



DEPARTMENT OF THE TREASURY  
INTERNAL REVENUE SERVICE  
WASHINGTON, D.C. 20224

OFFICE OF THE CHIEF COUNSEL

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The Honorable Marco Rubio  
United States Senator  
201 South Orange Avenue, Suite 350  
Orlando, FL 32801

Attention:

Dear Senator Rubio:

I am responding to your inquiry dated March 10, 2016, on behalf of your constituent, . You inquired about the applicability of section 2004(d) of the Employee Retirement Income Security Act of 1974 (ERISA) to the benefit limitations of section 415(b) of the Internal Revenue Code ("the Code").

ERISA added benefit limitations for tax-qualified pension plans under section 415(b) of the Code, generally effective for years after 1975. However, ERISA also provided transition rules under section 2004(d) of ERISA applicable to individuals who were active participants in a pension plan before October 3, 1973.

In general, under the transition rules, the participant's annual benefit payable at retirement must not exceed his or her compensation on the earlier of October 2, 1973, or the date of separation of service from the employer. The annual benefit also must not be greater than the annual benefit that would have been payable to the participant on retirement if:

- All of the terms and conditions of that plan in existence on such date had remained in existence until such retirement, and
- His or her rate of compensation taken into account for any period after October 2, 1973, did not exceed his or her annual rate of compensation on such date.

Whether the transition rules apply to an individual depends on the specific terms of the pension plan document and on the individual's specific employment and compensation history. Your constituent may wish to contact the plan's benefit administrator about the application of the plan's terms and these rules to a participant's specific circumstances.

I hope this information is helpful. If you need further assistance, please contact me at

Sincerely,

William B. Hulteng  
Acting Branch Chief,  
Qualified Plans Branch 1,  
Tax Exempt and Government Entities