any annuity contract purchased under a plan, earlier than the date that is 1 year after the close of the first taxable year with respect to which the employer maintaining the plan normally employed more than 10 employees.

(C) Treatment of multiple employer plans

In the case of a plan maintained by more than 1 employer, subparagraphs (A) and (B) shall be applied separately with respect to each such employer, and all such employers to which subsection (a) applies (after the application of this paragraph) shall be treated as maintaining a separate plan for purposes of this section.

(Added Pub. L. 117–328, div. T, title I, § 101(a), Dec. 29, 2022, 136 Stat. 5275.)

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Pub. L. 117–328, div. T, title I, § 101(c), Dec. 29, 2022, 136 Stat. 5277, provided that: ''The amendments made by this section [enacting this section] shall apply to plan years beginning after December 31, 2024.''

§ 415. Limitations on benefits and contribution under qualified plans

(a) General rule

(1) Trusts

A trust which is a part of a pension, profitsharing, or stock bonus plan shall not constitute a qualified trust under section 401(a) if—

(A) in the case of a defined benefit plan, the plan provides for the payment of benefits with respect to a participant which exceed the limitation of subsection (b), or

(B) in the case of a defined contribution plan, contributions and other additions under the plan with respect to any participant for any taxable year exceed the limitation of subsection (c).

(2) Section applies to certain annuities and accounts

In the case of—

(A) an employee annuity plan described in section 403(a),

(B) an annuity contract described in section 403(b), or

(C) a simplified employee pension described in section 408(k),

such a contract, plan, or pension shall not be considered to be described in section 403(a), 403(b), or 408(k), as the case may be, unless it satisfies the requirements of subparagraph (A) or subparagraph (B) of paragraph (1), whichever is appropriate, and has not been disqualified under subsection (g). In the case of an annuity contract described in section 403(b), the preceding sentence shall apply only to the portion of the annuity contract which exceeds the limitation of subsection (b) or the limitation of subsection (c), whichever is appropriate.

(b) Limitation for defined benefit plans

(1) In general

Benefits with respect to a participant exceed the limitation of this subsection if, when expressed as an annual benefit (within the meaning of paragraph (2)), such annual benefit is greater than the lesser of—

(A) $160,000, or

(B) 100 percent of the participant's average compensation for his high 3 years.

(2) Annual benefit

(A) In general

For purposes of paragraph (1), the term ''annual benefit'' means a benefit payable annually in the form of a straight life annuity (with no ancillary benefits) under a plan to which employees do not contribute and under which no rollover contributions (as defined in sections 402(c), 403(a)(4), 403(b)(8), 408(d)(3), and 457(e)(16)) are made.

(B) Adjustment for certain other forms of benefit

If the benefit under the plan is payable in any form other than the form described in subparagraph (A), or if the employees contribute to the plan or make rollover contributions (as defined in sections 402(c), 403(a)(4), 403(b)(8), 408(d)(3), and 457(e)(16)), the determinations as to whether the limitation described in paragraph (1) has been satisfied shall be made, in accordance with regulations prescribed by the Secretary by adjusting such benefit so that it is equivalent to the benefit described in subparagraph (A). For purposes of this subparagraph, any ancillary benefit which is not directly related to retirement income benefits shall not be taken into account; and that portion of any joint and survivor annuity which constitutes a qualified joint and survivor annuity (as defined in section 417) shall not be taken into account.

(C) Adjustment to $160,000 limit where benefit begins before age 62

If the retirement income benefit under the plan begins before age 62, the determination as to whether the $160,000 limitation set forth in paragraph (1)(A) has been satisfied shall be made, in accordance with regulations prescribed by the Secretary, by reducing the limitation of paragraph (1)(A) so that such limitation (as so reduced) equals an annual benefit (beginning when such retirement income benefit begins) which is equivalent to a $160,000 annual benefit beginning at age 62.

(D) Adjustment to $160,000 limit where benefit begins after age 65

If the retirement income benefit under the plan begins after age 65, the determination as to whether the $160,000 limitation set forth in paragraph (1)(A) has been satisfied shall be made, in accordance with regulations prescribed by the Secretary, by increasing the limitation of paragraph (1)(A) so that such limitation (as so increased) equals an annual benefit (beginning when such retirement income benefit begins) which is equivalent to a $160,000 annual benefit beginning at age 65.

(E) Limitation on certain assumptions

(i) For purposes of adjusting any limitation under subparagraph (C) and, except as

provided in clause (ii), for purposes of adjusting any benefit under subparagraph (B), the interest rate assumption shall not be less than the greater of 5 percent or the rate specified in the plan.

(ii) For purposes of adjusting any benefit under subparagraph (B) for any form of benefit subject to section 417(e)(3), the interest rate assumption shall not be less than the greatest of—

(I) 5.5 percent,

(II) the rate that provides a benefit of not more than 105 percent of the benefit that would be provided if the applicable interest rate (as defined in section 417(e)(3)) were the interest rate assumption, or

(III) the rate specified under the plan.

(iii) For purposes of adjusting any limitation under subparagraph (D), the interest rate assumption shall not be greater than the lesser of 5 percent or the rate specified in the plan.

(iv) For purposes of this subsection, no adjustments under subsection (d)(1) shall be taken into account before the year for which such adjustment first takes effect.

(v) For purposes of adjusting any benefit or limitation under subparagraph (B), (C), or (D), the mortality table used shall be the applicable mortality table (within the meaning of section 417(e)(3)(B)).

(vi) In the case of a plan maintained by an eligible employer (as defined in section 408(p)(2)(C)(i)), clause (ii) shall be applied without regard to subclause (II) thereof.

[(F) Repealed. Pub. L. 107–16, title VI, § 611(a)(5)(A), June 7, 2001, 115 Stat. 97]

(G) Special limitation for qualified police or firefighters

In the case of a qualified participant, subparagraph (C) of this paragraph shall not apply.

(H) Qualified participant defined

For purposes of subparagraph (G), the term ''qualified participant'' means a participant—

(i) in a defined benefit plan which is maintained by a State, Indian tribal government (as defined in section 7701(a)(40)), or any political subdivision thereof,

(ii) with respect to whom the period of service taken into account in determining the amount of the benefit under such defined benefit plan includes at least 15 years of service of the participant—

(I) as a full-time employee of any police department or fire department which is organized and operated by the State, Indian tribal government (as so defined), or any political subdivision maintaining such defined benefit plan to provide police protection, firefighting services, or emergency medical services for any area within the jurisdiction of such State, Indian tribal government (as so defined), or any political subdivision, or

(II) as a member of the Armed Forces of the United States.

(I) Exemption for survivor and disability benefits provided under governmental plans

Subparagraph (C) of this paragraph and paragraph (5) shall not apply to—

(i) income received from a governmental plan (as defined in section 414(d)) as a pension, annuity, or similar allowance as the result of the recipient becoming disabled by reason of personal injuries or sickness, or

(ii) amounts received from a governmental plan by the beneficiaries, survivors, or the estate of an employee as the result of the death of the employee.

(3) Average compensation for high 3 years

For purposes of paragraph (1), a participant's high 3 years shall be the period of consecutive calendar years (not more than 3) during which the participant had the greatest aggregate compensation from the employer. In the case of an employee within the meaning of section 401(c)(1), the preceding sentence shall be applied by substituting for ''compensation from the employer'' the following: ''the participant's earned income (within the meaning of section 401(c)(2) but determined without regard to any exclusion under section 911)''.

(4) Total annual benefits not in excess of $10,000

Notwithstanding the preceding provisions of this subsection, the benefits payable with respect to a participant under any defined benefit plan shall be deemed not to exceed the limitation of this subsection if—

(A) the retirement benefits payable with respect to such participant under such plan and under all other defined benefit plans of the employer do not exceed $10,000 for the plan year, or for any prior plan year, and

(B) the employer has not at any time maintained a defined contribution plan in which the participant participated.

(5) Reduction for participation or service of less than 10 years

(A) Dollar limitation

In the case of an employee who has less than 10 years of participation in a defined benefit plan, the limitation referred to in paragraph (1)(A) shall be the limitation determined under such paragraph (without regard to this paragraph) multiplied by a fraction—

(i) the numerator of which is the number of years (or part thereof) of participation in the defined benefit plan of the employer, and

(ii) the denominator of which is 10.

(B) Compensation and benefits limitations

The provisions of subparagraph (A) shall apply to the limitations under paragraphs (1)(B) and (4), except that such subparagraph shall be applied with respect to years of service with an employer rather than years of participation in a plan.

(C) Limitation on reduction

In no event shall subparagraph (A) or (B) reduce the limitations referred to in para-

graphs (1) and (4) to an amount less than 1/10 of such limitation (determined without regard to this paragraph).

(D) Application to changes in benefit structure

To the extent provided in regulations, subparagraph (A) shall be applied separately with respect to each change in the benefit structure of a plan.

(6) Computation of benefits and contributions

The computation of—

(A) benefits under a defined contribution plan, for purposes of section 401(a)(4),

(B) contributions made on behalf of a participant in a defined benefit plan, for purposes of section 401(a)(4), and

(C) contributions and benefits provided for a participant in a plan described in section 414(k), for purposes of this section

shall not be made on a basis inconsistent with regulations prescribed by the Secretary.

(7) Benefits under certain collectively bargained plans

For a year, the limitation referred to in paragraph (1)(B) shall not apply to benefits with respect to a participant under a defined benefit plan (other than a multiemployer plan)—

(A) which is maintained for such year pursuant to a collective bargaining agreement between employee representatives and one or more employers,

(B) which, at all times during such year, has at least 100 participants,

(C) under which benefits are determined solely by reference to length of service, the particular years during which service was rendered, age at retirement, and date of retirement,

(D) which provides that an employee who has at least 4 years of service has a nonforfeitable right to 100 percent of his accrued benefit derived from employer contributions, and

(E) which requires, as a condition of participation in the plan, that an employee complete a period of not more than 60 consecutive days of service with the employer or employers maintaining the plan.

This paragraph shall not apply to a participant whose compensation for any 3 years during the 10-year period immediately preceding the year in which he separates from service exceeded the average compensation for such 3 years of all participants in such plan. This paragraph shall not apply to a participant for any period for which he is a participant under another plan to which this section applies which is maintained by an employer maintaining this plan. For any year for which the paragraph applies to benefits with respect to a participant, paragraph (1)(A) and subsection (d)(1)(A) shall be applied with respect to such participant by substituting one-half the amount otherwise applicable for such year under paragraph (1)(A) for ''$160,000''.

(8) Social security retirement age defined

For purposes of this subsection, the term ''social security retirement age'' means the age used as the retirement age under section 216(*l*) of the Social Security Act, except that such section shall be applied—

(A) without regard to the age increase factor, and

(B) as if the early retirement age under section 216(*l*)(2) of such Act were 62.

(9) Special rule for commercial airline pilots

(A) In general

Except as provided in subparagraph (B), in the case of any participant who is a commercial airline pilot, if, as of the time of the participant's retirement, regulations prescribed by the Federal Aviation Administration require an individual to separate from service as a commercial airline pilot after attaining any age occurring on or after age 60 and before age 62, paragraph (2)(C) shall be applied by substituting such age for age 62.

(B) Individuals who separate from service before age 60

If a participant described in subparagraph (A) separates from service before age 60, the rules of paragraph (2)(C) shall apply.

(10) Special rule for State, Indian tribal, and local government plans

(A) Limitation to equal accrued benefit

In the case of a plan maintained for its employees by any State or political subdivision thereof, or by any agency or instrumentality of the foregoing, or a governmental plan described in the last sentence of section 414(d) (relating to plans of Indian tribal governments), the limitation with respect to a qualified participant under this subsection shall not be less than the accrued benefit of the participant under the plan (determined without regard to any amendment of the plan made after October 14, 1987).

(B) Qualified participant

For purposes of this paragraph, the term ''qualified participant'' means a participant who first became a participant in the plan maintained by the employer before January 1, 1990.

(C) Election

(i) In general

This paragraph shall not apply to any plan unless each employer maintaining the plan elects before the close of the 1st plan year beginning after December 31, 1989, to have this subsection (other than paragraph (2)(G)).

(ii) Revocation of election

An election under clause (i) may be revoked not later than the last day of the third plan year beginning after the date of the enactment of this clause. The revocation shall apply to all plan years to which the election applied and to all subsequent plan years. Any amount paid by a plan in a taxable year ending after the revocation shall be includible in income in such taxable year under the rules of this chapter in effect for such taxable year, except that, for purposes of applying the limitations

imposed by this section, any portion of such amount which is attributable to any taxable year during which the election was in effect shall be treated as received in such taxable year.

(11) Special limitation rule for governmental and multiemployer plans

In the case of a governmental plan (as defined in section 414(d)) or a multiemployer plan (as defined in section 414(f)), subparagraph (B) of paragraph (1) shall not apply. Subparagraph (B) of paragraph (1) shall not apply to a plan maintained by an organization described in section 3121(w)(3)(A) except with respect to highly compensated benefits. For purposes of this paragraph, the term ''highly compensated benefits'' means any benefits accrued for an employee in any year on or after the first year in which such employee is a highly compensated employee (as defined in section 414(q)) of the organization described in section 3121(w)(3)(A). For purposes of applying paragraph (1)(B) to highly compensated benefits, all benefits of the employee otherwise taken into account (without regard to this paragraph) shall be taken into account.

(12) Special rule for certain employees of rural electric cooperatives

(A) In general

Subparagraph (B) of paragraph (1) shall not apply to a participant in an eligible rural electric cooperative plan, except in the case of a participant who was a highly compensated employee (as defined in section 414(q)) of an employer maintaining such plan for the earlier of—

(i) the plan year in which the participant terminated employment with such employer, or

(ii) the plan year in which distributions commence under the plan with respect to the participant, or

for any of the 5 plan years immediately preceding such earlier plan year.

(B) Eligible rural electric cooperative plan

For purposes of this paragraph—

(i) In general

The term ''eligible rural electric cooperative plan'' means a plan maintained by more than 1 employer, with respect to which at least 85 percent of the employers maintaining the plan are rural cooperatives described in clause (i) or (ii) of section 401(k)(7)(B) or are a national association of such a rural cooperative.

(ii) Election

An employer maintaining an eligible rural cooperative plan may elect not to have subparagraph (A) apply to its employees.

(C) Regulations

The Secretary shall prescribe such regulations and other guidance as are necessary to limit the application of subparagraph (A) such that it does not result in increased benefits for highly compensated employees.

(c) Limitation for defined contribution plans

(1) In general

Contributions and other additions with respect to a participant exceed the limitation of this subsection if, when expressed as an annual addition (within the meaning of paragraph (2)) to the participant's account, such annual addition is greater than the lesser of—

(A) $40,000, or

(B) 100 percent of the participant's compensation.

(2) Annual addition

For purposes of paragraph (1), the term ''annual addition'' means the sum of any year of—

(A) employer contributions,

(B) the employee contributions, and

(C) forfeitures.

For the purposes of this paragraph, employee contributions under subparagraph (B) are determined without regard to any rollover contributions (as defined in sections 402(c), 403(a)(4), 403(b)(8), 408(d)(3), and 457(e)(16)) without regard to employee contributions to a simplified employee pension which are excludable from gross income under section 408(k)(6). Subparagraph (B) of paragraph (1) shall not apply to any contribution for medical benefits (within the meaning of section 419A(f)(2)) after separation from service which is treated as an annual addition.

(3) Participant's compensation

For purposes of paragraph (1)—

(A) In general

The term ''participant's compensation'' means the compensation of the participant from the employer for the year.

(B) Special rule for self-employed individuals

In the case of an employee within the meaning of section 401(c)(1), subparagraph (A) shall be applied by substituting ''the participant's earned income (within the meaning of section 401(c)(2) but determined without regard to any exclusion under section 911)'' for ''compensation of the participant from the employer''.

(C) Special rules for permanent and total disability

In the case of a participant in any defined contribution plan—

(i) who is permanently and totally disabled (as defined in section 22(e)(3)),

(ii) who is not a highly compensated employee (within the meaning of section 414(q)), and

(iii) with respect to whom the employer elects, at such time and in such manner as the Secretary may prescribe, to have this subparagraph apply,

the term ''participant's compensation'' means the compensation the participant would have received for the year if the participant was paid at the rate of compensation paid immediately before becoming permanently and totally disabled. This subparagraph shall apply only if contributions made with respect to amounts treated as com-

pensation under this subparagraph are nonforfeitable when made. If a defined contribution plan provides for the continuation of contributions on behalf of all participants described in clause (i) for a fixed or determinable period, this subparagraph shall be applied without regard to clauses (ii) and (iii).

(D) Certain deferrals included

The term ''participant's compensation'' shall include—

(i) any elective deferral (as defined in section 402(g)(3)), and

(ii) any amount which is contributed or deferred by the employer at the election of the employee and which is not includible in the gross income of the employee by reason of section 125, 132(f)(4), or 457.

(E) Annuity contracts

In the case of an annuity contract described in section 403(b), the term ''participant's compensation'' means the participant's includible compensation determined under section 403(b)(3).

[(4) Repealed. Pub. L. 107–16, title VI, § 632(a)(3)(E), June 7, 2001, 115 Stat. 114]

[(5) Repealed. Pub. L. 97–248, title II, § 238(d)(5), Sept. 3, 1982, 96 Stat. 513]

(6) Special rule for employee stock ownership plans

If no more than one-third of the employer contributions to an employee stock ownership plan (as described in section 4975(e)(7)) for a year which are deductible under paragraph (9) of section 404(a) are allocated to highly compensated employees (within the meaning of section 414(q)), the limitations imposed by this section shall not apply to—

(A) forfeitures of employer securities (within the meaning of section 409) under such an employee stock ownership plan if such securities were acquired with the proceeds of a loan (as described in section 404(a)(9)(A)), or

(B) employer contributions to such an employee stock ownership plan which are deductible under section 404(a)(9)(B) and charged against the participant's account.

The amount of any qualified gratuitous transfer (as defined in section 664(g)(1)) allocated to a participant for any limitation year shall not exceed the limitations imposed by this section, but such amount shall not be taken into account in determining whether any other amount exceeds the limitations imposed by this section.

(7) Special rules relating to church plans

(A) Alternative contribution limitation

(i) In general

Notwithstanding any other provision of this subsection, at the election of a participant who is an employee of a church or a convention or association of churches, including an organization described in section 414(e)(3)(B)(ii), contributions and other additions for an annuity contract or retirement income account described in section 403(b) with respect to such participant, when expressed as an annual addition to such participant's account, shall be treated as not exceeding the limitation of paragraph (1) if such annual addition is not in excess of $10,000.

(ii) $40,000 aggregate limitation

The total amount of additions with respect to any participant which may be taken into account for purposes of this subparagraph for all years may not exceed $40,000.

(B) Number of years of service for duly ordained, commissioned, or licensed ministers or lay employees

For purposes of this paragraph—

(i) all years of service by—

(I) a duly ordained, commissioned, or licensed minister of a church, or

(II) a lay person,

as an employee of a church, a convention or association of churches, including an organization described in section 414(e)(3)(B)(ii), shall be considered as years of service for 1 employer, and

(ii) all amounts contributed for annuity contracts by each such church (or convention or association of churches) or such organization during such years for such minister or lay person shall be considered to have been contributed by 1 employer.

(C) Foreign missionaries

In the case of any individual described in subparagraph (B) performing services outside the United States, contributions and other additions for an annuity contract or retirement income account described in section 403(b) with respect to such employee, when expressed as an annual addition to such employee's account, shall not be treated as exceeding the limitation of paragraph (1) if such annual addition is not in excess of $3,000. This subparagraph shall not apply with respect to any taxable year to any individual whose adjusted gross income for such taxable year (determined separately and without regard to community property laws) exceeds $17,000.

(D) Annual addition

For purposes of this paragraph, the term ''annual addition'' has the meaning given such term by paragraph (2).

(E) Church, convention or association of churches

For purposes of this paragraph, the terms ''church'' and ''convention or association of churches'' have the same meaning as when used in section 414(e).

(8) Special rule for difficulty of care payments excluded from gross income

(A) In general

For purposes of paragraph (1)(B), in the case of an individual who for a taxable year excludes from gross income under section 131 a qualified foster care payment which is a

difficulty of care payment, the participant's compensation, or earned income, as the case may be, shall be increased by the amount so excluded.

(B) Contributions allocable to difficulty of care payments treated as after-tax

Any contribution by the participant which is allowable due to such increase—

(i) shall be treated for purposes of this title as investment in the contract, and

(ii) shall not cause a plan (and any arrangement which is part of such plan) to be treated as failing to meet any requirements of this chapter solely by reason of allowing any such contributions.

(d) Cost-of-living adjustments

(1) In general

The Secretary shall adjust annually—

(A) the $160,000 amount in subsection (b)(1)(A),

(B) in the case of a participant who is separated from service, the amount taken into account under subsection (b)(1)(B), and

(C) the $40,000 amount in subsection (c)(1)(A),

for increases in the cost-of-living in accordance with regulations prescribed by the Secretary.

(2) Method

The regulations prescribed under paragraph (1) shall provide for—

(A) an adjustment with respect to any calendar year based on the increase in the applicable index for the calendar quarter ending September 30 of the preceding calendar year over such index for the base period, and

(B) adjustment procedures which are similar to the procedures used to adjust benefit amounts under section 215(i)(2)(A) of the Social Security Act.

(3) Base period

For purposes of paragraph (2)—

(A) $160,000 amount

The base period taken into account for purposes of paragraph (1)(A) is the calendar quarter beginning July 1, 2001.

(B) Separations after December 31, 1994

The base period taken into account for purposes of paragraph (1)(B) with respect to individuals separating from service with the employer after December 31, 1994, is the calendar quarter beginning July 1 of the calendar year preceding the calendar year in which such separation occurs.

(C) Separations before January 1, 1995

The base period taken into account for purposes of paragraph (1)(B) with respect to individuals separating from service with the employer before January 1, 1995, is the calendar quarter beginning October 1 of the calendar year preceding the calendar year in which such separation occurs.

(D) $40,000 amount

The base period taken into account for purposes of paragraph (1)(C) is the calendar quarter beginning July 1, 2001.

(4) Rounding

(A) $160,000 amount

Any increase under subparagraph (A) of paragraph (1) which is not a multiple of $5,000 shall be rounded to the next lowest multiple of $5,000. This subparagraph shall also apply for purposes of any provision of this title that provides for adjustments in accordance with the method contained in this subsection, except to the extent provided in such provision.

(B) $40,000 amount

Any increase under subparagraph (C) of paragraph (1) which is not a multiple of $1,000 shall be rounded to the next lowest multiple of $1,000.

[(e) Repealed. Pub. L. 104–188, title I, § 1452(a), Aug. 20, 1996, 110 Stat. 1816]

(f) Combining of plans

(1) In general

For purposes of applying the limitations of subsections (b) and (c)—

(A) all defined benefit plans (whether or not terminated) of an employer are to be treated as one defined benefit plan, and

(B) all defined contribution plans (whether or not terminated) of an employer are to be treated as one defined contribution plan.

(2) Exception for multiemployer plans

Notwithstanding paragraph (1) and subsection (g), a multiemployer plan (as defined in section 414(f)) shall not be combined or aggregated—

(A) with any other plan which is not a multiemployer plan for purposes of applying subsection (b)(1)(B) to such other plan, or

(B) with any other multiemployer plan for purposes of applying the limitations established in this section.

(g) Aggregation of plans

Except as provided in subsection (f)(2), the Secretary, in applying the provisions of this section to benefits or contributions under more than one plan maintained by the same employer, and to any trusts, contracts, accounts, or bonds referred to in subsection (a)(2), with respect to which the participant has the control required under section 414(b) or (c), as modified by subsection (h), shall, under regulations prescribed by the Secretary, disqualify one or more trusts, plans, contracts, accounts, or bonds, or any combination thereof until such benefits or contributions do not exceed the limitations contained in this section. In addition to taking into account such other factors as may be necessary to carry out the purposes of subsection (f), the regulations prescribed under this paragraph shall provide that no plan which has been terminated shall be disqualified until all other trusts, plans, contracts, accounts, or bonds have been disqualified.

(h) 50 percent control

For purposes of applying subsections (b) and (c) of section 414 to this section, the phrase ''more than 50 percent'' shall be substituted for the phrase ''at least 80 percent'' each place it appears in section 1563(a)(1).

(i) Records not available for past periods

Where for the period before January 1, 1976, or (if later) the first day of the first plan year of the plan, the records necessary for the application of this section are not available, the Secretary may by regulations prescribe alternate methods for determining the amounts to be taken into account for such period.

(j) Regulations; definition of year

The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this section, including, but not limited to, regulations defining the term ''year'' for purposes of any provision of this section.

(k) Special rules

(1) Defined benefit plan and defined contribution plan

For purposes of this title, the term ''defined contribution plan'' or ''defined benefit plan'' means a defined contribution plan (within the meaning of section 414(i)) or a defined benefit plan (within the meaning of section 414(j)), whichever applies, which is—

(A) a plan described in section 401(a) which includes a trust which is exempt from tax under section 501(a),

(B) an annuity plan described in section 403(a),

(C) an annuity contract described in section 403(b), or

(D) a simplified employee pension.

(2) Contributions to provide cost-of-living protection under defined benefit plans

(A) In general

In the case of a defined benefit plan which maintains a qualified cost-of-living arrangement—

(i) any contribution made directly by an employee under such an arrangement shall not be treated as an annual addition for purposes of subsection (c), and

(ii) any benefit under such arrangement which is allocable to an employer contribution which was transferred from a defined contribution plan and to which the requirements of subsection (c) were applied shall, for purposes of subsection (b), be treated as a benefit derived from an employee contribution (and subsection (c) shall not again apply to such contribution by reason of such transfer).

(B) Qualified cost-of-living arrangement defined

For purposes of this paragraph, the term ''qualified cost-of-living arrangement'' means an arrangement under a defined benefit plan which—

(i) provides a cost-of-living adjustment to a benefit provided under such plan or a separate plan subject to the requirements of section 412, and

(ii) meets the requirements of subparagraphs (C), (D), (E), and (F) and such other requirements as the Secretary may prescribe.

(C) Determination of amount of benefit

An arrangement meets the requirement of this subparagraph only if the cost-of-living adjustment of participants is based—

(i) on increases in the cost-of-living after the annuity starting date, and

(ii) on average cost-of-living increases determined by reference to 1 or more indexes prescribed by the Secretary, except that the arrangement may provide that the increase for any year will not be less than 3 percent of the retirement benefit (determined without regard to such increase).

(D) Arrangement elective; time for election

An arrangement meets the requirements of this subparagraph only if it is elective, it is available under the same terms to all participants, and it provides that such election may at least be made in the year in which the participant—

(i) attains the earliest retirement age under the defined benefit plan (determined without regard to any requirement of separation from service), or

(ii) separates from service.

(E) Nondiscrimination requirements

An arrangement shall not meet the requirements of this subparagraph if the Secretary finds that a pattern of discrimination exists with respect to participation.

(F) Special rules for key employees

(i) In general

An arrangement shall not meet the requirements of this paragraph if any key employee is eligible to participate.

(ii) Key employee

For purposes of this subparagraph, the term ''key employee'' has the meaning given such term by section 416(i)(1), except that in the case of a plan other than a top-heavy plan (within the meaning of section 416(g)), such term shall not include an individual who is a key employee solely by reason of section 416(i)(1)(A)(i).

(3) Repayments of cashouts under governmental plans

In the case of any repayment of contributions (including interest thereon) to the governmental plan with respect to an amount previously refunded upon a forfeiture of service credit under the plan or under another governmental plan maintained by a State or local government employer within the same State, any such repayment shall not be taken into account for purposes of this section.

(4) Special rules for sections 403(b) and 408

For purposes of this section, any annuity contract described in section 403(b) for the benefit of a participant shall be treated as a defined contribution plan maintained by each employer with respect to which the participant has the control required under subsection (b) or (c) of section 414 (as modified by subsection (h)). For purposes of this section, any contribution by an employer to a simplified employee pension plan for an individual for a taxable year shall be treated as an employer contribution to a defined contribution plan for such individual for such year.

(*l*) Treatment of certain medical benefits

(1) In general

For purposes of this section, contributions allocated to any individual medical benefit account which is part of a pension or annuity plan shall be treated as an annual addition to a defined contribution plan for purposes of subsection (c). Subparagraph (B) of subsection (c)(1) shall not apply to any amount treated as an annual addition under the preceding sentence.

(2) Individual medical benefit account

For purposes of paragraph (1), the term ''individual medical benefit account'' means any separate account—

(A) which is established for a participant under a pension or annuity plan, and

(B) from which benefits described in section 401(h) are payable solely to such participant, his spouse, or his dependents.

(m) Treatment of qualified governmental excess benefit arrangements

(1) Governmental plan not affected

In determining whether a governmental plan (as defined in section 414(d)) meets the requirements of this section, benefits provided under a qualified governmental excess benefit arrangement shall not be taken into account. Income accruing to a governmental plan (or to a trust that is maintained solely for the purpose of providing benefits under a qualified governmental excess benefit arrangement) in respect of a qualified governmental excess benefit arrangement shall constitute income derived from the exercise of an essential governmental function upon which such governmental plan (or trust) shall be exempt from tax under section 115.

(2) Taxation of participant

For purposes of this chapter—

(A) the taxable year or years for which amounts in respect of a qualified governmental excess benefit arrangement are includible in gross income by a participant, and

(B) the treatment of such amounts when so includible by the participant,

shall be determined as if such qualified governmental excess benefit arrangement were treated as a plan for the deferral of compensation which is maintained by a corporation not exempt from tax under this chapter and which does not meet the requirements for qualification under section 401.

(3) Qualified governmental excess benefit arrangement

For purposes of this subsection, the term ''qualified governmental excess benefit arrangement'' means a portion of a governmental plan if—

(A) such portion is maintained solely for the purpose of providing to participants in the plan that part of the participant's annual benefit otherwise payable under the terms of the plan that exceeds the limitations on benefits imposed by this section,

(B) under such portion no election is provided at any time to the participant (directly or indirectly) to defer compensation, and

(C) benefits described in subparagraph (A) are not paid from a trust forming a part of such governmental plan unless such trust is maintained solely for the purpose of providing such benefits.

(n) Special rules relating to purchase of permissive service credit

(1) In general

If a participant makes 1 or more contributions to a defined benefit governmental plan (within the meaning of section 414(d)) to purchase permissive service credit under such plan, then the requirements of this section shall be treated as met only if—

(A) the requirements of subsection (b) are met, determined by treating the accrued benefit derived from all such contributions as an annual benefit for purposes of subsection (b), or

(B) the requirements of subsection (c) are met, determined by treating all such contributions as annual additions for purposes of subsection (c).

(2) Application of limit

For purposes of—

(A) applying paragraph (1)(A), the plan shall not fail to meet the reduced limit under subsection (b)(2)(C) solely by reason of this subsection, and

(B) applying paragraph (1)(B), the plan shall not fail to meet the percentage limitation under subsection (c)(1)(B) solely by reason of this subsection.

(3) Permissive service credit

For purposes of this subsection—

(A) In general

The term ''permissive service credit'' means service credit—

(i) recognized by the governmental plan for purposes of calculating a participant's benefit under the plan,

(ii) which such participant has not received under such governmental plan, and

(iii) which such participant may receive only by making a voluntary additional contribution, in an amount determined under such governmental plan, which does not exceed the amount necessary to fund the benefit attributable to such service credit.

Such term may include service credit for periods for which there is no performance of service, and, notwithstanding clause (ii), may include service credited in order to provide an increased benefit for service credit which a participant is receiving under the plan.

(B) Limitation on nonqualified service credit

A plan shall fail to meet the requirements of this section if—

(i) more than 5 years of nonqualified service credit are taken into account for purposes of this subsection, or

(ii) any nonqualified service credit is taken into account under this subsection

before the employee has at least 5 years of participation under the plan.

(C) Nonqualified service credit

For purposes of subparagraph (B), the term ''nonqualified service credit'' means permissive service credit other than that allowed with respect to—

(i) service (including parental, medical, sabbatical, and similar leave) as an employee of the Government of the United States, any State or political subdivision thereof, or any agency or instrumentality of any of the foregoing (other than military service or service for credit which was obtained as a result of a repayment described in subsection (k)(3)),

(ii) service (including parental, medical, sabbatical, and similar leave) as an employee (other than as an employee described in clause (i)) of an educational organization described in section 170(b)(1)(A)(ii) which is a public, private, or sectarian school which provides elementary or secondary education (through grade 12), or a comparable level of education, as determined under the applicable law of the jurisdiction in which the service was performed,

(iii) service as an employee of an association of employees who are described in clause (i), or

(iv) military service (other than qualified military service under section 414(u)) recognized by such governmental plan.

In the case of service described in clause (i), (ii), or (iii), such service will be nonqualified service if recognition of such service would cause a participant to receive a retirement benefit for the same service under more than one plan.

(D) Special rules for trustee-to-trustee transfers

In the case of a trustee-to-trustee transfer to which section 403(b)(13)(A) or 457(e)(17)(A) applies (without regard to whether the transfer is made between plans maintained by the same employer)—

(i) the limitations of subparagraph (B) shall not apply in determining whether the transfer is for the purchase of permissive service credit, and

(ii) the distribution rules applicable under this title to the defined benefit governmental plan to which any amounts are so transferred shall apply to such amounts and any benefits attributable to such amounts.

(Added Pub. L. 93–406, title II, § 2004(a)(2), Sept. 2, 1974, 88 Stat. 979; amended Pub. L. 94–455, title VIII, § 803(b)(4), (f), title XV, §§ 1501(b)(3), 1502(a)(1), 1511(a), title XIX, §§ 1901(a)(65), (b)(8)(D), 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1584, 1589, 1735–1737, 1741, 1775, 1794, 1834; Pub. L. 95–600, title I, §§ 141(f)(7), 152(g), 153(a), Nov. 6, 1978, 92 Stat. 2795, 2800; Pub. L. 96–222, title I, § 101(a)(7)(L)(i)(VII), (iv)(I), (10)(I), (J)(iii), (11), Apr. 1, 1980, 94 Stat. 199, 200, 203, 204; Pub. L. 96–605, title II, § 222(a), Dec. 28, 1980, 94 Stat. 3528; Pub. L. 97–34, title III, §§ 311(g)(4), (h)(3), 333(b)(1), Aug. 13, 1981, 95 Stat. 281, 282, 297; Pub. L. 97–248, title II, §§ 235(a)–(e), 238(d)(5), 251(c)(1), (2), 253(a), Sept. 3, 1982, 96 Stat. 505–507, 513, 530, 532; Pub. L. 98–21, title I, § 122(c)(5), Apr. 20, 1983, 97 Stat. 87; Pub. L. 98–369, div. A, title I, § 15, title IV, § 491(d)(28)–(32), (e)(6), title (V), § 528(a), title VII, § 713(a)(1), (3), (d)(4)(B), (7), (k), July 18, 1984, 98 Stat. 505, 850, 853, 876, 955, 956, 958, 960; Pub. L. 99–514, title XI, §§ 1106(a)–(c)(1), (e)–(g), 1108(g)(5), 1114(b)(12), 1174(d)(1), (2), title XVIII, §§ 1847(b)(4), 1852(h)(2), (3), 1875(c)(9), (11), 1898(b)(15)(C), 1899A(13), Oct. 22, 1986, 100 Stat. 2420, 2422, 2424, 2425, 2434, 2451, 2518, 2856, 2869, 2895, 2951, 2958; Pub. L. 100–647, title I, §§ 1011(d)(2), (3), (6), (7), 1018(t)(3)(B), (8)(D), title VI, §§ 6054(a), 6059(a), Nov. 10, 1988, 102 Stat. 3459, 3460, 3588, 3589, 3696, 3699; Pub. L. 101–239, title VII, § 7304(c)(1), Dec. 19, 1989, 103 Stat. 2353; Pub. L. 102–318, title V, § 521(b)(23)–(25), July 3, 1992, 106 Stat. 311, 312; Pub. L. 103–465, title VII, §§ 732(b), 767(b), Dec. 8, 1994, 108 Stat. 5004, 5038; Pub. L. 104–188, title I, §§ 1434(a), 1444(a), (b)(1), (c), (d), 1446(a), 1449(b), 1452(a), (c)(1)–(6), 1704(t)(75), Aug. 20, 1996, 110 Stat. 1807, 1809–1811, 1814, 1816, 1891; Pub. L. 105–34, title XV, §§ 1526(a), (b), 1527(a), 1530(c)(3), (4), Aug. 5, 1997, 111 Stat. 1072–1074, 1078; Pub. L. 106–554, § 1(a)(7) [title III, § 314(e)(1)], Dec. 21, 2000, 114 Stat. 2763, 2763A–643; Pub. L. 107–16, title VI, §§ 611(a), (b), (h), 632(a)(1), (3)(C)–(F), (b)(1), 641(e)(9), (10), 654(a), (b), June 7, 2001, 115 Stat. 96, 97, 100, 113–115, 121, 130, 131; Pub. L. 107–147, title IV, § 411(p)(4), Mar. 9, 2002, 116 Stat. 50; Pub. L. 108–218, title I, § 101(b)(4), Apr. 10, 2004, 118 Stat. 598; Pub. L. 108–311, title IV, §§ 404(b)(2), 408(a)(17), Oct. 4, 2004, 118 Stat. 1188, 1192; Pub. L. 109–135, title IV, §§ 407(b), 412(y), (z), Dec. 21, 2005, 119 Stat. 2635, 2638; Pub. L. 109–280, title III, § 303(a), title VIII, §§ 821(a)–(c), 832(a), 867(a), title IX, § 906(b)(1)(A), (B), Aug. 17, 2006, 120 Stat. 921, 997, 1003, 1025, 1051, 1052; Pub. L. 110–458, title I, §§ 103(b)(2)(B)(i), 108(g), 109(d)(1), 122(a), Dec. 23, 2008, 122 Stat. 5103, 5109, 5112, 5114; Pub. L. 115–141, div. U, title IV, § 401(b)(20), Mar. 23, 2018, 132 Stat. 1202; Pub. L. 116–94, div. O, title I, § 116(b)(1), Dec. 20, 2019, 133 Stat. 3161; Pub. L. 117–328, div. T, title I, § 119(a), Dec. 29, 2022, 136 Stat. 5302.)

INFLATION ADJUSTED ITEMS FOR CERTAIN YEARS

For inflation adjustment of certain items in this section, see Internal Revenue Notices listed in a table under section 401 of this title.

Editorial Notes

REFERENCES IN TEXT

The Social Security Act, referred to in subsecs. (b)(8) and (d)(2)(B), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended, which is classified generally to chapter 7 (§ 301 et seq.) of Title 42, The Public Health and Welfare. Sections 215(i)(2)(A) and 216(*l*) of the Act enacted sections 415(i)(2)(A) and 416(*l*) of Title 42, respectively. For complete classification of this Act to the Code, see Tables.

The date of the enactment of this clause, referred to in subsec. (b)(10)(C)(ii), is the date of enactment of Pub. L. 104–188, which was approved Aug. 20, 1996.

AMENDMENTS

2022—Subsec. (b)(12). Pub. L. 117–328 added par. (12).

2019—Subsec. (c)(8). Pub. L. 116–94 added par. (8).

2018—Subsec. (g). Pub. L. 115–141 substituted ''subsection (f)(2)'' for ''subsection (f)(3)''.

2008—Subsec. (b)(2)(E)(v). Pub. L. 110–458, §103(b)(2)(B)(i), amended cl. (v) generally. Prior to amendment, cl. (v) read as follows: ''For purposes of adjusting any benefit or limitation under subparagraph (B), (C), or (D), the mortality table used shall be the table prescribed by the Secretary. Such table shall be based on the prevailing commissioners' standard table (described in section 807(d)(5)(A)) used to determine reserves for group annuity contracts issued on the date the adjustment is being made (without regard to any other subparagraph of section 807(d)(5)).''

Subsec. (b)(2)(E)(vi). Pub. L. 110–458, §122(a), added cl. (vi).

Subsec. (b)(10). Pub. L. 110–458, §109(d)(1), made technical correction to directory language of Pub. L. 109–280, §906(b)(1)(B)(ii). See 2006 Amendment note below.

Subsec. (f)(2), (3). Pub. L. 110–458, §108(g), redesignated par. (3) as par. (2) and struck out former par. (2) which related to annual compensation taken into account for defined benefit plans.

2006—Subsec. (b)(2)(E)(ii). Pub. L. 109–280, §303(a), amended cl. (ii) generally. Prior to amendment, cl. (ii) read as follows: ''For purposes of adjusting any benefit under subparagraph (B) for any form of benefit subject to section 417(e)(3), the applicable interest rate (as defined in section 417(e)(3)) shall be substituted for '5 percent' in clause (i), except that in the case of plan years beginning in 2004 or 2005, '5.5 percent' shall be substituted for '5 percent' in clause (i).''

Subsec. (b)(2)(H)(i). Pub. L. 109–280, §906(b)(1)(A)(i), substituted ''State, Indian tribal government (as defined in section 7701(a)(40)), or any political subdivision'' for ''State or political subdivision''.

Subsec. (b)(2)(H)(ii)(I). Pub. L. 109–280, §906(b)(1)(A)(ii), substituted ''State, Indian tribal government (as so defined), or any political subdivision'' for ''State or political subdivision'' in two places.

Subsec. (b)(3). Pub. L. 109–280, §832(a), struck out ''both was an active participant in the plan and'' before ''had the greatest''.

Subsec. (b)(10). Pub. L. 109–280, §906(b)(1)(B)(ii), as amended by Pub. L. 110–458, §109(d)(1), substituted ''State, Indian tribal, and'' for ''State and'' in heading.

Subsec. (b)(10)(A). Pub. L. 109–280, §906(b)(1)(B)(i), inserted ''or a governmental plan described in the last sentence of section 414(d) (relating to plans of Indian tribal governments),'' after ''foregoing,''.

Subsec. (b)(11). Pub. L. 109–280, §867(a), inserted at end ''Subparagraph (B) of paragraph (1) shall not apply to a plan maintained by an organization described in section 3121(w)(3)(A) except with respect to highly compensated benefits. For purposes of this paragraph, the term 'highly compensated benefits' means any benefits accrued for an employee in any year on or after the first year in which such employee is a highly compensated employee (as defined in section 414(q)) of the organization described in section 3121(w)(3)(A). For purposes of applying paragraph (1)(B) to highly compensated benefits, all benefits of the employee otherwise taken into account (without regard to this paragraph) shall be taken into account.''

Subsec. (n)(1). Pub. L. 109–280, §821(a)(1), substituted ''a participant'' for ''an employee'' in introductory provisions.

Subsec. (n)(3)(A). Pub. L. 109–280, §821(a)(2), inserted concluding provisions.

Subsec. (n)(3)(B)(i), (ii). Pub. L. 109–280, §821(c)(1), substituted ''nonqualified service credit'' for ''permissive service credit attributable to nonqualified service''.

Subsec. (n)(3)(C). Pub. L. 109–280, §821(c)(2), substituted ''service credit'' for ''service'' in heading and ''the term 'nonqualified service credit' means permissive service credit other than that allowed with respect to'' for ''the term 'nonqualified service' means service for which permissive service credit is allowed other than'' in introductory provisions.

Subsec. (n)(3)(C)(ii). Pub. L. 109–280, §821(c)(3), substituted ''or a comparable level of education, as determined under the applicable law of the jurisdiction in which the service was performed'' for ''as determined under State law''.

Subsec. (n)(3)(D). Pub. L. 109–280, §821(b), added subpar. (D).

2005—Subsec. (c)(7)(C). Pub. L. 109–135, §407(b), substituted ''$3,000. This subparagraph shall not apply with respect to any taxable year to any individual whose adjusted gross income for such taxable year (determined separately and without regard to community property laws) exceeds $17,000'' for ''the greater of $3,000 or the employee's includible compensation determined under section 403(b)(3)''.

Subsec. (*l*)(1). Pub. L. 109–135, §412(y), substituted ''individual medical benefit account'' for ''individual medical account''.

Subsec. (n)(3)(C). Pub. L. 109–135, §412(z), substituted ''clause'' for ''clauses'' in concluding provisions.

2004—Subsec. (b)(2)(E)(ii). Pub. L. 108–218 inserted before period at end '', except that in the case of plan years beginning in 2004 or 2005, '5.5 percent' shall be substituted for '5 percent' in clause (i)''.

Subsec. (c)(7)(C). Pub. L. 108–311, §408(a)(17), substituted ''subparagraph (B)'' for ''subparagraph (D)''.

Subsec. (d)(4)(A). Pub. L. 108–311, §404(b)(2), inserted at end ''This subparagraph shall also apply for purposes of any provision of this title that provides for adjustments in accordance with the method contained in this subsection, except to the extent provided in such provision.''

2002—Subsec. (c)(7). Pub. L. 107–147 amended heading and text of par. (7) generally, substituting provisions relating to special rules relating to church plans for provisions relating to certain contributions by church plans not treated as exceeding limit and adding provisions relating to foreign missionaries and definitions of ''church'' and ''convention or association of churches''.

2001—Subsec. (a)(2). Pub. L. 107–16, §632(a)(3)(C), struck out '', and the amount of the contribution for such portion shall reduce the exclusion allowance as provided in section 403(b)(2)'' before period at end.

Subsec. (b)(1)(A). Pub. L. 107–16, §611(a)(1)(A), substituted ''$160,000'' for ''$90,000''.

Subsec. (b)(2)(A), (B). Pub. L. 107–16, §641(e)(9), substituted ''403(b)(8), 408(d)(3), and 457(e)(16)'' for ''and 408(d)(3)''.

Subsec. (b)(2)(C). Pub. L. 107–16, §611(a)(1)(B), (2), in heading substituted ''$160,000'' for ''$90,000'' and ''age 62'' for ''the social security retirement age'' and in text substituted ''age 62'' for ''the social security retirement age'' in two places, ''$160,000'' for ''$90,000'' in two places, and struck out at end ''The reduction under this subparagraph shall be made in such manner as the Secretary may prescribe which is consistent with the reduction for old-age insurance benefits commencing before the social security retirement age under the Social Security Act.''

Subsec. (b)(2)(D). Pub. L. 107–16, §611(a)(1)(B), (3), in heading substituted ''$160,000'' for ''$90,000'' and ''age 65'' for ''the social security retirement age'' and in text substituted ''age 65'' for ''the social security retirement age'' in two places and ''$160,000'' for ''$90,000'' in two places.

Subsec. (b)(2)(F). Pub. L. 107–16, §611(a)(5)(A), struck out subpar. (F), which related to the application of subpars. (C) and (D) in the case of a governmental plan, a plan maintained by a tax-exempt organization, or a qualified merchant marine plan and defined ''qualified merchant marine plan''.

Subsec. (b)(7). Pub. L. 107–16, §654(a)(2), inserted ''(other than a multiemployer plan)'' after ''defined benefit plan'' in introductory provisions.

Pub. L. 107–16, §611(a)(1)(C), substituted ''one-half the amount otherwise applicable for such year under paragraph (1)(A) for '$160,000' '' for ''the greater of $68,212 or one-half the amount otherwise applicable for such year under paragraph (1)(A) for '$90,000' '' in concluding provisions.

Subsec. (b)(9). Pub. L. 107–16, §611(a)(5)(B), amended par. (9) generally, substituting present provisions for

provisions which provided that, in the case of any participant who was a commercial airline pilot, the rule of par. (2)(F)(i)(II) would apply, and if, as of the time of the participant's retirement, regulations prescribed by the Federal Aviation Administration required an individual to separate from service as a commercial airline pilot after attaining any age occurring on or after age 60 and before the social security retirement age, par. (2)(C) would be applied by substituting such age for the social security retirement age, and provisions which provided that if a participant separated from service before age 60, the rules of par. (2)(F) would apply.

Subsec. (b)(10)(C)(i). Pub. L. 107–16, §611(a)(5)(C), struck out ''applied without regard to paragraph (2)(F)'' before period at end.

Subsec. (b)(11). Pub. L. 107–16, §654(a)(1), amended heading and text of par. (11) generally. Prior to amendment, text read as follows: ''In the case of a governmental plan (as defined in section 414(d)), subparagraph (B) of paragraph (1) shall not apply.''

Subsec. (c)(1)(A). Pub. L. 107–16, §611(b)(1), substituted ''$40,000'' for ''$30,000''.

Subsec. (c)(1)(B). Pub. L. 107–16, §632(a)(1), substituted ''100 percent'' for ''25 percent''.

Subsec. (c)(2). Pub. L. 107–16, §641(e)(10), substituted ''408(d)(3), and 457(e)(16)'' for ''and 408(d)(3)'' in concluding provisions.

Subsec. (c)(3)(E). Pub. L. 107–16, §632(a)(3)(D), added subpar. (E).

Subsec. (c)(4). Pub. L. 107–16, §632(a)(3)(E), struck out par. (4), which related to special election for section 403(b) contracts purchased by educational organizations, hospitals, home health service agencies, certain churches, and other organizations.

Subsec. (c)(7). Pub. L. 107–16, §632(a)(3)(F), amended par. (7) generally, redesignating cls. (i) and (ii) of subpar. (B) as subpars. (A) and (B), respectively, reenacting subpar. (C) without change, striking out former subpar. (A), which directed that any contribution or addition with respect to any participant, when expressed as an annual addition, which was allocable to the application of section 403(b)(2)(D) to such participant for such year, would be treated as not exceeding the limitations of par. (1), and striking out former subpar. (B), cl. (iii), which prohibited making of election under this subpar. for any year if an election had been made under former par. (4)(A) for such year.

Subsec. (d)(1)(A). Pub. L. 107–16, §611(a)(4)(A), substituted ''$160,000'' for ''$90,000''.

Subsec. (d)(1)(C). Pub. L. 107–16, §611(b)(2)(A), substituted ''$40,000'' for ''$30,000''.

Subsec. (d)(3)(A). Pub. L. 107–16, §611(a)(4)(B), in heading substituted ''$160,000'' for ''$90,000'' and in text substituted ''July 1, 2001'' for ''October 1, 1986''.

Subsec. (d)(3)(D). Pub. L. 107–16, §611(b)(2)(B), in heading substituted ''$40,000'' for ''$30,000'' and in text substituted ''July 1, 2001'' for ''October 1, 1993''.

Subsec. (d)(4). Pub. L. 107–16, §611(h), reenacted heading without change and amended text of par. (4) generally. Prior to amendment, text read as follows: ''Any increase under subparagraph (A) or (C) of paragraph (1) which is not a multiple of $5,000 shall be rounded to the next lowest multiple of $5,000.''

Subsec. (f)(3). Pub. L. 107–16, §654(b)(1), added par. (3).

Subsec. (g). Pub. L. 107–16, §654(b)(2), substituted ''Except as provided in subsection (f)(3), the Secretary'' for ''The Secretary''.

Subsec. (k)(4). Pub. L. 107–16, §632(b)(1), added par. (4).

2000—Subsec. (c)(3)(D)(ii). Pub. L. 106–554 substituted ''section 125, 132(f)(4), or'' for ''section 125 or''.

1997—Subsec. (b)(2)(G). Pub. L. 105–34, §1527(a), substituted ''participant, subparagraph (C) of this paragraph shall not apply.'' for ''participant—

''(i) subparagraph (C) shall not reduce the limitation of paragraph (1)(A) to an amount less than $50,000, and

''(ii) the rules of subparagraph (F) shall apply.

The Secretary shall adjust the $50,000 amount in clause (i) at the same time and in the same manner as under section 415(d).''

Subsec. (c)(6). Pub. L. 105–34, §1530(c)(3), inserted concluding provisions ''The amount of any qualified gratuitous transfer (as defined in section 664(g)(1)) allocated to a participant for any limitation year shall not exceed the limitations imposed by this section, but such amount shall not be taken into account in determining whether any other amount exceeds the limitations imposed by this section.''

Subsec. (e)(6), (7). Pub. L. 105–34, §1530(c)(4), added par. (6) and redesignated former par. (6) as (7).

Subsec. (k)(3). Pub. L. 105–34, §1526(b), added par. (3).

Subsec. (n). Pub. L. 105–34, §1526(a), added subsec. (n).

1996—Subsec. (a)(1). Pub. L. 104–188, §1452(c)(1), inserted ''or'' at end of subpar. (A), struck out '', or'' at end of subpar. (B), and struck out subpar. (C) which read as follows: ''in any case in which an individual is a participant in both a defined benefit plan and a defined contribution plan maintained by the employer, the trust has been disqualified under subsection (g).''

Subsec. (b)(2)(E)(i). Pub. L. 104–188, §1449(b)(1), substituted ''For purposes of adjusting any limitation under subparagraph (C) and, except as provided in clause (ii), for purposes of adjusting any benefit under subparagraph (B),'' for ''Except as provided in clause (ii), for purposes of adjusting any benefit or limitation under subparagraph (B) or (C),''.

Subsec. (b)(2)(E)(ii). Pub. L. 104–188, §1449(b)(2), substituted ''For purposes of adjusting any benefit under subparagraph (B) for any form of benefit subject to section 417(e)(3),'' for ''For purposes of adjusting the benefit or limitation of any form of benefit subject to section 417(e)(3),''.

Subsec. (b)(2)(I). Pub. L. 104–188, §1444(c), added subpar. (I).

Subsec. (b)(5)(B). Pub. L. 104–188, §1452(c)(2), struck out ''and subsection (e)'' after ''and (4)''.

Subsec. (b)(10)(C). Pub. L. 104–188, §1444(d), designated existing provisions as cl. (i), inserted heading, and added cl. (ii).

Subsec. (b)(11). Pub. L. 104–188, §1444(a), added par. (11).

Subsec. (c)(3)(C). Pub. L. 104–188, §1446(a), inserted at end ''If a defined contribution plan provides for the continuation of contributions on behalf of all participants described in clause (i) for a fixed or determinable period, this subparagraph shall be applied without regard to clauses (ii) and (iii).''

Subsec. (c)(3)(D). Pub. L. 104–188, §1434(a), added subpar. (D).

Subsec. (e). Pub. L. 104–188, §1452(a), struck out subsec. (e) which related to limitation in case of a defined benefit plan and a defined contribution plan for same employee.

Subsec. (f)(1). Pub. L. 104–188, §1452(c)(3), in introductory provisions, substituted ''subsections (b) and (c)'' for ''subsections (b), (c), and (e)''.

Subsec. (g). Pub. L. 104–188, §1452(c)(4), in last sentence, substituted ''subsection (f)'' for ''subsections (e) and (f)''.

Subsec. (k)(1)(C) to (F). Pub. L. 104–188, §1704(t)(75), inserted ''or'' at end of subpar. (C), redesignated subpar. (F) as (D), and struck out former subpars. (D) and (E) which read as follows:

''(D) an individual retirement account described in section 408(a),

''(E) an individual retirement annuity described in section 408(b), or''.

Subsec. (k)(2)(A)(i). Pub. L. 104–188, §1452(c)(5), amended cl. (i) generally. Prior to amendment, cl. (i) read as follows: ''any contribution made directly by an employee under such arrangement—

''(I) shall not be treated as an annual addition for purposes of subsection (c), but

''(II) shall be so treated for purposes of subsection (e), and''.

Subsec. (k)(2)(A)(ii). Pub. L. 104–188, §1452(c)(6), substituted ''subsection (c)'' for ''subsections (c) and (e)'' before ''shall not again''.

Subsec. (m). Pub. L. 104–188, §1444(b)(1), added subsec. (m).

1994—Subsec. (b)(2)(E). Pub. L. 103–465, §767(b), added cls. (i), (ii), and (v), redesignated former cls. (ii) and (iii) as (iii) and (iv), respectively, and struck out former cl. (i) which read as follows: ''For purposes of adjusting any benefit or limitation under subparagraph (B) or (C), the interest rate assumption shall not be less than the greater of 5 percent or the rate specified in the plan.''

Subsec. (c)(1)(A). Pub. L. 103–465, §732(b)(2), struck out ''(or, if greater, ¼ of the dollar limitation in effect under subsection (b)(1)(A))'' after ''$30,000''.

Subsec. (d). Pub. L. 103–465, §732(b)(1), amended subsec. (d) generally, substituting present provisions for provisions authorizing annual cost-of-living adjustments, outlining base periods, and providing for a freeze on adjustment to defined contribution and benefit limits.

1992—Subsecs. (b)(2)(A), (B), (c)(2). Pub. L. 102–318 substituted ''402(c)'' for ''402(a)(5)''.

1989—Subsec. (c)(6). Pub. L. 101–239 substituted ''Special rule for employee stock ownership plans'' for ''Special limitation for employee stock ownership plan'' in heading and amended text generally, substituting introductory provisions and subpars. (A) and (B) for former subpars. (A) to (C).

1988—Subsec. (b)(2)(H)(ii). Pub. L. 100–647, §6059(a), substituted ''15'' for ''20''.

Subsec. (b)(5)(B). Pub. L. 100–647, §1011(d)(6), inserted ''and subsection (e)'' after ''paragraphs (1)(B) and (4)''.

Subsec. (b)(5)(D). Pub. L. 100–647, §1011(d)(2), substituted ''subparagraph (A)'' for ''this paragraph''.

Subsec. (b)(10). Pub. L. 100–647, §6054(a), added par. (10).

Subsec. (c)(6)(A). Pub. L. 100–647, §1011(d)(7), substituted ''paragraph (1)(A)'' for ''paragraph (c)(1)(A) (as adjusted for such year pursuant to subsection (d)(1))'' and for ''paragraph (c)(1)(A) (as so adjusted)''.

Subsec. (k). Pub. L. 100–647, §1018(t)(8)(D), repealed Pub. L. 99–514, §1899A(13), see 1986 Amendment note below.

Subsec. (k)(2)(C)(ii). Pub. L. 100–647, §1011(d)(3)(A), substituted ''to such increase'' for ''to the arrangement''.

Subsec. (k)(2)(D). Pub. L. 100–647, §1011(d)(3)(B), added subpar. (D) and struck out former subpar. (D) which read as follows: ''An arrangement meets the requirements of this subparagraph only if it is elective, it is available under the same terms to all participants, and it provides that such election may be made in—

''(i) the year in which the participant—

''(I) attains the earliest retirement age under the defined benefit plan (determined without regard to any requirement of separation from service), or

''(II) separates from service, or

''(ii) both such years.''

Subsec. (*l*)(1). Pub. L. 100–647, §1018(t)(3)(B), made technical correction to directory language of Pub. L. 99–514, §1852(h)(2). See 1986 Amendment note below.

1986—Subsec. (b)(2)(B). Pub. L. 99–514, §1898(b)(15)(C), substituted reference to section 417 for reference to section 401(a)(11)(G)(iii).

Subsec. (b)(2)(C). Pub. L. 99–514, §1106(b)(1)(A), substituted in heading and in two places in text ''the social security retirement age'' for ''age 62'' and substituted new last sentence for ''The reduction under this subparagraph shall not reduce the limitation of paragraph (1)(A) below—

''(i) if the benefit begins at or after age 55, $75,000, or

''(ii) if the benefit begins before age 55, the amount which is the equivalent of the $75,000 limitation for age 55.''

Subsec. (b)(2)(D). Pub. L. 99–514, §1106(b)(1)(A)(i), substituted in heading and in two places in text ''the social security retirement age'' for ''age 65''.

Subsec. (b)(2)(E)(iii). Pub. L. 99–514, §1875(c)(9), substituted ''this subsection'' for ''adjusting any benefit or limitation under subparagraph (B), (C), or (D)''.

Subsec. (b)(2)(F) to (H). Pub. L. 99–514, §1106(b)(2), added subpars. (F) to (H).

Subsec. (b)(5). Pub. L. 99–514, §1106(f), substituted ''Reduction for participation or service of less than 10 years'' for ''Reduction for service less than 10 years'' in heading and amended text generally. Prior to amendment, text read as follows: ''In the case of an employee who has less than 10 years of service with the employer, the limitation referred to in paragraph (1), and the limitation referred to in paragraph (4), shall be the limitation determined under such paragraph (without regard to this paragraph), multiplied by a fraction, the numerator of which is the number of years (or part thereof) of service with the employer and the denominator of which is 10.''

Subsec. (b)(8). Pub. L. 99–514, §1106(b)(1)(B), added par. (8).

Subsec. (b)(9). Pub. L. 99–514, §1106(b)(3), added par. (9).

Subsec. (c)(1)(A). Pub. L. 99–514, §1106(a), amended subpar. (A) generally, inserting ''(or, if greater, ¼ of the dollar limitation in effect under subsection (b)(1)(A))''.

Subsec. (c)(2). Pub. L. 99–514, §1108(g)(5), substituted ''which are excludable from gross income under section 408(k)(6)'' for ''allowable as a deduction under section 219(a), and without regard to deductible employee contributions within the meaning of section 72(*o*)(5)'' in last sentence.

Pub. L. 99–514, §1106(e)(2), inserted at end ''Subparagraph (B) of paragraph (1) shall not apply to any contribution for medical benefits (within the meaning of section 419A(f)(2)) after separation from service which is treated as an annual addition.''

Subsec. (c)(2)(B). Pub. L. 99–514, §1106(e)(1), amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: ''the lesser of—

''(i) the amount of the employee contributions in excess of 6 percent of his compensation, or

''(ii) one-half of the employee contributions, and''.

Subsec. (c)(3)(C). Pub. L. 99–514, §1875(c)(11), substituted ''any defined contribution plan'' for ''a profit-sharing or stock bonus plan''.

Subsec. (c)(3)(C)(i). Pub. L. 99–514, §1847(b)(4), substituted ''section 22(e)(3)'' for ''section 37(e)(3)''.

Subsec. (c)(3)(C)(ii). Pub. L. 99–514, §1114(b)(12), substituted ''a highly compensated employee (within the meaning of section 414(q))'' for ''an officer, owner, or highly compensated''.

Subsec. (c)(4)(A) to (C). Pub. L. 99–514, §1106(b)(4), inserted ''a health and welfare service agency,'' after ''a home health service agency,''.

Subsec. (c)(6)(A). Pub. L. 99–514, §1174(d)(1), substituted ''highly compensated employees (within the meaning of section 414(q))'' for ''the group of employees consisting of officers, shareholders owning more than 10 percent of the employer's stock (determined under subparagraph (B)(iv)), or employees described in subparagraph (B)(iii)''.

Subsec. (c)(6)(B)(iii), (iv). Pub. L. 99–514, §1174(d)(2)(A), struck out cls. (iii) and (iv) which read as follows:

''(iii) an employee described in this clause is any participant whose compensation for a year exceeds an amount equal to twice the amount described in paragraph (1)(A) for such year (as adjusted for such year pursuant to subsection (d)(1)), determined without regard to subparagraph (A) of this paragraph, and

''(iv) an individual shall be considered to own more than 10 percent of the employer's stock if, without regard to stock held under the employee stock ownership plan, he owns (after application of section 1563(e)) more than 10 percent of the total combined voting power of all classes of stock entitled to vote or more than 10 percent of the total value of shares of all classes of stock.''

Subsec. (c)(6)(C). Pub. L. 99–514, §1174(d)(2)(B), substituted ''highly compensated employees (within the meaning of section 414(q))'' for ''the group of employees consisting of officers, shareholders owning more than 10 percent of the employer's stock (determined under subparagraph (B)(iv)), or employees described in subparagraph (B)(iii)''.

Subsec. (d)(1)(B), (C). Pub. L. 99–514, §1106(g)(1), redesignated subpar. (C) as (B) and struck out former subpar.

(B), which related to the $30,000 amount in subsection (c)(1)(A).

Subsec. (d)(2)(A). Pub. L. 99–514, § 1106(g)(2)(A), substituted ''subparagraph (A)'' for ''subparagraphs (A) and (B)''.

Subsec. (d)(2)(B). Pub. L. 99–514, § 1106(g)(2)(B), substituted ''subparagraph (B)'' for ''subparagraph (C)''.

Subsec. (d)(3). Pub. L. 99–514, § 1106(g)(3), substituted ''subparagraph (A)'' for ''subparagraph (A) or (B)''.

Subsec. (k). Pub. L. 99–514, § 1899A(13), which directed the general amendment of subsec. (k) by striking out par. (1) designation and redesignating subpars. (A) to (F) as pars. (1) to (6), respectively, was repealed by Pub. L. 100–647, § 1018(t)(8)(D).

Subsec. (k)(2). Pub. L. 99–514, § 1106(c)(1), added par. (2) relating to contributions to provide cost-of-living protection under defined benefit plans.

Subsec. (*l*). Pub. L. 99–514, § 1852(h)(3), substituted ''a pension or annuity plan'' for ''a defined benefit plan'' in pars. (1) and (2)(A).

Pub. L. 99–514, § 1852(h)(2), as amended by Pub. L. 100–647, § 1018(t)(3)(B), inserted at end of par. (1) ''Subparagraph (B) of subsection (c)(1) shall not apply to any amount treated as an annual addition under the preceding sentence.''

1984—Subsec. (a)(2). Pub. L. 98–369, § 491(d)(28), struck out subpar. (D) which related to application of this section to a plan described in section 405(a), and in provision following subpar. (C) struck out ''405(a),'' after ''403(b),''.

Subsec. (b)(2)(A), (B). Pub. L. 98–369, § 491(d)(29), (30), substituted ''and 408(d)(3)'' for ''408(d)(3) and 409(b)(3)(C)''.

Subsec. (b)(2)(C). Pub. L. 98–369, § 713(a)(1)(A), substituted provision respecting determination as to whether $90,000 limitation has been satisfied by reducing the limitation of par. (1)(A) so that such limitation (as so reduced) equals an annual benefit (beginning when such retirement income benefit begins) which is equivalent to a $90,000 annual benefit beginning at age 62 for provision for such determination by adjusting the benefit so that it is equivalent to such a benefit beginning at age 62.

Subsec. (b)(2)(D). Pub. L. 98–369, § 713(a)(1)(B), substituted ''limit'' for ''limitation'' in heading, and in text substituted provision respecting determination as to whether $90,000 limitation has been satisfied by increasing the limitation of par. (1)(A) so that such limitation (as so increased) equals an annual benefit (beginning when such retirement income benefit begins) which is equivalent to a $90,000 annual benefit beginning at age 65 for provision for such determination by adjusting the benefit so that it is equivalent to such a benefit beginning at age 65.

Subsec. (b)(2)(E). Pub. L. 98–369, § 713(a)(1)(C), provided in cls. (i) and (iii) for adjustment of any limitation and substituted in cl. (ii) ''any limitation'' for ''any benefit''.

Subsec. (c)(2). Pub. L. 98–369, § 491(d)(31), substituted ''and 408(d)(3)'' for ''405(d)(3), 408(d)(3), and 409(b)(3)(C)''.

Subsec. (c)(3)(C). Pub. L. 98–369, § 713(k), inserted in introductory text ''in a profit-sharing or stock bonus plan'', and substituted in last sentence ''if contributions made with respect to amounts treated as compensation under this subparagraph'' for ''if contributions made with respect to such participant''.

Subsec. (c)(6)(B)(ii). Pub. L. 98–369, § 491(e)(6), substituted ''section 409'' for ''section 409A''.

Subsec. (c)(6)(C). Pub. L. 98–369, § 713(d)(4)(B)(i)–(iii), substituted ''paragraph (9)'' for ''paragraph (10)'' of section 404(a), section ''404(a)(9)(A)'' for ''404(a)(10)(A)'', and section ''404(a)(9)(B)'' for ''404(a)(10)(B)''.

Subsec. (c)(7), (8). Pub. L. 98–369, § 713(d)(7)(A), redesignated par. (8) as (7), and struck out former par. (7) relating to certain level premium annuity contracts under plans benefiting owner-employees.

Subsec. (d)(2)(A). Pub. L. 98–369, § 15(b), substituted ''1986'' for ''1984''.

Subsec. (d)(3). Pub. L. 98–369, § 15(a), substituted ''January 1, 1988'' for ''January 1, 1986''.

Subsec. (e)(3)(B)(ii)(II). Pub. L. 98–369, § 713(d)(7)(B), struck out reference to subsec. (c)(8).

Subsec. (e)(6)(C). Pub. L. 98–369, § 713(a)(3), added subpar. (C).

Subsec. (k)(1). Pub. L. 98–369, § 491(d)(32), struck out subpars. (C) and (H), which included a qualified bond purchase plan described in section 405(a) and an individual retirement bond described in section 409 within the term ''defined contribution plan'' or ''defined benefit plan'', respectively, and redesignated subpars. (D) to (G) as (C) to (F), respectively.

Subsec. (*l*). Pub. L. 98–369, § 528(a), added subsec. (*l*).

1983—Subsec. (c)(3)(C)(i). Pub. L. 98–21 substituted ''section 37(e)(3)'' for ''section 105(d)(4)''.

1982—Subsec. (b)(1)(A). Pub. L. 97–248, § 235(a)(1), substituted ''$90,000'' for ''$75,000''.

Subsec. (b)(2)(C). Pub. L. 97–248, § 235(a)(3)(A), (e)(1), (2), inserted provisions relating to reduction under this subparagraph, and substituted ''$90,000'' for ''$75,000'' and ''62'' for ''55'', wherever appearing.

Subsec. (b)(2)(D), (E). Pub. L. 97–248, § 235(e)(3), (4), added subpars. (D) and (E).

Subsec. (b)(7). Pub. L. 97–248, § 235(a)(3)(B), substituted ''the greater of $68,212 or one-half the amount otherwise applicable for such year under paragraph (1)(A) for '$90,000' '' for '' '37,500' for '75,000' ''.

Subsec. (c)(1)(A). Pub. L. 97–248, § 235(a)(2), substituted ''$30,000'' for ''$25,000''.

Subsec. (c)(3). Pub. L. 97–248, § 253(a), designated existing provisions as subpars. (A) and (B) and added subpar. (C).

Subsec. (c)(4). Pub. L. 97–248, § 251(c)(1), substituted '', home health service agencies, and certain churches, etc.'' for ''and home health service agencies'' in heading, in subpar. (A) inserted ''(as determined for purposes of section 403(b)(2))'' after ''by taking into account his service for the employer'', substituted ''a home health service agency, or a church, convention or association of churches, or an organization described in section 414(e)(3)(B)(ii)'' for ''or a home health service agency'' in subpars. (A), (B) and (C), respectively, and, in subpar. (D), added cl. (iv).

Subsec. (c)(5). Pub. L. 97–248, § 238(d)(5), struck out par. (5) relating to application with section 404(e)(4).

Subsec. (c)(8). Pub. L. 97–248, § 251(c)(2), added par. (8).

Subsec. (d)(1). Pub. L. 97–248, § 235(b)(1), substituted ''benefit amounts'' for ''primary insurance amounts'' in provision following subpar. (C).

Pub. L. 97–248, § 235(b)(3), substituted ''$90,000'' for ''$75,000'' in subpar. (A), and in subpar. (B) substituted ''$30,000'' for ''$25,000''.

Subsec. (d)(2)(A). Pub. L. 97–248, § 235(b)(2)(B), substituted ''1984'' for ''1974''.

Subsec. (d)(3). Pub. L. 97–248, § 235(b)(2)(A), added par. (3).

Subsec. (e)(1). Pub. L. 97–248, § 235(c)(1), substituted ''1.0'' for ''1.4''.

Subsec. (e)(2)(B). Pub. L. 97–248, § 235(c)(2)(A), substituted provisions that for purposes of this subsection, the defined benefit plan fraction for any year has a denominator which is the lesser of the product of 1.25 multiplied by the dollar limitation in effect under subsec. (b)(1)(A) for such year, or the product of 1.4 multiplied by the amount which may be taken into account under subsec. (b)(1)(B) with respect to such individual under the plan for such year, for provisions that such benefit plan fraction had a denominator which was the projected annual benefit of the participant under the plan (determined as of the close of the year) if the plan provided the maximum benefit allowable under subsec. (b).

Subsec. (e)(3)(B). Pub. L. 97–248, § 235(c)(2)(B), substituted provision that the defined contribution plan fraction for any year has a denominator which, determined for such year and for each prior year of service with the employer, is the lesser of either the product of 1.25 multiplied by the dollar limitation in effect under subsec. (c)(1)(A) for such year (determined without regard to subsec. (c)(6)), or the product of 1.4 multiplied by the amount which may be taken into account under

subsec. (c)(1)(B) (or subsec. (c)(7) or (8), if applicable) with respect to such individual under such plan for such year, for provision that the denominator of such fraction was the sum of the maximum amount of annual additions to the participant's account which could have been made under subsec. (c) for such year and for each prior year of service with the employer (determined without regard to subsec. (c)(6)).

Subsec. (e)(6). Pub. L. 97–248, § 235(d), added par. (6).

1981—Subsec. (a)(2). Pub. L. 97–34, § 311(g)(4)(A), struck out in provision preceding subpar. (A) ''Except as provided in paragraph (3)'', redesignated former subpar. (E) as (C), and in subpar. (C) as so designated, inserted ''described in section 408(k), or'', redesignated former subpar. (F) as (D), struck out former subpars. (C), relating to an individual retirement account described under section 408(a), (D), relating to an individual retirement annuity described in section 408(b), and (G), relating to a retirement bond described in section 409, and in provision following subpar. (D), substituted ''such a contract, plan, or pension,'' for ''such contract, annuity plan, account, annuity, plan, or bond'' and ''408(k)'' for ''408(a), 408(b), or 409''.

Subsec. (a)(3). Pub. L. 97–34, § 311(h)(3), struck out par. (3) which provided that par. (2) not apply to an account, annuity, or bond described in section 408(a), 408(b), or 409, established for the benefit of the spouse of the individual contributing to such account, or for such annuity or bond, if a deduction is allowed under section 220 to such individual with respect to such contribution for such year.

Subsec. (c)(2). Pub. L. 97–34, § 311(g)(4)(B), included in provision following subpar. (C) references to sections 403(b)(8) and 405(d)(3) and inserted ''without regard to employee contributions to a simplified employee pension allowable as a deduction under section 219(a), and without regard to deductible employee contributions within the meaning of section 72(*o*)(5)''.

Subsec. (c)(6)(C). Pub. L. 97–34, § 333(b)(1), added subpar. (C).

Subsec. (e)(5). Pub. L. 97–34, § 311(g)(4)(C), struck out '', any individual retirement account described in section 408(a), any individual retirement annuity described in section 408(b), and any retirement bond described in section 409,'' before ''for the benefit''.

1980—Subsec. (b)(7). Pub. L. 96–222, § 101(a)(11), substituted in subpar. (C) ''under which benefits are determined solely by reference to length of service, the particular years during which service was rendered, age at retirement, and date of retirement'' for ''benefits under which are determined by multiplying a specified amount (which is the same amount for each participant) by the number of the participant's years of service'' and inserted in text following subpar. (E) provisions requiring that this paragraph not apply to a participant for any period for which he is a participant under another plan to which this section applies which is maintained by an employer maintaining this plan.

Subsec. (c)(6)(A). Pub. L. 96–605 inserted '', or purchased with cash contributed,'' after ''securities contributed''.

Subsec. (c)(6)(B)(i). Pub. L. 96–222, § 101(a)(7)(L)(i)(VII), (iv)(I), substituted ''a tax credit employee stock ownership plan'' for ''an ESOP'' and struck out ''leveraged'' before ''employee''.

Subsec. (e)(5). Pub. L. 96–222, § 101(a)(10)(I), inserted provisions requiring that for purposes of this section, any contribution by an employer to a simplified employee pension for an individual for a taxable year be treated as an employer contribution to a defined contribution plan for such individual for such year.

1978—Subsec. (a)(2). Pub. L. 95–600, § 152(g)(1), (2), as amended by Pub. L. 96–222, § 101(a)(10)(J)(iii), added subpar. (E), redesignated former subpars. (E) and (F) as (F) and (G), respectively, and in provision following subpar. (G) as so redesignated, inserted ''408(k),'' after ''408(b),''.

Subsec. (b)(7). Pub. L. 95–600, § 153(a), added par. (7).

Subsec. (c)(6)(B)(i). Pub. L. 95–600, § 141(f)(7), substituted ''leveraged employee stock ownership plan (within the meaning of section 4975(e)(7)) or an ESOP'' for ''a plan which meets the requirements of section 4975(e)(7) or section 301(d) of the Tax Reduction Act of 1975''.

Subsec. (c)(6)(B)(ii). Pub. L. 95–600, § 141(f)(7), substituted ''has the meaning given to such term by section 409A'' for ''means, in the case of an employee stock ownership plan within the meaning of section 4975(e)(7), qualifying employer securities within the meaning of section 4975(e)(8), but only if they are described in section 301(d)(9)(A) of the Tax Reduction Act of 1975, or, in the case of an employee stock ownership plan described in section 301(d)(2) of the Tax Reduction Act of 1975, employer securities within the meaning of section 301(d)(9)(A) of such Act''.

Subsec. (e)(5). Pub. L. 95–600, § 152(g)(3), inserted ''any simplified employee pension,'' after ''section 408(b),''.

Subsec. (k)(1)(G), (H). Pub. L. 95–600, § 152(g)(4), added subpar. (G) and redesignated former subpar. (G) as (H).

1976—Subsec. (a)(2). Pub. L. 94–455, § 1501(b)(3)(A), substituted ''Except as provided in paragraph (3), in the case'' for ''In the case''.

Subsec. (a)(3). Pub. L. 94–455, § 1501(b)(3)(B), added par. (3).

Subsec. (b)(2)(A). Pub. L. 94–455, § 1901(a)(65)(A), inserted closing parenthesis after ''409(b)(3)(C)''.

Subsec. (b)(2)(B). Pub. L. 94–455, §§ 1901(a)(65)(B), 1906(b)(13)(A), struck out ''or his delegate'' after ''Secretary'' and substituted ''section 401(a)(11)(G)(iii)'' for ''section 401(a)(11)(H)(iii)''.

Subsec. (b)(2)(C), (6). Pub. L. 94–455, § 1906(b)(13)(A), struck out ''or his delegate'' after ''Secretary''.

Subsec. (c)(4). Pub. L. 94–455, §§ 1901(b)(8)(D), 1906(b)(13)(A), substituted ''educational organizations'' for ''educational institutions'' in the heading and ''educational organization'' for ''educational institution'' in subpars. (A), (B), and (C), struck out ''or his delegate'' after ''Secretary'' in subpar. (D)(i), and substituted ''For purposes of this paragraph the term 'educational organization' means an educational organization described in section 170(b)(1)(A)(ii)'' for ''For purposes of this paragraph the term 'educational institution' means an educational institution as defined in section 151(e)(4)'' in subpar. (D)(ii).

Subsec. (c)(5). Pub. L. 94–455, § 1502(a)(1), added par. (5).

Subsec. (c)(6). Pub. L. 94–455, § 803(f)(1), added par. (6).

Subsec. (c)(7). Pub. L. 94–455, § 1511(a), added par. (7).

Subsec. (d)(1). Pub. L. 94–455, § 1906(b)(13)(A), struck out ''or his delegate'' after ''Secretary''.

Subsec. (e)(3)(B). Pub. L. 94–455, § 803(f)(2), substituted ''with the employer determined without regard to paragraph (6) of such subsection)'' for ''with the employer''.

Subsec. (e)(5). Pub. L. 94–455, § 803(b)(4), substituted ''For purposes of this section'' for ''For purposes of this subsection''.

Subsecs. (g), (i), (j). Pub. L. 94–455, § 1906(b)(13)(A), struck out ''or his delegate'' after ''Secretary''.

Statutory Notes and Related Subsidiaries

Effective Date of 2022 Amendment

Pub. L. 117–328, div. T, title I, § 119(b), Dec. 29, 2022, 136 Stat. 5303, provided that: ''The amendment made by this section [amending this section] shall apply to limitation years ending after the date of the enactment of this Act [Dec. 29, 2022].''

Effective Date of 2019 Amendment

Pub. L. 116–94, div. O, title I, § 116(b)(2), Dec. 20, 2019, 133 Stat. 3161, provided that: ''The amendment made by this subsection [amending this section] shall apply to plan years beginning after December 31, 2015.''

Effective Date of 2008 Amendment

Pub. L. 110–458, title I, § 103(b)(2)(B)(ii), Dec. 23, 2008, 122 Stat. 5103, provided that:

''(I) Except as provided in subclause (II), the amendment made by clause (i) [amending this section] shall apply to years beginning after December 31, 2008.

''(II) A plan sponsor may elect to have the amendment made by clause (i) apply to any year beginning after December 31, 2007, and before January 1, 2009, or to any portion of any such year.''

Amendment by sections 108(g) and 109(d)(1) of Pub. L. 110–458 effective as if included in the provisions of Pub. L. 109–280 to which the amendment relates, except as otherwise provided, see section 112 of Pub. L. 110–458, set out as a note under section 72 of this title.

Pub. L. 110–458, title I, §122(b), Dec. 23, 2008, 122 Stat. 5114, provided that: ''The amendment made by this section [amending this section] shall apply to years beginning after December 31, 2008.''

EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109–280, title III, §303(b), Aug. 17, 2006, 120 Stat. 921, provided that: ''The amendment made by subsection (a) [amending this section] shall apply to distributions made in years beginning after December 31, 2005.''

Pub. L. 109–280, title VIII, §821(d), Aug. 17, 2006, 120 Stat. 998, provided that:

''(1) IN GENERAL.—The amendments made by subsections (a) and (c) [amending this section] shall take effect as if included in the amendments made by section 1526 of the Taxpayer Relief Act of 1997 [Pub. L. 105–34].

''(2) SUBSECTION (b).—The amendments made by subsection (b) [amending this section] shall take effect as if included in the amendments made by section 647 of the Economic Growth and Tax Relief Reconciliation Act of 2001 [see section 647(c) of Pub. L. 107–16, set out as an Effective Date of 2001 Amendment note under section 403 of this title].''

Pub. L. 109–280, title VIII, §832(b), Aug. 17, 2006, 120 Stat. 1003, provided that: ''The amendment made by this section [amending this section] shall apply to years beginning after December 31, 2005.''

Pub. L. 109–280, title VIII, §867(b), Aug. 17, 2006, 120 Stat. 1025, provided that: ''The amendment made by this section [amending this section] shall apply to years beginning after December 31, 2006.''

Amendment by section 906(b)(1)(A), (B) of Pub. L. 109–280 applicable to any year beginning on or after Aug. 17, 2006, see section 906(c) of Pub. L. 109–280, set out as a note under section 414 of this title.

EFFECTIVE DATE OF 2005 AMENDMENT

Amendment by section 407(b) of Pub. L. 109–135 effective as if included in the provisions of the Economic Growth and Tax Relief Reconciliation Act of 2001, Pub. L. 107–16, to which such amendment relates, see section 407(c) of Pub. L. 109–135, set out as a note under section 402 of this title.

EFFECTIVE DATE OF 2004 AMENDMENTS

Amendment by section 404(b)(2) of Pub. L. 108–311 effective as if included in the provisions of the Economic Growth and Tax Relief Reconciliation Act of 2001, Pub. L. 107–16, to which such amendment relates, see section 404(f) of Pub. L. 108–311, set out as a note under section 45A of this title.

Amendment by Pub. L. 108–218 applicable, except as otherwise provided, to plan years beginning after Dec. 31, 2003, see section 101(d) of Pub. L. 108–218, set out as a note under section 404 of this title.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–147 effective as if included in the provisions of the Economic Growth and Tax Relief Reconciliation Act of 2001, Pub. L. 107–16, to which such amendment relates, see section 411(x) of Pub. L. 107–147, set out as a note under section 25B of this title.

EFFECTIVE DATE OF 2001 AMENDMENT

Pub. L. 107–16, title VI, §611(i), June 7, 2001, 115 Stat. 100, as amended by Pub. L. 107–147, title IV, §411(j)(3), Mar. 9, 2002, 116 Stat. 47, provided that:

''(1) IN GENERAL.—The amendments made by this section [amending this section and sections 401, 402, 404, 408, 457, 501, and 505 of this title] shall apply to years beginning after December 31, 2001.

''(2) DEFINED BENEFIT PLANS.—The amendments made by subsection (a) [amending this section] shall apply to years ending after December 31, 2001.''

''(3) SPECIAL RULE.—In the case of plan that, on June 7, 2001, incorporated by reference the limitation of section 415(b)(1)(A) of the Internal Revenue Code of 1986, section 411(d)(6) of such Code and section 204(g)(1) of the Employee Retirement Income Security Act of 1974 [29 U.S.C. 1054(g)(1)] do not apply to a plan amendment that—

''(A) is adopted on or before June 30, 2002,

''(B) reduces benefits to the level that would have applied without regard to the amendments made by subsection (a) of this section, and

''(C) is effective no earlier than the years described in paragraph (2).''

Amendment by section 632(a)(1), (3)(C)–(F) of Pub. L. 107–16 applicable to years beginning after Dec. 31, 2001, see section 632(a)(4) of Pub. L. 107–16, set out as a note under section 72 of this title.

Pub. L. 107–16, title VI, §632(b)(2), June 7, 2001, 115 Stat. 115, provided that:

''(A) IN GENERAL.—The amendment made by paragraph (1) [amending this section] shall apply to limitation years beginning after December 31, 1999.

''(B) EXCLUSION ALLOWANCE.—Effective for limitation years beginning in 2000, in the case of any annuity contract described in section 403(b) of the Internal Revenue Code of 1986, the amount of the contribution disqualified by reason of section 415(g) of such Code shall reduce the exclusion allowance as provided in section 403(b)(2) of such Code.''

Amendment by section 641(e)(9), (10) of Pub. L. 107–16 applicable to distributions after Dec. 31, 2001, see section 641(f)(1) of Pub. L. 107–16, set out as a note under section 402 of this title.

Pub. L. 107–16, title VI, §654(c), June 7, 2001, 115 Stat. 131, provided that: ''The amendments made by this section [amending this section] shall apply to years beginning after December 31, 2001.''

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106–554 effective as if included in the provisions of the Taxpayer Relief Act of 1997, Pub. L. 105–34, to which such amendment relates, see section 1(a)(7) [title III, §314(g)] of Pub. L. 106–554, set out as a note under section 56 of this title.

EFFECTIVE DATE OF 1997 AMENDMENT

Pub. L. 105–34, title XV, §1526(c), Aug. 5, 1997, 111 Stat. 1073, provided that:

''(1) IN GENERAL.—The amendments made by this section [amending this section] shall apply to permissive service credit contributions made in years beginning after December 31, 1997.

''(2) TRANSITION RULE.—

''(A) IN GENERAL.—In the case of an eligible participant in a governmental plan (within the meaning of section 414(d) of the Internal Revenue Code of 1986), the limitations of section 415(c)(1) of such Code shall not be applied to reduce the amount of permissive service credit which may be purchased to an amount less than the amount which was allowed to be purchased under the terms of the plan as in effect on the date of the enactment of this Act [Aug. 5, 1997].

''(B) ELIGIBLE PARTICIPANT.—For purposes of subparagraph (A), an eligible participant is an individual who first became a participant in the plan before the first plan year beginning after the last day of the calendar year in which the next regular session (following the date of the enactment of this Act) of the governing body with authority to amend the plan ends.''

Pub. L. 105–34, title XV, §1527(b), Aug. 5, 1997, 111 Stat. 1074, provided that: ''The amendment made by subsection (a) [amending this section] shall apply to years beginning after December 31, 1996.''

Amendment by section 1530(c)(3), (4) of Pub. L. 105–34 applicable to transfers made by trusts to, or for the use of, an employee stock ownership plan after Aug. 5, 1997, see section 1530(d) of Pub. L. 105–34, set out as a note under section 401 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by section 1434(a) of Pub. L. 104–188 applicable to years beginning after Dec. 31, 1997, see section 1434(c) of Pub. L. 104–188, set out as a note under section 414 of this title.

Pub. L. 104–188, title I, §1444(e), Aug. 20, 1996, 110 Stat. 1811, provided that:

''(1) IN GENERAL.—The amendments made by subsections (a), (b), and (c) [amending this section and section 457 of this title] shall apply to years beginning after December 31, 1994. The amendments made by subsection (d) [amending this section] shall apply with respect to revocations adopted after the date of the enactment of this Act [Aug. 20, 1996].

''(2) TREATMENT FOR YEARS BEGINNING BEFORE JANUARY 1, 1995.—Nothing in the amendments made by this section shall be construed to imply that a governmental plan (as defined in section 414(d) of the Internal Revenue Code of 1986) fails to satisfy the requirements of section 415 of such Code for any taxable year beginning before January 1, 1995.''

Pub. L. 104–188, title I, §1446(b), Aug. 20, 1996, 110 Stat. 1811, provided that: ''The amendment made by this section [amending this section] shall apply to years beginning after December 31, 1996.''

Pub. L. 104–188, title I, §1449(c), Aug. 20, 1996, 110 Stat. 1814, provided that: ''The amendments made by this section [amending this section and provisions set out as a note under section 411 of this title] shall take effect as if included in the provisions of section 767 of the Uruguay Round Agreements Act [Pub. L. 103–465].''

Pub. L. 104–188, title I, §1452(d), Aug. 20, 1996, 110 Stat. 1816, provided that:

''(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section [amending this section and sections 416 and 4980A of this title] shall apply to limitation years beginning after December 31, 1999.

''(2) EXCESS DISTRIBUTIONS.—The amendment made by subsection (b) [amending section 4980A of this title] shall apply to years beginning after December 31, 1996.''

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by section 732(b) of Pub. L. 103–465 applicable to years beginning after Dec. 31, 1994, and, to the extent of providing for the rounding of indexed amounts, not applicable to any year to the extent the rounding would require the indexed amount to be reduced below the amount in effect for years beginning in 1994, see section 732(e) of Pub. L. 103–465, set out as a note under section 401 of this title.

Amendment by section 767(b) of Pub. L. 103–465 applicable to plan years and limitation years beginning after Dec. 31, 1994, except that employer may elect to treat such amendment as effective on or after Dec. 8, 1994, with provisions relating to reduction of accrued benefits, exception, and timing of plan amendment, see section 767(d) of Pub. L. 103–465, as amended, set out as a note under section 411 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–318 applicable to distributions after Dec. 31, 1992, see section 521(e) of Pub. L. 102–318, set out as a note under section 402 of this title.

EFFECTIVE DATE OF 1989 AMENDMENT

Pub. L. 101–239, title VII, §7304(c)(2), Dec. 19, 1989, 103 Stat. 2354, provided that: ''The amendment made by this subsection [amending this section] shall apply to years beginning after July 12, 1989.''

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by sections 1011(d)(2), (3), (6), (7) and 1018(t)(3)(B), (8)(D) of Pub. L. 100–647 effective, except as otherwise provided, as if included in the provision of the Tax Reform Act of 1986, Pub. L. 99–514, to which such amendment relates, see section 1019(a) of Pub. L. 100–647, set out as a note under section 1 of this title.

Pub. L. 100–647, title VI, §6054(b), Nov. 10, 1988, 102 Stat. 3697, as amended by Pub. L. 101–239, title VII, §7816(h), Dec. 19, 1989, 103 Stat. 2421, provided that:

''(1) IN GENERAL.—Except as provided in this subsection, the amendment made by this section [amending this section] shall apply to years beginning after December 31, 1982.

''(2) ELECTION.—Section 415(b)(10)(C) of the 1986 Code (as added by subsection (a)) shall not apply to any year beginning before January 1, 1990.''

Pub. L. 100–647, title VI, §6059(b), Nov. 10, 1988, 102 Stat. 3699, provided that: ''The amendment made by this section [amending this section] shall apply as if included in the amendments made by section 1106(b)(2) of the Reform Act [Pub. L. 99–514].''

EFFECTIVE DATE OF 1986 AMENDMENT

Pub. L. 99–514, title XI, §1106(i), Oct. 22, 1986, 100 Stat. 2425, as amended by Pub. L. 100–647, title I, §1011(d)(5), title VI, §6062(a), Nov. 10, 1988, 102 Stat. 3460, 3700, provided that:

''(1) IN GENERAL.—Except as provided in this subsection, the amendments made by this section [amending this section and sections 401, 402, 404, 416, and 818 of this title] shall apply to years beginning after December 31, 1986.

''(2) COLLECTIVE BARGAINING AGREEMENTS.—In the case of a plan in effect before March 1, 1986, pursuant to 1 or more collective bargaining agreements between employee representatives and 1 or more employers, the amendments made by this section (other than subsection (d)) shall not apply to contributions or benefits pursuant to such agreement in years beginning before October 1, 1991.

''(3) RIGHT TO HIGHER ACCRUED DEFINED BENEFIT PRESERVED.—

''(A) IN GENERAL.—In the case of an individual who is a participant (as of the 1st day of the 1st year to which the amendments made by this section apply) in a defined benefit plan which is in existence on May 6, 1986, and with respect to which the requirements of section 415 of the Internal Revenue Code of 1986 have been met for all plan years, if such individual's current accrued benefit under the plan exceeds the limitation of subsection (b) of section 415 of such Code (as amended by this section), then (in the case of such plan), for purposes of subsections (b) and (e) of such section, the limitation of such subsection (b)(1)(A) with respect to such individual shall be equal to such current accrued benefit.

''(B) CURRENT ACCRUED BENEFIT DEFINED.—

''(i) IN GENERAL.—For purposes of this paragraph, the term 'current accrued benefit' means the individual's accrued benefit (at the close of the last year to which the amendments made by this section do not apply) when expressed as an annual benefit (within the meaning of section 415(b)(2) of such Code).

''(ii) SPECIAL RULE.—For purposes of determining the amount of any individual's current accrued benefit—

''(I) no change in the terms and conditions of the plan after May 5, 1986, and

''(II) no cost-of-living adjustment occurring after May 5, 1986,

shall be taken into account. For purposes of subclause (I), any change in the terms and conditions of the plan pursuant to a collective bargaining agreement ratified before May 6, 1986, shall be treated as a change made before May 6, 1986.

''(4) TRANSITION RULE WHERE THE SUM OF DEFINED CONTRIBUTION AND DEFINED BENEFIT PLAN FRACTIONS EXCEEDS 1.0.—In the case of a plan which satisfied the requirements of section 415 of the Internal Revenue Code of 1986 for its last year beginning before January 1, 1987, the Secretary of the Treasury or his delegate shall pre-

scribe regulations under which an amount is subtracted from the numerator of the defined contribution plan fraction (not exceeding such numerator) so that the sum of the defined benefit plan fraction and the defined contribution plan fraction computed under section 415(e)(1) of such Code does not exceed 1.0 for such year (determined as if the amendments made by this section were in effect for such year).

''(5) EFFECTIVE DATE FOR SUBSECTION (d).—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the amendment made by subsection (d) [amending sections 401, 404, 416, and 818 of this title] shall apply to benefits accruing in years beginning after December 31, 1988.

''(B) COLLECTIVE BARGAINING AGREEMENTS.—In the case of a plan described in paragraph (2), the amendments made by subsection (d) shall apply to benefits accruing in years beginning on or after the earlier of—

''(i) the later of—

''(I) the date determined under paragraph (2)(A), or

''(II) January 1, 1989, or

''(ii) January 1, 1991.

''(6) SPECIAL RULE FOR AMENDMENT MADE BY SUBSECTION (e).—The amendment made by subsection (e) [amending this section] shall not require the recomputation, for purposes of section 415(e) of the Internal Revenue Code of 1986, of the annual addition for any year beginning before 1987.''

[Pub. L. 100–647, title VI, §6062(b), Nov. 10, 1988, 102 Stat. 3700, provided that: ''The amendment made by this section [amending section 1106(i) of Pub. L. 99–514, set out above] shall take effect as if included in the provisions of section 1106 of the Reform Act [Pub. L. 99–514].'']

Amendment by section 1108(g)(5) of Pub. L. 99–514 applicable to years beginning after Dec. 31, 1986, see section 1108(h) of Pub. L. 99–514, set out as a note under section 219 of this title.

Amendment by section 1114(b)(12) of Pub. L. 99–514 applicable to years beginning after Dec. 31, 1988, see section 1114(c)(3) of Pub. L. 99–514, set out as a note under section 414 of this title.

Pub. L. 99–514, title XI, §1174(d)(3), Oct. 22, 1986, 100 Stat. 2518, provided that: ''The amendments made by this subsection [amending this section] shall apply to years beginning after December 31, 1986.''

Amendment by sections 1847(b)(4), 1852(h)(2), (3), and 1875(c)(9), (11) of Pub. L. 99–514 effective, except as otherwise provided, as if included in the provisions of the Tax Reform Act of 1984, Pub. L. 98–369, div. A, to which such amendment relates, see section 1881 of Pub. L. 99–514, set out as a note under section 48 of this title.

Amendment by section 1898(b)(15)(C) of Pub. L. 99–514 effective as if included in the provision of the Retirement Equity Act of 1984, Pub. L. 98–397, to which such amendment relates, except as otherwise provided, see section 1898(j) of Pub. L. 99–514, set out as a note under section 401 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by section 15 of Pub. L. 98–369 applicable to taxable years ending after Dec. 31, 1983, see section 18(a) of Pub. L. 98–369, set out as a note under section 48 of this title.

Amendment by section 491(d)(28)–(32) of Pub. L. 98–369 applicable to obligations issued after Dec. 31, 1983, see section 491(f)(1) of Pub. L. 98–369, set out as a note under section 62 of this title.

Amendment by section 491(e)(6) of Pub. L. 98–369 effective Jan. 1, 1984, see section 491(f)(3) of Pub. L. 98–369, set out as a note under section 401 of this title.

Amendment by section 528(a) of Pub. L. 98–369 applicable to years beginning after Mar. 31, 1984, see section 528(c) of Pub. L. 98–369, set out as a note under section 401 of this title.

Amendment by section 713 of Pub. L. 98–369 effective as if included in the provision of the Tax Equity and Fiscal Responsibility Act of 1982, Pub. L. 97–248, to which such amendment relates, see section 715 of Pub. L. 98–369, set out as a note under section 31 of this title.

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 98–21 applicable to taxable years beginning after Dec. 31, 1983, except that if an individual's annuity starting date was deferred under section 105(d)(6) of this title as in effect on the day before Apr. 20, 1983, such deferral shall end on the first day of such individual's first taxable year beginning after Dec. 31, 1983, see section 122(d) of Pub. L. 98–21, set out as a note under section 22 of this title.

EFFECTIVE DATE OF 1982 AMENDMENT

Pub. L. 97–248, title II, §235(g), Sept. 3, 1982, 96 Stat. 508, as amended by Pub. L. 97–448, title III, §306(a)(10), Jan. 12, 1983, 96 Stat. 2404; Pub. L. 98–369, div. A, title VII, §713(a)(2), (4), (f)(3), July 18, 1984, 98 Stat. 956, 959; Pub. L. 99–514, §2, Oct. 22, 1986, 100 Stat. 2095, provided that:

''(1) IN GENERAL.—

''(A) NEW PLANS.—In the case of any plan which is not in existence on July 1, 1982, the amendments made by this section [amending this section and section 404 of this title] shall apply to years ending after July 1, 1982.

''(B) EXISTING PLANS.—

''(i) In the case of any plan which is in existence on July 1, 1982, the amendments made by this section [amending this section and section 404 of this title] shall apply to years beginning after December 31, 1982.

''(ii) PLAN REQUIREMENTS.—A plan shall not be treated as failing to meet the requirements of section 401(a)(16) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] for any year beginning before January 1, 1984, merely because such plan provides for benefit or contribution limits which are in excess of the limitations under section 415 of such Code, as amended by this section. The preceding sentence shall not apply to any plan which provides such limits in excess of the limitation under section 415 of such Code before such amendments.

''(2) AMENDMENTS RELATED TO COST-OF-LIVING ADJUSTMENTS.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the amendments made by subsection (b) [amending this section] shall apply to adjustments for years beginning after December 31, 1982.

''(B) ADJUSTMENT PROCEDURES.—The amendments made by subsections (b)(1) and (b)(2)(B) [amending this section] shall apply to adjustments for years beginning after December 31, 1985.

''(3) TRANSITION RULE WHERE THE SUM OF DEFINED CONTRIBUTION AND DEFINED BENEFIT PLAN FRACTIONS EXCEEDS 1.0.—In the case of a plan which satisfied the requirements of section 415 of the Internal Revenue Code of 1986 for the last year beginning before January 1, 1983, the Secretary of the Treasury or his delegate shall prescribe regulations under which an amount is subtracted from the numerator of the defined contribution plan fraction (not exceeding such numerator) so that the sum of the defined benefit plan fraction and the defined contribution plan fraction computed under section 415(e)(1) of the Internal Revenue Code of 1986 (as amended by the Tax Equity and Fiscal Responsibility Act of 1982) does not exceed 1.0 for such year. A similar rule shall apply with respect to the last plan year beginning before January 1, 1984, for purposes of applying section 416(h) of the Internal Revenue Code of 1986.

''(4) RIGHT TO HIGHER ACCRUED DEFINED BENEFIT PRESERVED.—

''(A) IN GENERAL.—In the case of an individual who is a participant before January 1, 1983, in a defined benefit plan which is in existence on July 1, 1982, and with respect to which the requirements of section 415 of such Code have been met for all years, if such individual's current accrued benefit under such plan exceeds the limitation of subsection (b) of section 415 of

the Internal Revenue Code of 1986 (as amended by this section), then (in the case of such plan) for purposes of subsections (b) and (e) of such section, the limitation of such subsection (b) with respect to such individual shall be equal to such current accrued benefit.

''(B) CURRENT ACCRUED BENEFIT DEFINED.—

''(i) IN GENERAL.—For purposes of this paragraph, the term 'current accrued benefit' means the individual's accrued benefit (at the close of the last year beginning before January 1, 1983) when expressed as an annual benefit (within the meaning of section 415(b)(2) of such Code as in effect before the amendments made by this Act). In the case of any plan described in the first sentence of paragraph (5), the preceding sentence shall be applied by substituting for 'January 1, 1983' the applicable date determined under paragraph (5).

''(ii) SPECIAL RULE.—For purposes of determining the amount of any individual's current accrued benefit—

''(I) no change in the terms and conditions of the plan after July 1, 1982, and

''(II) no cost-of-living adjustment occurring after July 1, 1982,

shall be taken into account. For purposes of subclause (I), any change in the terms and conditions of the plan pursuant to a collective bargaining agreement entered into before July 1, 1982, and ratified before September 3, 1982, shall be treated as a change made before July 1, 1982.

''(5) SPECIAL RULE FOR COLLECTIVE BARGAINING AGREEMENTS.—In the case of a plan maintained on the date of the enactment of this Act [Sept. 3, 1982] pursuant to 1 or more collective bargaining agreements between employee representatives and 1 or more employers, the amendments made by this section [amending this section and section 404 of this title] and section 242 [amending section 401 of this title and enacting a provision set out as a note under section 401 of this title] (relating to age 70½) shall not apply to years beginning before the earlier of—

''(A) the date on which the last of the collective bargaining agreements relating to the plan terminates (determined without regard to any extension thereof agreed to after the date of the enactment of this Act [Sept. 3, 1982]), or

''(B) January 1, 1986.

For purposes of subparagraph (A), any plan amendment made pursuant to a collective bargaining agreement relating to the plan which amends the plan solely to conform to any requirement added by this section and section 242 shall not be treated as a termination of such collective bargaining agreement.''

Amendment by section 238(d)(5) of Pub. L. 97–248 applicable to years beginning after Dec. 31, 1983, see section 241 of Pub. L. 97–248, set out as an Effective Date note under section 416 of this title.

Amendment by section 251(c)(1), (2) of Pub. L. 97–248 applicable to years beginning after Dec. 31, 1981, see section 251(e)(3) of Pub. L. 97–248, set out as a note under section 403 of this title.

Amendment by section 253(a) of Pub. L. 97–248 applicable to taxable years beginning after Dec. 31, 1981, see section 253(c) of Pub. L. 97–248, set out as a note under section 404 of this title.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by section 311(g)(4), (h)(3) of Pub. L. 97–34 applicable to years beginning after Dec. 31, 1981, see section 311(i)(4) of Pub. L. 97–34, set out as a note under section 219 of this title.

Pub. L. 97–34, title III, §333(b)(2), Aug. 13, 1981, 95 Stat. 297, provided that: ''The amendment made by this subsection [amending this section] shall apply to years beginning after December 31, 1981.''

EFFECTIVE DATE OF 1980 AMENDMENTS

Pub. L. 96–605, title II, §222(b), Dec. 28, 1980, 94 Stat. 3528, provided that: ''The amendment made by subsection (a) [amending this section] shall apply with respect to years beginning after December 31, 1980.''

Pub. L. 96–222, title I, §101(b)(1)(G), Apr. 1, 1980, 94 Stat. 205, provided that: ''The amendment made by subparagraph (I) of subsection (a)(10) [amending this section] shall apply to taxable years beginning after the date of the enactment of this Act [Apr. 1, 1980].''

Amendment by section 101(a)(7)(L)(i)(VII), (iv)(i), (10)(J)(iii), (11) of Pub. L. 96–222 effective, except as otherwise provided, as if it had been included in the provisions of the Revenue Act of 1978, Pub. L. 95–600, to which such amendment relates, see section 201 of Pub. L. 96–222, set out as a note under section 32 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by section 141(f)(7) of Pub. L. 95–600 effective for years beginning after Dec. 31, 1978, and with respect to qualified investment for taxable years beginning after Dec. 31, 1978, see section 141(g)(1) of Pub. L. 95–600, set out as an Effective Date note under section 409 of this title.

Pub. L. 95–600, title I, §141(g)(5), as added by Pub. L. 96–222, title I, §101(a)(7)(B), Apr. 1, 1980, 94 Stat. 197, provided that: ''The amendment made by subsection (f)(7) [amending this section] shall apply to years beginning after December 31, 1978.''

Amendment by section 152(g) of Pub. L. 95–600 applicable to taxable years beginning after Dec. 31, 1978, see section 152(h) of Pub. L. 95–600, set out as a note under section 408 of this title.

Pub. L. 95–600, title I, §153(b), Nov. 6, 1978, 92 Stat. 2801, provided that: ''The amendment made by this section [amending this section] shall apply to years beginning after December 31, 1978.''

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by section 803(b)(4), (f) of Pub. L. 94–455 effective for years beginning after Dec. 31, 1975, see section 803(j) of Pub. L. 94–455, set out as a note under section 46 of this title.

Amendment by section 1501(b)(3) of Pub. L. 94–455 effective for years beginning after Dec. 31, 1976, see section 1501(d) of Pub. L. 94–455, set out as a note under section 62 of this title.

Pub. L. 94–455, title XV, §1502(b), Oct. 4, 1976, 90 Stat. 1738, provided that: ''The amendment made by subsection (a)(1) [amending this section] shall apply to years beginning after December 31, 1975. The amendment made by subsection (a)(2) [amending section 404 of this title] shall apply to taxable years beginning after December 31, 1975.''

Pub. L. 94–455, title XV, §1511(b), Oct. 4, 1976, 90 Stat. 1742, provided that: ''The amendment made by this section [amending this section] shall apply for years beginning after December 31, 1975.''

Amendment by section 1901(a)(65), (b)(8)(D) of Pub. L. 94–455 effective for taxable years beginning after Dec. 31, 1976, see section 1901(d) of Pub. L. 94–455, set out as a note under section 2 of this title.

EFFECTIVE DATE; TRANSITION PROVISIONS

Pub. L. 93–406, title II, §2004(d), Sept. 2, 1974, 88 Stat. 987, as amended by Pub. L. 99–514, §2, Oct. 22, 1986, 100 Stat. 2095, provided that:

''(1) GENERAL RULE.—The amendments made by this section [enacting this section, amending sections 401, 403, 404, 405, and 805 of this title, and enacting provisions set out as notes under this section] shall apply to years beginning after December 31, 1975. The Secretary of the Treasury shall prescribe such regulations as may be necessary to carry out the provisions of this paragraph.

''(2) TRANSITION RULE FOR DEFINED BENEFIT PLANS.—In the case of an individual who was an active participant in a defined benefit plan before October 3, 1973, if—

''(A) the annual benefit (within the meaning of section 415(b)(2) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954]) payable to such partici-

pant on retirement does not exceed 100 percent of his annual rate of compensation on the earlier of (i) October 2, 1973, or (ii) the date on which he separated from the service of the employer,

''(B) such annual benefit is no greater than the annual benefit which would have been payable to such participant on retirement if (i) all the terms and conditions of such plan in existence on such date had remained in existence until such retirement, and (ii) his compensation taken into account for any period after October 2, 1973, had not exceeded his annual rate of compensation on such date, and

''(C) in the case of a participant who separated from the service of the employer prior to October 2, 1973, such annual benefit is no greater than his vested accrued benefit as of the date he separated from the service,

then such annual benefit shall be treated as not exceeding the limitation of subsection (b) of section 415 of the Internal Revenue Code of 1986.''

REGULATIONS

Secretary of the Treasury or his delegate to issue before Feb. 1, 1988, final regulations to carry out amendments made by section 1114 of Pub. L. 99–514, see section 1141 of Pub. L. 99–514, set out as a note under section 401 of this title.

SAVINGS PROVISION

For provisions that nothing in amendment by Pub. L. 115–141 be construed to affect treatment of certain transactions occurring, property acquired, or items of income, loss, deduction, or credit taken into account prior to Mar. 23, 2018, for purposes of determining liability for tax for periods ending after Mar. 23, 2018, see section 401(e) of Pub. L. 115–141, set out as a note under section 23 of this title.

PLANS MAY INCORPORATE SECTION 415 LIMITATIONS BY REFERENCE

Pub. L. 99–514, title XI, § 1106(h), Oct. 22, 1986, 100 Stat. 2425, provided that: ''Notwithstanding any other provision of law, except as provided in regulations prescribed by the Secretary of the Treasury or his delegate, a plan may incorporate by reference the limitations under section 415 of the Internal Revenue Code of 1986.''

PLAN AMENDMENTS NOT REQUIRED UNTIL JANUARY 1, 1998

For provisions directing that if any amendments made by subtitle D [§§ 1401–1465] of title I of Pub. L. 104–188 require an amendment to any plan or annuity contract, such amendment shall not be required to be made before the first day of the first plan year beginning on or after Jan. 1, 1998, see section 1465 of Pub. L. 104–188, set out as a note under section 401 of this title.

PLAN AMENDMENTS NOT REQUIRED UNTIL JANUARY 1, 1994

For provisions directing that if any amendments made by subtitle B [§§ 521–523] of title V of Pub. L. 102–318 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. 102–318, set out as a note under section 401 of this title.

PLAN AMENDMENTS NOT REQUIRED UNTIL JANUARY 1, 1989

For provisions directing that if any amendments made by subtitle A or subtitle C of title XI [§§ 1101–1147 and 1171–1177] or title XVIII [§§ 1800–1899A] of Pub. L. 99–514 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, 1989, see section 1140 of Pub. L. 99–514, as amended, set out as a note under section 401 of this title.

SPECIAL RULE FOR CERTAIN PLANS IN EFFECT ON SEPTEMBER 2, 1974

Pub. L. 93–406, title II, § 2004(a)(3), Sept. 2, 1974, 88 Stat. 985, as amended by Pub. L. 99–514, § 2, Oct. 22, 1986, 100 Stat. 2095, provided that: ''In any case in which, on the date of enactment of this Act [Sept. 2, 1974], an individual is a participant in both a defined benefit plan and a defined contribution plan maintained by the same employer, and the sum of the defined benefit plan fraction and the defined contribution plan fraction for the year during which such date occurs exceeds 1.4, the sum of such fractions may continue to exceed 1.4 if—

''(A) the defined benefit plan fraction is not increased, by amendment of the plan or otherwise, after

''(B) no contributions are made under the defined contribution plan after such date.

A trust which is part of a pension, profit-sharing, or stock bonus plan described in the preceding sentence shall not be treated as not constituting a qualified trust under section 401(a) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] on account of the provisions of section 415(e) of such Code, as long as it is described in the preceding sentence of this subsection.''

§ 416. Special rules for top-heavy plans

(a) General rule

A trust shall not constitute a qualified trust under section 401(a) for any plan year if the plan of which it is a part is a top-heavy plan for such plan year unless such plan meets—

(1) the vesting requirements of subsection (b), and

(2) the minimum benefit requirements of subsection (c).

(b) Vesting requirements

(1) In general

A plan satisfies the requirements of this subsection if it satisfies the requirements of either of the following subparagraphs:

(A) 3-year vesting

A plan satisfies the requirements of this subparagraph if an employee who has completed at least 3 years of service with the employer or employers maintaining the plan has a nonforfeitable right to 100 percent of his accrued benefit derived from employer contributions.

(B) 6-year graded vesting

A plan satisfies the requirements of this subparagraph if an employee has a nonforfeitable right to a percentage of his accrued benefit derived from employer contributions determined under the following table:

Years of service	The nonforfeitable percentage is:
2	20
3	40
4	60
5	80
6 or more	100

(2) Certain rules made applicable

Except to the extent inconsistent with the provisions of this subsection, the rules of section 411 shall apply for purposes of this subsection.