10716, title VI, 663(a), June 7, 2001, 115 Stat. 142, provided that:(1) In general.Except as provided in this subsection, the amendment made by this section [amending this section and sections 106, 274, 423, and 501 of this title] shall apply to years beginning after December 31, 1986.(2) Conforming amendments to employee benefit provisions. The amendments to employee benefit provisions. The amendment made by this section (a) (3), (4), (5), and (16) of subsection (b) [amending this section and sections 106, 274, 423, and 501 of this title] shall apply to years beginning after December 31, 1986.(2) Conforming amendments to employee benefit provisions. The amendment made by this section (b) [amending this section (b) [amending this section (b) [amendment made by sections 117, 120, 127, 129, 132, and 505 of this title] shall apply to years beginning after December 31, 1987.(3) Conforming amendments to pension provisions. The amendments to pension provisions. The amendments to pension provisions. The amendments made by paragraphs (7), (8), (9), (10), (11), (12), and (15) of subsection (b) [amending this section and sections 401, 404A, 406, 407, 411, 415, and 4975 of this title and section 1108 of Title 29, Labor] shall apply to years beginning after December 31, 1988. [Pub. L. 10716, title VI, 663(b), June 7, 2001, 115 Stat. 143, provided that: The repeal made by subsection (a) [repealing par. (4) of section 1114(c) of Pub. L. 99514, set out above] shall apply to years beginning after December 31, 2001.]Pub. L. 99514, title XI, 1115(b), Oct. 22, 1986, 100 Stat. 2454, provided that: The amendment made by subsection (a) [amending this section] shall apply to years beginning after Dec. 31, 1986, with special provisions for plans maintained pursuant to collective bargaining agreements ratified before Mar. 1, 1986, and for annuity contracts under section 403(b) of this title, see section 1117(d) of Pub. L. 99514, title XI, 1146(c), Oct. 22, 1986, 100 Stat. 2493, provided that:(1) In general.Except as provided in this subsection, the amendments made by this section [amending this section] shall apply to taxable years beginning after December 31, 1983.(2) Subsection (a)(1). The amendment made by subsection (a)(1) shall apply to taxable years beginning after December 31, 1983.(2) Subsection (a)(1). The amendment made by subsection (a)(1) shall apply to taxable years beginning after December 31, 1983.(2) Subsection (a)(1). The amendment made by subsection (a)(1) shall apply to taxable years beginning after December 31, 1983.(2) Subsection (a)(1). The amendment made by subsection (a)(1) shall apply to taxable years beginning after December 31, 1983.(2) Subsection (a)(1) shall apply to taxable years beginning after December 31, 1983.(2) subsection (a)(1) shall apply to taxable years beginning after December 31, 1983.(2) subsection (a)(1) shall apply to taxable years beginning after December 31, 1983.(2) subsection (a)(1) shall apply to taxable years beginning after December 31, 1983.(2) subsection (a)(1) shall apply to taxable years beginning after December 31, 1983.(2) subsection (a)(1) shall apply to taxable years beginning after December 31, 1983.(2) subsection (a)(1) shall apply to taxable years beginning after December 31, 1983.(2) subsection (a)(1) shall apply to taxable years beginning after December 31, 1983.(2) subsection (a)(1) shall apply to taxable years beginning after December 31, 1983.(2) subsection (a)(1) shall apply to taxable years beginning after December 31, 1983.(2) subsection (a)(1) shall apply to taxable years beginning after December 31, 1983.(2) subsection (a)(1) shall apply to taxable years beginning after December 31, 1983.(2) subsection (a)(1) shall apply to taxable years beginning after December 31, 1983.(2) subsection (a)(1) shall apply to taxable years beginning after December 31, 1983.(2) subsection (a)(1) subsection (a) last sentence of section 414(o) shall be applied without regard to the requirement that an insignificant percentage of the workload be performed by persons other than employees. Amendment by section 1151(e)(1), (i) of Pub. L. 99514 applicable, with certain qualifications and exceptions, to years beginning after Dec. 31, 1988, see section 1151(k) of Pub. L. 99514, as amended, set out as a note under section 79 of this title. Amendment by section 1301(j)(4) of Pub. L. 99514 applicable to bonds issued after Aug. 15, 1986, except as otherwise provided, see sections 1311 to 1318 of Pub. L. 99514, set out as an Effective Date; Transitional Rules note under section 141 of this title. Amendment by section 1852(f) of Pub. L. 99514 effective, except as otherwise provided, as if included in the provisions of the Tax Reform Act of 1984, Pub. L. 99514, set out as a note under section 48 of this title. Amendment by section 1898(c)(2)(A), (4)(A), (6)(A), (7)(A)(ii)(vii) of Pub. L. 99514 effective as if included in the provision of the Retirement Equity Act of 1984, Pub. L. 98397, to which such amendment relates, except as otherwise provided, see section 1898(j) of Pub. L. 98397 effective Jan. 1, 1985, except as otherwise provided, see section 303(d) of Pub. L. 98369, set out as a note under section 1001 of Title 29, Labor. Amendment by section 491(d)(26), (27) of Pub. L. 98369, set out as a note under section 62 of this title. Pub. L. 98369, div. A, title V, 526(a)(2), July 18, 1984, 98 Stat. 874, provided that: The amendment made by this subsection [amending this section] shall apply to taxable years beginning after December 31, 1984. Pub. L. 98369, div. A, title V, 526(b)(2), July 18, 1984, 98 Stat. 874, provided that: The amendment made by this subsection [amending this section] shall apply to taxable years beginning after December 31, 1983. Pub. L. 98369, div. A, title V, 526(d)(3), July 18, 1984, 98 Stat. 875, provided that: The amendments made by this subsection [amending this section] shall take effect on the date of the enactment of this Act [July 18, 1984]. Amendment by section 713(i) of Pub. L. 98369 effective as if included in the provision of the Tax Equity and Fiscal Responsibility Act of 1982, Pub. L. 97248, to which such amendment relates, see section 715 of Pub. L. 98369, set out as a note under section 31 of this title. Effective Date of 1982 AmendmentAmendment by section 240(c) of Pub. L. 97248, applicable to years beginning after Dec. 31, 1983, see section 241(a) of Pub. L. 97248, set out as a note under section 416 of this title.Pub. L. 97248, title II, 246(b), Sept. 3, 1982, 96 Stat. 525, provided that: The amendment made by subsection (a) [amending this section] shall apply to taxable years beginning after December 31, 1983. Pub. L. 97248, title II, 248(b), Sept. 3, 1982, 96 Stat. 527, provided that: The amendment made by subsection (a) [amending this section] shall apply to taxable years beginning after December 31, 1983. Pub. L. 97248, title II, 248(b), Sept. 3, 1982, 96 Stat. 527, provided that: The amendment made by subsection (a) [amending this section] shall apply to taxable years beginning after December 31, 1983. Pub. L. 97248, title II, 248(b), Sept. 3, 1982, 96 Stat. 527, provided that: The amendment made by subsection (a) [amending this section] shall apply to taxable years beginning after December 31, 1983. Pub. L. 97248, title II, 248(b), Sept. 3, 1982, 96 Stat. 527, provided that: The amendment made by subsection (a) [amending this section] shall apply to taxable years beginning after December 31, 1983. Pub. L. 97248, title II, 248(b), Sept. 3, 1982, 96 Stat. 527, provided that: The amendment made by subsection (a) [amending this section] shall apply to taxable years beginning after December 31, 1983. Pub. L. 97248, title II, 248(b), Sept. 3, 1982, 96 Stat. 527, provided that: The amendment made by subsection (b) [amending this section] shall apply to taxable years beginning after December 31, 1983. Pub. L. 97248, title II, 248(b), Sept. 3, 1982, 96 Stat. 527, provided that: The amendment made by subsection (b) [amending this section] shall apply to taxable years beginning after December 31, 1983. Pub. L. 97248, title II, 248(b), Sept. 3, 1982, 96 Stat. 527, provided that: The amendment made by subsection (b) [amending the section] shall apply subsection (b) [amending the section] shall apply to taxable years beginning the section] shall apply subsection (b) [amending the section] shall apply to taxable years begin (b) [amending the section] shall apply to taxable years begi subsection (a) [amending this section] shall apply to taxable years beginning after December 31, 1983. Effective Date of 1980 AmendmentPub. L. 96605, title II, 201(c), Dec. 28, 1980, 94 Stat. 3527, and Pub. L. 96613, 5(c), Dec. 28, 1980, 94 Stat. 3527, and Pub. L. 96613, 5(c), Dec. 28, 1980, 94 Stat. 3582, provided that:(1) In general. Except as provided in paragraph (2), the amendments made by this section [amending this section and sections 105 and 125 of this title] shall apply to plan years ending after November 30, 1980.(2) Plans in existence on November 30, 1980.(2) Plans in existence on November 30, 1980. the amendments made by this section [amending this section and sections 105 and 125 of this title] shall apply to plan years beginning after November 30, 1980. Pub. L. 96364, title IV, 407(c), Sept. 26, 1980, 94 Stat. 1307, provided that: The amendments made by this section and section 1002 of Title 29, Labor] shall be effective as of January 1, 1974. Amendment by sections 207 and 208(a) of Pub. L. 96364 effective Sept. 26, 1980, see section 210(a) of Pub. L. 96364, set out as an Effective Date note under section 194A of this title. Effective DateSection applicable, except as otherwise provided in section 1017(c) through (i) of Pub. L. 93406, for plan years beginning after Sept. 2, 1974, and, in the case of plans in existence on Jan. 1, 1974, for plan years beginning after Dec. 31, 1975, see section 1017 of Pub. L. 93406, set out as an Effective Date; Transitional Rules note under section 410 of this title. Regulations Pub. L. 109280, title X, 1001, Aug. 17, 2006, 120 Stat. 1052, provided that: Not later than 1 year after the date of the enactment of this Act [Aug. 17, 2006], the Secretary of Labor shall issue regulations under section 206(d)(3) of the Employee Retirement Security Act of 1974 [29 U.S.C. 1056(d)(3)] and section 414(p) of the Internal Revenue Code of 1986 which clarify that (2) any order described in paragraph (1) shall be subject to the same requirements and protections which apply to qualified domestic relations orders, including the provisions of section 206(d)(3)(H) of such Act and section 414(p)(7) of such Code.Secretary of the Treasury or his delegate to issue before Feb. 1, 1988, final regulations to carry out amendments made by sections 1114, 1115, and 1117 of Pub. L. 99514, see section 1141 of Pub. L. 99514, see section 401 of this title.Provisions Relating to Plan Amendments Pursuant to Pub. L. 117328Pub. L. 117328, div. T, title V, 501(a), (b), Dec. 29, 2022, 136 Stat. 5388, provided that: Provisions Relating to Plan Amendments Pursuant to Pub. L. 11694Pub. L. 11694Pub. L. 11694, div. O, title VI, 601, Dec. 20, 2019, 133 Stat. 3181, as amended by Pub. L. 117328, div. T, title V, 501(c)(1), Dec. 29, 2022, 136 Stat. 5389, provided that: Provisions Relating to Plan Amendments Pursuant to Pub. L. 11694Pub. L. 117328, div. T, title V, 501(c)(1), Dec. 29, 2022, 136 Stat. 5389, provided that: Provisions Relating to Plan Amendments Pursuant to Pub. L. 11694Pub. L. 11694Pub Relating to Plan Amendments Pursuant to Pub. L. 110245Pub. L described in paragraph (2)(B)(i).(2) Amendments to which section applies. Automatic Enrollment by Church PlansPub. L. 114113, div. Q, title III, 336(c), Dec. 18, 2015, 129 Stat. 3110, provided that:(1) In general. This subsection shall supersede any law of a State that relates to wage, salary, or payroll payment, collection, deduction, garnishment, assignment, or withholding which would directly prohibit or restrict the inclusion in any church plan (as defined in section 414(e) of the Internal Revenue Code of 1986) of an automatic contribution arrangement.(2) Definition of automatic contribution arrangement.(2) Definition of automatic contribution arrangement.(3) Definition of automatic contribution arrangement.(4) Definition arrangement.(5) Definition arrangement.(5) Definition arrangement.(6) Definition arrangement.(7) Definition arra arrangement means an arrangement (3) Notice requirements. (4) Default investment shall be invested in a default investment shall be invested in a default investment shall be invested in a default investment. selecting an investment option would use.(5) Effective date.This subsection shall take effect on the date of the enactment of this Act [Dec. 18, 2015].Investments by Church Plans in Collective TrustsPub. L. 114113, div. Q, title III, 336(e), Dec. 18, 2015, 129 Stat. 3113, provided that:(1) In general.In the case of the assets of such plan, account, or organization (including any assets otherwise permitted to be commingled for investment purposes with the assets of such a plan, account, or organization) may be invested in a group trust otherwise described in Internal Revenue Ruling 81100 (as modified by Internal Revenue Ruling 81100, and 201424), or any subsequent revenue ruling that supersedes or modifies such revenue ruling, without adversely affecting the tax status of the group trust. (2) Effective date. This subsection shall apply to investments made after the date of the enactment of this Act [Dec. 18, 2015]. Applicability of Amendments by Subtitles A and B of Title I of Pub. L. 109280For special rules on applicability of amendments by subtitles A (101108) and B (111116) of title I of Pub. L. 109280 to certain eligible cooperative plans, PBGC settlement plans, and eligible government contractor plans, see sections 104, 105, and 106 of Pub. L. 109280, set out as notes under section 401 of this title.Sample Language for Spousal Consent and Qualified Domestic Relations FormsPub. L. 104188, title I, 1457, Aug. 20, 1996, 110 Stat. 1818, provided that: Application of Line of Business Test for Period Before Guidelines IssuedPub. L. 101140, title II, 204(b)(1), Nov. 8, 1989, 103 Stat. 833, provided that: In the case of any plan year beginning on or before the date the Secretary of the Internal Revenue Code of 1986, an employer shall be treated as operating separate lines of business if the employer reasonably determines that it meets the requirements of section 414(r) (other than paragraph (2)(C) thereof) of such Code.[Pub. L. 10140, title II, 204(d)(3), Nov. 8, 1989, 103 Stat. 833, provided that: The provisions of subsection (b)(1) [set out above] shall apply to years beginning after December 31, 1986.] Study Reflecting Allocation of AssetsPub. L. 100647, title VI, 6067(b), Nov. 10, 1988, 102 Stat. 3703, directed Secretary of the Treasury or his delegate, in consultation with Federal Deposit Insurance Corporation, to conduct a study with respect to proper method of allocating assets in case of a transaction to which the amendment made by such section and, not later than Jan. 1, 1990 (due date extended to Jan. 1, 1992, by Pub. L. 101508, title XI, 11831(b), Nov. 5, 1990, 104 Stat. 1388559) to report results of such study to Committee on Ways and Means of House of Representatives and to Committee on Finance of Senate. Plan Amendments Not Required Until January1,1994For provisions directing that if any amendments made by subtitle B [521523] of title V of Pub. L. 102318 require an amendment to any plan, such plan amendment shall not be required to be made before the first plan year beginning on or after Jan. 1, 1994, see section 523 of Pub. L. 102318, set out as a note under section 401 of this title. Plan Amendments Not Required Until January 1, 1989For provisions directing that if any amendments made by subtitle A or subtitle C of title XI [11011147 and 11711177] or title XVIII [18001899A] of Pub. L. 99514 require an amendment to any plan, such plan amendment amendment to any plan. this title.CFR TitleParts26 1 29 2530

## Section 423 employee stock purchase plan. Section 423 plans. Stock purchase plan under section 423 c. Section 423 c. Section 423 stock purchase plan. Employee stock purchase plan under section 423 c. Stock purchase plan. Employee stock purchase plan under section 423 c. Stock purchase plan.