

## Internal Revenue Service, Treasury

## § 1.401(a)(26)-9

employer could merge Plan A with Plan B to satisfy section 401(a)(26).

[T.D. 8375, 56 FR 63418, Dec. 4, 1991]

### § 1.401(a)(26)-8 Definitions.

In applying this section and §§ 1.401(a)(26)-1 through 1.401(a)(26)-9 the definitions in this section govern unless otherwise provided.

*Collective bargaining agreement.* *Collective bargaining agreement* means an agreement that the Secretary of Labor finds to be a collective bargaining agreement between employee representatives and the employer that satisfies § 301.7701-17T. Employees described in section 413(b)(8) who are employees of the union or the plan and are treated as employees of an employer are not employees covered pursuant to a collective bargaining agreement for purposes of section 401(a)(26) unless the employees are actually covered pursuant to such an agreement.

*Collectively bargained employee.* *Collectively bargained employee* means a collectively bargained employee within the meaning of § 1.410(b)-6(d)(2).

*Covered by a collective bargaining agreement.* *Covered by a collective bargaining agreement* means covered by a collective bargaining agreement within the meaning of § 1.410(b)-6(d)(2)(iii).

*Defined benefit plan.* *Defined benefit plan* means a defined benefit plan within the meaning of § 1.410(b)-9.

*Defined contribution plan.* *Defined contribution plan* means a defined contribution plan within the meaning of § 1.410(b)-9.

*Employee.* *Employee* means an employee, within the meaning of § 1.410(b)-9.

*Employer.* *Employer* means the employer within the meaning of § 1.410(b)-9.

*ESOP.* *ESOP* means an employee stock ownership plan within the meaning of section 4975(e)(7) or a tax credit employee stock ownership plan within the meaning of section 409(a).

*Former employee.* *Former employee* means a former employee within the meaning of § 1.410(b)-9.

*Highly compensated employee.* *Highly compensated employee* means an employee who is highly compensated within the meaning of section 414(q).

*Highly compensated former employee.* *Highly compensated former employee* means a former employee who is highly compensated within the meaning of section 414(q)(9).

*Multiemployer plan.* *Multiemployer plan* means a multiemployer plan within the meaning of section 414(f).

*Noncollectively bargained employee.* *Noncollectively bargained employee* means an employee who is not a collectively bargained employee.

*Nonhighly compensated employee.* *Nonhighly compensated employee* means an employee who is not a highly compensated employee.

*Nonhighly compensated former employee.* *Nonhighly compensated former employee* means a former employee who is not a highly compensated former employee.

*Plan.* *Plan* means plan as defined in § 1.401(a)(26)-2(c).

*Plan year.* *Plan year* means the plan year of the plan as defined in the written plan document. In the absence of a specifically designated plan year, the plan year is deemed to be the calendar year.

*Professional employee.* *Professional employee* means a professional employee as defined in § 1.410(b)-9.

*Section 401(k) plan.* *Section 401(k) plan* means a plan consisting of elective contributions described in § 1.401(k)-1(g)(3) under a qualified cash or deferred arrangement described in § 1.401(k)-1(a)(4)(i).

*Section 401(m) plan.* *Section 401(m) plan* means a plan consisting of employee contributions described in § 1.401(m)-1(f)(6) or matching contributions described in § 1.401(m)-1(f)(12), or both.

[T.D. 8375, 56 FR 63418, Dec. 4, 1991]

### § 1.401(a)(26)-9 Effective dates and transition rules.

(a) *In general.* Except as provided in paragraphs (b), (c), and (d) of this section, section 401(a)(26) and the regulations thereunder apply to plan years beginning on or after January 1, 1989.

(b) *Transition rules—(1) Governmental plans and certain section 403(b) annuities.* Section 401(a)(26) is treated as satisfied for plan years beginning before the later of January 1, 1996, or 90 days after the opening of the first legislative session beginning on or after January 1,