

INTERNAL REVENUE BULLETIN



HIGHLIGHTS OF THIS ISSUE

These synopses are intended only as aids to the reader in identifying the subject matter covered. They may not be relied upon as authoritative interpretations.

EMPLOYEE PLANS

Notice 2020-14, page 555.

This notice sets forth the 2020 Cumulative List of Changes in Plan Qualification Requirements for Pre-Approved Defined Benefit Plans (2020 Cumulative List). The 2020 Cumulative

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List sets forth specific matters the IRS has identified for review in determining whether a defined benefit plan document that has been filed for an opinion letter has been properly updated. The provisions in the 2020 Cumulative List include statutory and regulatory provisions that were issued between October 1, 2012 and December 1, 2019.

The IRS Mission

Provide America's taxpayers top-quality service by helping them understand and meet their tax responsibilities and enforce the law with integrity and fairness to all.

Introduction

The Internal Revenue Bulletin is the authoritative instrument of the Commissioner of Internal Revenue for announcing official rulings and procedures of the Internal Revenue Service and for publishing Treasury Decisions, Executive Orders, Tax Conventions, legislation, court decisions, and other items of general interest. It is published weekly.

It is the policy of the Service to publish in the Bulletin all substantive rulings necessary to promote a uniform application of the tax laws, including all rulings that supersede, revoke, modify, or amend any of those previously published in the Bulletin. All published rulings apply retroactively unless otherwise indicated. Procedures relating solely to matters of internal management are not published; however, statements of internal practices and procedures that affect the rights and duties of taxpayers are published.

Revenue rulings represent the conclusions of the Service on the application of the law to the pivotal facts stated in the revenue ruling. In those based on positions taken in rulings to taxpayers or technical advice to Service field offices, identifying details and information of a confidential nature are deleted to prevent unwarranted invasions of privacy and to comply with statutory requirements.

Rulings and procedures reported in the Bulletin do not have the force and effect of Treasury Department Regulations, but they may be used as precedents. Unpublished rulings will not be relied on, used, or cited as precedents by Service personnel in the disposition of other cases. In applying published rulings and procedures, the effect of subsequent legislation, regulations, court decisions, rulings, and procedures must be considered, and Service personnel and others concerned are cautioned

against reaching the same conclusions in other cases unless the facts and circumstances are substantially the same.

The Bulletin is divided into four parts as follows:

Part I.—1986 Code.

This part includes rulings and decisions based on provisions of the Internal Revenue Code of 1986.

Part II.—Treaties and Tax Legislation.

This part is divided into two subparts as follows: Subpart A, Tax Conventions and Other Related Items, and Subpart B, Legislation and Related Committee Reports.

Part III.—Administrative, Procedural, and Miscellaneous.

To the extent practicable, pertinent cross references to these subjects are contained in the other Parts and Subparts. Also included in this part are Bank Secrecy Act Administrative Rulings. Bank Secrecy Act Administrative Rulings are issued by the Department of the Treasury's Office of the Assistant Secretary (Enforcement).

Part IV.—Items of General Interest.

This part includes notices of proposed rulemakings, disbarment and suspension lists, and announcements.

The last Bulletin for each month includes a cumulative index for the matters published during the preceding months. These monthly indexes are cumulated on a semiannual basis, and are published in the last Bulletin of each semiannual period.

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Part III

2020 Cumulative List of Changes in Plan Qualification Requirements for Pre-Approved Defined Benefit Plans

Notice 2020-14

I. PURPOSE

This notice sets forth the 2020 Cumulative List of Changes in Plan Qualification Requirements for Pre-Approved Defined Benefit Plans (2020 Cumulative List). As described in section 17 of Rev. Proc. 2016-37, 2016-29 I.R.B. 136, Cumulative Lists identify changes in the qualification requirements of the Internal Revenue Code that are required to be taken into account in a pre-approved plan document submitted under the pre-approved plan program administered by the Internal Revenue Service (IRS) and that will be considered by the IRS for purposes of issuing opinion letters.

The 2020 Cumulative List is to be used by pre-approved plan providers to submit opinion letter applications for pre-approved defined benefit plans during the third six-year remedial amendment cycle, which begins May 1, 2020, and ends January 31, 2025. Defined benefit plans may be submitted for approval during the on-cycle submission period, which begins August 1, 2020, and ends July 31, 2021.

The list of changes in section V of this notice does not extend the deadline by which a plan must be amended to comply with any statutory, regulatory, or guidance changes. The general deadline for timely adoption of an interim or discretionary amendment is provided in section 15 of Rev. Proc. 2016-37.

II. BACKGROUND

Rev. Proc. 2016-37 sets forth procedures for issuing opinion letters and de-

scribes the six-year remedial amendment cycle system for pre-approved plans. Pre-approved defined benefit plans and pre-approved defined contribution plans each have separate six-year cycles. In section 17 of Rev. Proc. 2016-37, the IRS announced its intention to publish Cumulative Lists to identify changes in the qualification requirements that will be considered by the IRS in its review of pre-approved plan documents for purposes of issuing opinion letters. A change in the qualification requirements includes a statutory change or a change in the requirements provided in regulations or other guidance published in the Internal Revenue Bulletin.

Prior to Rev. Proc. 2016-37, Cumulative Lists were used by the IRS in reviewing both pre-approved plan documents and individually designed plan documents. Pursuant to sections 12 and 17 of Rev. Proc. 2016-37, beginning in 2017, the IRS uses Cumulative Lists in its review of pre-approved plan documents submitted for opinion letters and uses Required Amendments Lists, described in section 9 of Rev. Proc. 2016-37, in its review of individually designed plan documents submitted for determination letters. For the Required Amendments List for 2019, see Notice 2019-64, 2019-52 I.R.B. 1505. Notice 2012-76, 2012-52 I.R.B. 775, sets forth the most recent Cumulative List that describes the provisions applicable to requests for opinion letters submitted for pre-approved defined benefit plans (the 2012 Cumulative List). The 2012 Cumulative List applies with respect to the second remedial amendment cycle for pre-approved defined benefit plans, which runs from February 1, 2013, to April 30, 2020.

To assist plan sponsors in achieving operational compliance, the IRS provides an Operational Compliance List on its website that is updated periodically to identify changes in qualification requirements that are effective during a calendar year. For the current Operational Compliance List, see <https://www.irs.gov/retirement-plans/operational-compliance-list>.

III. APPLICATION OF THE 2020 CUMULATIVE LIST

This notice relates to the third remedial amendment cycle for pre-approved defined benefit plans under the opinion letter program, which begins May 1, 2020, and ends January 31, 2025. Pursuant to Rev. Proc. 2020-10, 2020-2 I.R.B. 295, the on-cycle submission period for the third six-year remedial amendment cycle begins August 1, 2020, and ends July 31, 2021.

The 2020 Cumulative List set forth in section V of this notice lists specific matters the IRS has identified for review in determining whether a defined benefit plan document that has been filed for an opinion letter has been properly updated.

The IRS will not consider any of the following items in its review of any opinion letter application submitted under the third remedial amendment cycle:

1. Guidance issued after December 1, 2019.
2. Statutes enacted after December 1, 2019.
3. Qualification requirements first effective in 2021 or later.
4. Statutory provisions that are first effective in 2020 for which there is no guidance identified in this notice.

In order to be qualified, a plan must comply with all relevant qualification requirements, not only those on the 2020 Cumulative List.

IV. AMENDMENTS WITH RESPECT TO THE SECURE ACT

On December 20, 2019, Congress passed the Further Consolidated Appropriations Act, 2020 (Act), Pub. L. 116-94, which included Division O of the Act, titled “Setting Every Community Up for Retirement Enhancement Act” (SECURE Act). As stated in section III of this notice, the IRS will not consider statutes enacted after December 1, 2019, in its review of any opinion letter application submitted under the third remedial amendment cycle. Therefore, the IRS will not review any defined benefit plan document submitted

under the third remedial amendment cycle for any changes in the qualification requirements made by the Act, and pre-approved plan providers should not include Act provisions in plan documents submitted with their opinion letter applications under the third remedial amendment cycle for pre-approved defined benefit plans. However, pre-approved plan providers will need to timely adopt interim or discretionary amendments under these plan documents. Generally, the deadline for adopting any plan amendment made pursuant to the SECURE Act is the last day of the first plan year beginning on or after January 1, 2022. This deadline, provided in section 601 of the SECURE Act, will apply with respect to these interim or discretionary amendments, rather than the general deadlines for timely adoption of interim or discretionary amendments set forth in section 15 of Rev. Proc. 2016-37.

V. CUMULATIVE LIST OF CHANGES IN PLAN QUALIFICATION REQUIREMENTS FOR PRE-APPROVED DEFINED BENEFIT PLANS FOR 2020

Except as described in sections III and IV of this notice, the 2020 Cumulative List sets forth changes in the qualification requirements that were issued, enacted, or effective after October 1, 2012, that relate to pre-approved defined benefit plans. However, if a plan has not been previously reviewed for items on earlier Cumulative Lists or for qualification requirements that applied prior to those earlier Cumulative Lists that relate to pre-approved defined benefit plans, those items and qualification requirements will also be taken into account. The items on earlier Cumulative Lists can be found in the 2012 Cumulative List and in the 2006 Cumulative List of Changes in Plan Qualification Requirements, Notice 2007-3, 2007-1 C.B. 255.

1. **Section 401:**

- *United States v. Windsor*, 570 U.S. 744 (2013). The Supreme Court found that Section 3 of the Defense of Marriage Act (DOMA), which provides that, in determining the meaning of any Act of Congress or of any ruling, regulation, or interpretation of the various administrative bureaus and agencies of the United States, the

word “marriage” means only a legal union between one man and one woman as husband and wife, and the word “spouse” refers only to a person of the opposite sex who is a husband or a wife, is unconstitutional because it violates the principles of equal protection.

- Rev. Rul. 2013-17, 2013-38 I.R.B. 201, provides that for Federal tax purposes, the terms “spouse,” “husband and wife,” “husband,” and “wife” include an individual married to a person of the same sex if the individuals are lawfully married under state law, and the term “marriage” includes such a marriage between individuals of the same sex. This revenue ruling also provides that the IRS adopts a general rule recognizing a marriage of same-sex individuals that was validly entered into in a state whose laws authorize the marriage of two individuals of the same sex even if the married couple is domiciled in a state that does not recognize the validity of same-sex marriages.
- Notice 2014-19, 2014-17 I.R.B. 979, provides guidance on the application (including the retroactive application) of the decision in *United States v. Windsor*, and the holdings of Rev. Rul. 2013-17, to retirement plans qualified under § 401(a).
- Notice 2015-86, 2015-52 I.R.B. 887, provides that qualified retirement plans are not required to make additional changes as a result of the decision in *Obergefell v. Hodges*, 576 U.S. ___, 135 S. Ct. 2584 (2015). However, a plan sponsor may decide to amend its plan following *Obergefell* to make certain discretionary amendments (also described in Notice 2015-86).
- Proposed regulations under § 401(a) were published on January 27, 2016 (81 FR 4599), and provide safe harbors and other rules regarding normal retirement age under a § 414(d) governmental pension plan. These regulations are proposed to be effective for employees hired during plan years beginning on or after the later of (1) January 1, 2017, or (2) the close of the first regular legislative session of the legislative body with the authority

to amend the plan that begins on or after the date that is three months after the final regulations are published in the Federal Register. However, employers may choose to rely on these proposed regulations currently and for prior periods.

- Regulations under § 401(k) were published on September 23, 2019 (84 FR 49651), pursuant to the Bipartisan Budget Act of 2018 (BBA), Pub. L. 115-123, and amend § 1.401(k)-1(d)(3)(iv)(E) to delete the 6-month prohibition on employee contributions to all plans maintained by the employer (including defined benefit plans) after a hardship distribution.
2. **Section 402**
 - Section 306 of the Protecting Americans from Tax Hikes Act of 2015 (PATH Act), Pub. L. 114-113, enacted December 18, 2015, amended § 408(p)(1)(B) to permit rollovers from a qualified plan to a SIMPLE IRA.
 3. **Section 411(a)(13):**
 - Regulations under § 411(a)(13) were published on October 19, 2010 (75 FR 64123), and provide guidance on statutory hybrid plans.
 - Regulations under § 411(a)(13) were published on September 19, 2014 (79 FR 56442), and provide guidance on statutory hybrid plans, including rules with respect to determining the current account balance, payment of benefits based on a current account balance, and the definition of lump sum-based benefit formula.
 - Regulations under § 411(a)(13) were published on November 16, 2015 (80 FR 70680), and extend the effective date for certain provisions of the hybrid plan regulations to plan years beginning on or after January 1, 2017.
 4. **Section 411(b):**
 - Regulations under § 411(b)(5) were published on October 19, 2010 (75 FR 64123), and provide guidance on statutory hybrid plans.
 - Regulations under § 411(b)(5) were published on September 19, 2014 (79 FR 56442), and provide rules for statutory hybrid plans to comply with age discrimination requirements, including rules expanding the list of rates that satisfy the market rate of return requirement.

- Regulations under § 411(b)(5) were published on November 16, 2015 (80 FR 70680), and provide transition rules for statutory hybrid plans to comply with the requirement that these plans provide interest credits that do not exceed a market rate of return.

5. Section 415:

- Proposed regulations under § 415 were published on November 15, 2013 (78 FR 68780), and provide that amounts paid to an Indian tribe member as remuneration for services performed in an activity relating to fishing rights may be treated as compensation for purposes of applying the limits on qualified plan benefits and contributions. Taxpayers may rely on the proposed regulations for periods preceding the effective date of the final regulations.

6. Section 417:

- Regulations under § 417 were published on September 9, 2016 (81 FR 62359), and provide methods for defined benefit pension plans to distribute a participant's accrued benefit partially as an annuity and partially as a lump-sum or other accelerated form of payment. The regulations also pro-

vide that the minimum present value requirements apply to the distribution of only the portion of a participant's accrued benefit that is paid as a lump-sum or other accelerated form of payment.¹

7. Section 436:

- Section 202 of the Cooperative and Small Employer Charity Pension Flexibility Act (CSEC Act), Pub. L. 113-97, enacted April 7, 2014, amended § 436(a) to exempt certain cooperative and small employer charity pension plans (CSEC plans) from the limitations of § 436. However, under § 414(y), a plan sponsor may elect that a plan that would otherwise be a CSEC plan not be treated as a CSEC plan.²
- Section 104 of the Pension Protection Act of 2006 (PPA '06) Pub. L. 109-280, enacted August 17, 2006, as amended by § 202(b) of the Preservation of Access to Care for Medicare Beneficiaries and Pension Relief Act of 2010, Pub. L. 111-192, enacted June 25, 2010, delays the effective date of the applicability of § 436 for certain plans referred to as eligible charity plans until plan years beginning on or after January 1, 2017. However, § 103(b)(2) of the CSEC Act added §

104(d)(2) to PPA '06, providing that a plan sponsor of such a plan can elect for the plan to cease to be an eligible charity plan (so that § 436 applies for the plan) beginning with the 2014 plan year, and it also added § 104(d)(4) to PPA '06, providing that the plan sponsor can make a one-time, irrevocable election for the plan to cease to be an eligible charity plan beginning with the 2008 plan year.³

- The Highway and Transportation Funding Act of 2014 (HATFA), Pub. L. 113-159, enacted August 8, 2014, amended § 436(d)(2) to provide that limitations on interest rates based on corresponding 25-year average segment rates do not apply for purposes of accelerated benefit distributions for a plan sponsored by an employer in bankruptcy.

DRAFTING INFORMATION

The principal author of this notice is Arslan Malik of the Office of Associate Chief Counsel (Employee Benefits, Exempt Organizations, and Employment Taxes). For further information regarding this notice, contact Arslan at (202) 317-6700 (not a toll-free number).

¹Model amendments that a sponsor of a qualified defined benefit plan may use to amend its plan to offer bifurcated benefit distribution options in accordance with these final regulations are provided in Notice 2017-44, 2017-36 I.R.B. 226.

²Notice 2015-58, 2015-37 I.R.B. 322, provides guidance with respect to the application of the CSEC Act, including guidance for the sponsor of a plan that otherwise qualifies as a CSEC plan regarding how to elect that the plan not be treated as a CSEC plan.

³Notice 2015-58, Q&A 3, provides guidance to the sponsor of an eligible charity plan regarding how to elect that the plan cease to be treated as an eligible charity plan.

Definition of Terms

Revenue rulings and revenue procedures (hereinafter referred to as "rulings") that have an effect on previous rulings use the following defined terms to describe the effect:

Amplified describes a situation where no change is being made in a prior published position, but the prior position is being extended to apply to a variation of the fact situation set forth therein. Thus, if an earlier ruling held that a principle applied to A, and the new ruling holds that the same principle also applies to B, the earlier ruling is amplified. (Compare with *modified*, below).

Clarified is used in those instances where the language in a prior ruling is being made clear because the language has caused, or may cause, some confusion. It is not used where a position in a prior ruling is being changed.

Distinguished describes a situation where a ruling mentions a previously published ruling and points out an essential difference between them.

Modified is used where the substance of a previously published position is being changed. Thus, if a prior ruling held that a principle applied to A but not to B, and the

new ruling holds that it applies to both A and B, the prior ruling is modified because it corrects a published position. (Compare with *amplified* and *clarified*, above).

Obsoleted describes a previously published ruling that is not considered determinative with respect to future transactions. This term is most commonly used in a ruling that lists previously published rulings that are obsoleted because of changes in laws or regulations. A ruling may also be obsoleted because the substance has been included in regulations subsequently adopted.

Revoked describes situations where the position in the previously published ruling is not correct and the correct position is being stated in a new ruling.

Superseded describes a situation where the new ruling does nothing more than restate the substance and situation of a previously published ruling (or rulings). Thus, the term is used to republish under the 1986 Code and regulations the same position published under the 1939 Code and regulations. The term is also used when it is desired to republish in a single ruling a series of situations, names, etc., that were previously published over a period of time in separate rulings. If the

new ruling does more than restate the substance of a prior ruling, a combination of terms is used. For example, *modified* and *superseded* describes a situation where the substance of a previously published ruling is being changed in part and is continued without change in part and it is desired to restate the valid portion of the previously published ruling in a new ruling that is self contained. In this case, the previously published ruling is first modified and then, as modified, is superseded.

Supplemented is used in situations in which a list, such as a list of the names of countries, is published in a ruling and that list is expanded by adding further names in subsequent rulings. After the original ruling has been supplemented several times, a new ruling may be published that includes the list in the original ruling and the additions, and supersedes all prior rulings in the series.

Suspended is used in rare situations to show that the previous published rulings will not be applied pending some future action such as the issuance of new or amended regulations, the outcome of cases in litigation, or the outcome of a Service study.

Abbreviations

The following abbreviations in current use and formerly used will appear in material published in the Bulletin.

A—Individual.
Acq.—Acquiescence.
B—Individual.
BE—Beneficiary.
BK—Bank.
B.T.A.—Board of Tax Appeals.
C—Individual.
C.B.—Cumulative Bulletin.
CFR—Code of Federal Regulations.
CI—City.
COOP—Cooperative.
Ct.D.—Court Decision.
CY—County.
D—Decedent.
DC—Dummy Corporation.
DE—Donee.
Del. Order—Delegation Order.
DISC—Domestic International Sales Corporation.
DR—Donor.
E—Estate.
EE—Employee.
E.O.—Executive Order.
ER—Employer.

ERISA—Employee Retirement Income Security Act.
EX—Executor.
F—Fiduciary.
FC—Foreign Country.
FICA—Federal Insurance Contributions Act.
FISC—Foreign International Sales Company.
FPH—Foreign Personal Holding Company.
FR.—Federal Register.
FUTA—Federal Unemployment Tax Act.
FX—Foreign corporation.
G.C.M.—Chief Counsel's Memorandum.
GE—Grantee.
GP—General Partner.
GR—Grantor.
IC—Insurance Company.
I.R.B.—Internal Revenue Bulletin.
LE—Lessee.
LP—Limited Partner.
LR—Lessor.
M—Minor.
Nonacq.—Nonacquiescence.
O—Organization.
P—Parent Corporation.
PHC—Personal Holding Company.
PO—Possession of the U.S.
PR—Partner.
PRS—Partnership.

PTE—Prohibited Transaction Exemption.
Pub. L.—Public Law.
REIT—Real Estate Investment Trust.
Rev. Proc.—Revenue Procedure.
Rev. Rul.—Revenue Ruling.
S—Subsidiary.
S.P.R.—Statement of Procedural Rules.
Stat.—Statutes at Large.
T—Target Corporation.
T.C.—Tax Court.
T.D.—Treasury Decision.
TFE—Transferee.
TFR—Transferor.
T.I.R.—Technical Information Release.
TP—Taxpayer.
TR—Trust.
TT—Trustee.
U.S.C.—United States Code.
X—Corporation.
Y—Corporation.
Z—Corporation.

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¹ A cumulative list of all revenue rulings, revenue procedures, Treasury decisions, etc., published in Internal Revenue Bulletins 2018–27 through 2018–52 is in Internal Revenue Bulletin 2018–52, dated December 27, 2018.

Finding List of Current Actions on Previously Published Items¹

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¹ A cumulative list of all revenue rulings, revenue procedures, Treasury decisions, etc., published in Internal Revenue Bulletins 2018–27 through 2018–52 is in Internal Revenue Bulletin 2018–52, dated December 27, 2018.

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INTERNAL REVENUE BULLETIN

The Introduction at the beginning of this issue describes the purpose and content of this publication. The weekly Internal Revenue Bulletins are available at www.irs.gov/irb/.

We Welcome Comments About the Internal Revenue Bulletin

If you have comments concerning the format or production of the Internal Revenue Bulletin or suggestions for improving it, we would be pleased to hear from you. You can email us your suggestions or comments through the IRS Internet Home Page (www.irs.gov) or write to the Internal Revenue Service, Publishing Division, IRB Publishing Program Desk, 1111 Constitution Ave. NW, IR-6230 Washington, DC 20224.