

## § 1.401(l)-0

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plan adopted by a state or local government prior to May 6, 1986, is subject to the transitional rules of paragraph (h)(4) (ii) or (iii) of this section.

(ii) *Plan years beginning before January 1, 1996.* (A) The plan does not fail to satisfy the requirements of section 401(a) merely because of the non-qualified cash or deferred arrangement.

(B) Employer contributions under the nonqualified cash or deferred arrangement are considered to satisfy the requirements of section 401(a)(4).

(C) Except as provided in paragraphs (a)(7) and (f) of this section, elective contributions under the arrangement are treated as employer contributions under the Internal Revenue Code of 1986, as if the arrangement were a qualified cash or deferred arrangement. See § 1.401(k)-1(a)(4)(ii). See § 1.402(a)-1(d) for rules governing when elective contributions under the arrangement are includible in an employee's gross income.

(iii) *Collectively bargained plans.* The transition rules in paragraph (h)(4)(ii) of this section apply to a plan maintained pursuant to one or more collective bargaining agreements between employee representatives and one or more employers and adopted by a state or local government before May 6, 1986, effective on the date the provisions of section 401(k) and this section would be effective under paragraph (h)(2) of this section.

[T.D. 8357, 56 FR 40517, Aug. 15, 1991, as amended by T.D. 8376, 56 FR 63432, Dec. 4, 1991; T.D. 8357, 57 FR 10289, 10290, Mar. 25, 1992; 58 FR 14151, Mar. 16, 1993; T.D. 8581, 59 FR 66169, Dec. 23, 1994; T.D. 8581, 60 FR 12416, Mar. 7, 1995; T.D. 8581, 60 FR 15874, Mar. 28, 1995; T.D. 8581, 60 FR 25140, May 11, 1995]

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