



DEPARTMENT OF THE TREASURY
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FIELD DIRECTIVE FOR EP DETERMINATIONS PENSION EQUITY PLAN CADRE

FROM: Karen D. Truss, Director, EP Rulings & Agreements /s/ *Karen D. Truss*

SUBJECT: Pension Equity Plan (PEP) Accrued Benefits

This memorandum provides direction to EP (R&A) employees on the application of the accrued benefit rules under section 411(b)(1)(G) of the Internal Revenue Code (IRC) to pending requests for determination letters by PEPs.

This directive is not a pronouncement of law and is not subject to use, citation, or reliance as such. Nothing in this directive shall affect the operation of any other provision of the IRC, regulations, or guidance thereunder.

Section 411(b)(1) provides the accrued benefit rules for defined benefit plans in order for a trust to be a qualified trust under section 401(a). Section 411(b)(1)(G) provides that a defined benefit plan shall be treated as not satisfying the requirements of section 411(b)(1) if the participant's accrued benefit is reduced on account of any increase in his age or service (except in rare circumstances).

Accordingly, a PEP must contain language that ensures compliance with the accrued benefit rules under section 411(b)(1)(G). Pending the issuance of guidance that will provide for more specific ways of complying with section 411(b)(1)(G), this directive contains a number of acceptable provisions for inclusion in plan documents.

In order to resolve the pending requests for determination letters by PEPs, an EP (R&A) employee should review the plan documents to determine if any of the following provisions are included:

- Notwithstanding any other provision in the plan, a participant's accrued benefit as of any determination date will never be less than the benefit required to comply with section 411(b)(1)(G).
- Notwithstanding any other provision in the plan, a participant's accrued benefit may not be reduced on account of an increase in a participant's age or service.

- A participant's accrued benefit as of any determination date shall not be less than the accrued benefit to which the participant would have been entitled if he had ceased accruals at the end of any prior plan year.
- A participant's accrued benefit shall be the lesser of the annuity benefit that the participant has accumulated to date (including interest projected to Normal Retirement Age (NRA)) and the annuity benefit the participant would accumulate if he worked to NRA.
- The accumulated benefit determined under the PEP formula as of any determination date cannot be less than the accumulated benefit as of the end of any prior year with interest credited to the determination date, determined as if the participant had ceased accruals as of the end of that prior plan year.

If you have any questions, please contact Michael Sanders at (267) 941-2140 or Michael.J.Sanders@irs.gov.

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