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PURPOSE

This transmits complete reprint for IRM 4.72.10, Employee Plans Technical Guidance, Single-Sum Distribution.

BACKGROUND

This IRM provides guidance with respect to defined benefit plans that provide single-sum distributions or other benefits that are subject to IRC 417(e). This guidance addresses the determination of the actual factors required for use under IRC 417(e) and gives numerical illustrations of the required calculations.

NATURE OF CHANGES

This transmittal reissues existing procedures in the new IRM format. IRM 4.72.10 replaces IRM 7.71 Chapter 10 using the same catalog number.

INTENDED AUDIENCE

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4.72.10.1 (05-17-2002)

Overview

- (1) Guidance is provided with respect to defined benefit plans that provide single-sum distributions or other benefits that are subject to IRC 417(e). This guidance addresses the determination of the actuarial factors required for use under IRC 417(e) and gives numerical illustrations of the required calculations. Related issues arising under IRC 411(d)(6) also are addressed. This guidance reflects changes in law enacted by the Retirement Protection Act of 1994 ("RPA 94"). This Act is Title VII of the Uruguay Round Agreements Act (Public Law 103-465, also known as "GATT"). As of this writing, no legislation subsequent to RPA 94 made any changes to IRC 417(e).
- (2) This guidance does not apply with respect to any distribution paid in the form of an annual benefit which does not decrease during the life of the participant (or, in the case of a qualified pre-retirement survivor annuity, during the life of the spouse). This requirement that the annual benefit not decrease does not apply to a decrease that occurs solely because of the death of the survivor annuitant or because of the cessation of a Social Security supplement or qualified disability benefit. See Reg. 1.417(e)-1(d)(6) for further detail. For ease of exposition in this guidance, we will use the term "single-sum distribution" to mean any distribution that is paid in any form other than the exceptions described in this paragraph. For example, a benefit paid in the form of ten annual installments (with no life-contingent feature) would be considered a "single-sum distribution" for purposes of this guidance.
- (3) The value of a single-sum distribution from a qualified defined benefit plan might be affected by the application of either IRC 411(c) or IRC 415. This guidance does not address these additional Code sections. For guidance on IRC 415, see Chapter 7 of this IRM 4.72.
- (4) The valuation rules under IRC 417(e)(3) are referenced by two other Code sections. IRC 411(a)(11) provides that a participant must consent to the distribution of an accrued benefit if the present value of that benefit exceeds a certain amount. For this purpose, the present value must be calculated in accordance with IRC 417(e)(3). IRC 415(b)(2)(E) provides that, for benefits being paid under certain forms, the dollar limitations under IRC 415 must be adjusted using the same interest rate and mortality table as are used under IRC 417(e)(3).

4.72.10.2 (05-17-2002)

Definitely Determinable Benefits

- (1) A pension plan, to be qualified under IRC 401(a), must provide that all benefits are definitely determinable. See Reg. 1.401-1(b)(1)(i) and also, Rev. Ruls. 72-97, 1972-1 C.B. 106, and 69-427, 1969-2 C.B. 87.
- (2) Rev. Rul. 79-90, 1979-1 C.B. 155, clarified that, for benefits to be definitely determinable, the plan must specify the assumptions (or objective standards) used to determine the benefits. A plan could --
 - a. define actuarial equivalence by means of specifying the actuarial assumptions (i.e., the interest rate and mortality table) to be used in the calculations.

- b. define actuarial equivalence by specifying a procedure (not subject to employer discretion) by which the actuarial assumptions will be determined. Typically, this is done by defining the interest rate with reference to publicly-known interest rates. This approach results in actuarial factors that vary according to the publicly-known interest rates. Examples of publicly-known rates include the rates on Treasury securities and rates published by the Pension Benefit Guaranty Corporation.
 - c. define actuarial equivalence by specifying a table of factors that are to be used when converting the normal form of benefit into an alternative form of benefit.
- (3) The position taken in Rev. Rul. 79-90 was codified in IRC 401(a)(25) by the Retirement Equity Act of 1984 (REA). This section requires that, whenever the amount of any benefit is to be determined on the basis of actuarial assumptions, the benefit shall not be considered definitely determinable unless the plan specifies the actuarial assumptions in a way that precludes employer discretion.
 - (4) Reg. 1.411(d)-4, Q&A 4 provides that a pension plan that permits employer discretion to deny the availability of an IRC 411(d)(6) protected benefit violates the definitely determinable requirements of IRC 401(a), including the requirement under IRC 401(a)(25), that actuarial assumptions must be specified in the plan in a manner which precludes employer discretion.

4.72.10.2.1 (05-17-2002)

Examination Steps

- (1) Check the plan for a definite benefit formula that is not subject to the employer's discretion.
- (2) Determine whether actuarial assumptions used to determine plan benefits are specified in the plan in a manner that precludes employer discretion. Check the plan for either specific language as to the interest rate and mortality assumptions to be used to determine the accrued benefit or objective standards that will be used to determine benefits, such as a table of factors.
- (3) When determining an optional form of benefit, the requirements of IRC 417(e) and 415 may sometimes override the plan's definition of actuarial equivalence. Thus, it is crucial in these cases to know which form of benefit is the basis for the amount of the single-sum distribution. It is important for the plan to specify which form of benefit is being used when the plan offers optional forms of benefits that are subsidized.
- (4) The following is an example:

The normal retirement benefit under Plan A, a defined benefit plan, is a straight life annuity that begins when the participant reaches normal retirement age (which is 65). Plan A also provides for an early retirement benefit payable as a straight-life annuity beginning at or after age 55. Participants who elect early retirement have the option of receiving the benefit as a single-sum distribution. Plan A specifies the actuarial

assumptions used for this calculation in a manner that precludes employer discretion.

From the description just given, it is unclear whether the amount of the single-sum distribution will be based on the normal retirement benefit or the early retirement benefit. Unless it contains language that removes this uncertainty, Plan A might fail the requirement that benefits be definitely determinable. This could occur for a number of reasons. One obvious reason would be if the early-retirement benefit is provided on a subsidized basis relative to the normal retirement benefit. Even if the plan calls for a reduction in the annual benefit amount on account of the early retirement, the reduction factors used by the plan might not be consistent with the actuarial assumptions used to calculate the amount of the single-sum distribution. A third reason might exist if the operation of IRC 415 causes the early-retirement benefit to be an amount lower than would otherwise have been provided under the plan.

4.72.10.3 (05-17-2002)

**Actuarial
Factors under
IRC 417(e)(3)**

- (1) Pursuant to IRC 411(c)(3) and Reg. 1.417(e)-1(d)(1), the value of a single-sum distribution must not be less than the present value of the normal retirement benefit. Effective as of the first day of the first plan year beginning in 2000, this present value must be calculated using the *applicable interest rate* and the *applicable mortality table*, each as described in this section. The requirements described in this section are those enacted by RPA 94. In addition, there are transition rules that might apply to participants who accrued benefits under the plan prior to the effective date of RPA 94. Also, IRC 417(e)(3)(B) provided plan sponsors with the option to amend their plans to reflect the new requirements as of a date earlier than the first day of the first plan year beginning in 2000. These special rules are discussed below in section 10.5 ("Effective dates and prior law").
- (2) The rules described in this guidance also apply when determining whether consent is required for a distribution. See IRC 417(e)(1) and (2), as well as Reg. 1.417(e)-1(b).

4.72.10.3.1 (05-17-2002)

**The applicable
interest rate**

- (1) Pursuant to IRC 417(e)(3)(A)(ii)(II), *the applicable interest rate* is the annual rate of interest on thirty-year Treasury securities for the month before the date of distribution. However, this same Code section gives the Secretary of the Treasury the authority to prescribe or permit the use of rates for other months. This authority was exercised in amendments to Reg. 1.417(e)-1(d)(3), issued on March 30, 1998.
- (2) As amended, the regulation introduces two notions: a *stability period* and a *lookback month*. The stability period defines the length of time during which the plan will use the same interest rate for determining the value of single-sum distributions. The lookback month defines the month (or months) which are used to determine that interest rate. Although plan designers have a choice as to the many combinations of available

stability periods and lookback months, the particular method used by the plan must be applied uniformly to all participants in the plan.

- (3) The rules for determining the applicable interest rate are described in this guidance. Reg. 1.417(e)-1(d)(4)(v) provides the Commissioner with the ability to prescribe additional rules for determining the applicable interest rate. As of this writing, no additional rules have been prescribed.

4.72.10.3.2 (05-17-2002)

The stability period

- (1) The stability period is the length of time during which the plan will use the same interest rate for determining the value of single-sum distributions. In other words, all single-sum distributions which have annuity starting dates that occur within the stability period will have the same *applicable interest rate* for purposes of IRC 417(e)(3).
- (2) The stability period must be specified in the plan document. It may be either one month, one quarter, or one year. If the stability period is either a quarter or a year, the period can be either a calendar period or a plan period. If the stability period is a month, then a calendar month must be used. See Reg. 1.417(e)-1(d)(4)(ii).
- (3) For example, if a plan year begins on January 15 and ends on the subsequent February 14, the following stability periods are permissible with respect to a distribution for which the annuity starting date is in February of Year Z:

Plan year:	January 15, Z	to	January 14, Z+1
Calendar year:	January 1, Z	to	December 31, Z
Plan quarter:	January 15, Z	to	April 14, Z
Calendar quarter:	January 1, Z	to	March 31, Z
Calendar month:	February 1, Z	to	February 28, Z

In contrast, a stability period of January 15, Z to February 14, Z would not be permissible.

4.72.10.3.3 (05-17-2002)

The lookback month

- (1) The lookback month defines the month that is used to determine the applicable interest rate. It must be specified in the plan document. The lookback month is either the first, second, third, fourth or fifth full calendar month preceding the stability period. See Reg. 1.417(e)-1(d)(4)(iii).

Example: Plan A has a stability period that runs from January 15, 2001 through April 14, 2001 (which, for this plan, is a plan quarter). Suppose further that Plan A defines the lookback month as the third full calendar month preceding the first day of the stability period. For the stated stability period, the lookback month is October 2000.

- (2) Reg. 1.417(e)-1(d)(4)(iv) permits the use of an average interest rate as the applicable interest rate. This average rate must be determined as the average of the individual annual rates of interest on thirty-year Treasury

securities for two or more months. These months must be consecutive and each such month must be one which would itself be an eligible look-back month. All of these details must be specified in the plan document, including the manner by which the average will be calculated.

4.72.10.3.4 (05-17-2002)

**Finding the
30-year
Treasury rate**

- (1) Shortly after the start of each month, the Service publishes a Notice that states the annual rate of interest on thirty-year Treasury securities for the month just ended. These rates are the *thirty-year Treasury constant maturity* rates published by the Federal Reserve Board.
- (2) As of this writing, all such rates (going back to 1977) can be obtained on the Internet at www.federalreserve.gov. Once at this Web site, use the following steps:
 - Click on *Research and Data*.
 - Click on *Statistics: Releases and Historical Data*.
 - Look under “Monthly Releases” for series G.13 (“Selected Interest Rates”). Click on *Historical Data*.
 - Look under “U.S. Government Securities” for “Treasury constant maturities” and then for “30-year”. Click on *Monthly*.

The direct address for this data is:

www.federalreserve.gov/releases/h15/data/m/tcm30y.txt

4.72.10.3.5 (05-17-2002)

**The applicable
mortality table**

- (1) IRC 417(e)(3)(A)(ii) defines the *applicable mortality table* as a table based on the mortality table used by life insurance companies under IRC 807(d)(5)(A) for reserves under newly-issued group-annuity contracts. When RPA 94 became effective, the *applicable mortality table* was the *1983 Group Annuity Mortality Table*. As of this writing, the table is (until further notice) the *1994 Group Annuity Reserve Table*. Both of these tables were constructed and published by the Society of Actuaries.
- (2) IRC 417(e)(3)(A)(ii) requires only that the *applicable mortality table* be “based on” the table used under the life-insurance Code section. Citing the 1983 decision by the U.S. Supreme Court in *Arizona v. Norris* (concerning the appropriateness of gender-distinct actuarial factors), the Service has opted to construct its own unisex table “based on” the gender-distinct tables published by the Society of Actuaries. The table based on the *1983 Group Annuity Mortality Table* was published in Rev. Rul. 95-6 (1995-1 C.B. 80). The table based on the *1994 Group Annuity Reserve Table* was published in Rev. Rul. 2001-62 (2001-53 IRB 632).
- (3) The use of the table in Rev. Rul. 95-6 became required as of the same date that the provisions of RPA 94 became effective with respect to the plan. See the section below entitled “Effective Dates and Transition Rules” for specific information.
- (4) The use of the table in Rev. Rul. 2001-62 is required for distributions with annuity starting dates on or after the *94 GAR effective date*. The “94 GAR effective date” is December 31, 2002. A plan may specify an earlier “94

GAR effective date”, but this earlier date must be within calendar year 2002. The plan must be amended to reflect the use of the new mortality table and the amendment must be made no later than the last day of the plan year containing the “94 GAR effective date”. For a plan whose plan year is the calendar year, this implies that the plan must be amended no later than December 31, 2002, regardless of the date in calendar year 2002 that is chosen as the “94 GAR effective date”. On the other hand, a plan whose plan year is other than the calendar year will need to be amended no later than a date that depends on the plan’s “94 GAR effective date”. As an example, consider a plan whose plan year runs from July 1 to the following June 30. If the “94 GAR effective date” for this plan is chosen to be June 30, 2002 (or any prior date in calendar year 2002), the plan must be amended no later than June 30, 2002. In contrast, if the “94 GAR effective date” for this plan is chosen to be July 1, 2002 (or any subsequent date in calendar year 2002), the plan must be amended no later than June 30, 2003.

4.72.10.3.6 (05-17-2002)

**Alternative
actuarial factors**

- (1) IRC 417(e)(3) and its underlying regulation prescribe rules for determining the minimum amount (subject to the requirements of IRC 415 and IRC 411(c)) that may be received by a participant as a single-sum distribution. (See section 10.1(2) of this guidance for examples of distributions for which these rules do not apply.) Nothing in the statute or regulation prevents a plan from specifying actuarial factors for single-sum distributions that are more generous than those required by the statute (provided, of course, that the requirements of IRC 415 are satisfied).
- (2) Generally, if a plan specifies an actuarial basis for calculating the value of a single-sum distribution that is different than the basis prescribed under IRC 417(e)(3), then the plan must further provide that the amounts paid to the participant will not be less than the amounts calculated in conformance with IRC 417(e)(3). This requirement generally implies that the plan must specify an *applicable interest rate* and an *applicable mortality table* per IRC 417(e)(3), even if the plan provides for the use of other actuarial factors. This requirement also generally implies that the value of a participant’s distribution must be calculated using the specified *applicable interest rate* and *applicable mortality table*, even if only for the tentative purpose of verifying that the plan’s actuarial factors produce a greater distribution.

4.72.10.4 (05-17-2002)

**Information
needed for
calculating the
single-sum
distribution**

- (1) Various facts and factors are needed in order to determine the amount of a single-sum distribution. Some of these must be located in the plan document; others are unique to the participant receiving the distribution.

4.72.10.4.1 (05-17-2002)

**Plan-specific
information**

- (1) The actuarial factors (i.e., interest rate and mortality table) used by the plan. Often, these factors are located either in the definitional section of the plan (under “Actuarial Equivalence” or “Present Value”), or in the section of the plan that addresses accrued benefits or distributions. If no rates or standards are specified by the plan, the plan is not qualified. See section 4.72.10.2 of this guidance (“Definitely Determinable Benefits”).

If the factors described in the previous paragraph do not comply with the requirements of IRC 417(e), then it is necessary to determine the plan’s procedure for choosing the *applicable interest rate* and the *applicable mortality table*. See sections 4.72.10.3 and 4.72.10.4 of this guidance.

Some plans use two interest rates, one for the post-retirement period and one for the pre-retirement period. However, this is never the case for the *applicable interest rate* used under IRC 417(e).

Some plans specify that the mortality table is to be used only for the participant’s post-retirement period, and not the pre-retirement period. This can also be the case for the *applicable mortality table* under IRC 417(e). If there is any question as to whether a pre-retirement mortality assumption should be used, contact the Area Actuary (or other actuarial contact) for your area.

- (2) The form of benefit upon which the single-sum distribution will be based. Usually (but not always), this will be the normal form of benefit under the plan. In addition, it is necessary to know the age at which the benefit is presumed payable.

For example, if a participant is to receive a single-sum distribution at an age earlier than the plan’s normal retirement age, there might be a question as to whether the amount of the distribution is based on an annuity beginning immediately at the participant’s attained age, or a deferred annuity that would not have begun until the participant reached the plan’s normal retirement age.

4.72.10.4.2 (05-17-2002)

**Participant-specific
information**

- (1) The annuity starting date for the distribution
- (2) The participant’s attained age as of the annuity starting date (and, if appropriate, the attained age of the spouse)
- (3) The accrued benefit in the form of benefit that will be used as the basis of the single-sum distribution. This accrued benefit should reflect the terms of the plan, as well as the requirements of IRC 415 and IRC 411(c). Of course, it will also reflect the appropriate details of the participant’s employment history.
- (4) Because the *applicable mortality table* under IRC 417(e) is a unisex table, the participant’s gender is not needed for calculating the minimum

amount of the distribution or 417(e). However, if the plan uses alternative actuarial factors, the participant's gender might be needed for these alternative calculations.

4.72.10.4.3 (05-17-2002)

**Examination
steps**

- (1) For each single-sum distribution that was made during the years being examined, assemble all of the information described in sections 4.72.10.4.1 and 4.72.10.4.2.
- (2) Determine whether the amounts of the single-sum distribution were at least as great as the amounts required by IRC 417(e). If the plan provides for the use of alternative factors that result in a single-sum distribution that is greater than the minimum amount required under IRC 417(e), check that the participant was paid the correct greater amount.
- (3) Because the *applicable interest rate* is a percentage that is expressed in basis points (i.e., a percentage with two decimal places), it is not feasible to maintain a collection of actuarial factors for each different interest rate. As a practical matter, performing the required calculations requires the use of a computer, along with spreadsheets or other types of software that have been designed for making these calculations. If you do not have access to such software, contact the Area Actuary (or other actuarial contact) for your area.

4.72.10.5 (05-17-2002)

**Effective dates
and prior law**

- (1) Generally, the rules under IRC 417(e), as revised by RPA 94, are effective for distributions with annuity starting dates in plan years beginning after 1994 (but, see the remaining paragraphs in this section).
- (2) The general rule described in item (1) did not apply to plans that were in existence as of December 7, 1994. For these plans, the effective date of the RPA 94 rules (with respect to IRC 417(e)) was delayed until the first day of the first plan year beginning in 2000. However, these plans had the option of choosing an "optional delayed effective date" for the new rules. This "optional delayed effective date" could not be later than the first day of the first plan year beginning in 2000. The option was available only to plans that satisfied the pre-RPA 94 requirements of IRC 417(e) on December 7, 1994. See Reg. 1.417(e)-1(d)(9) for the pre-RPA 94 requirements. The "optional delayed effective date" is the date the plan was amended to apply both the *applicable interest rate* and the *applicable mortality table* (or, if later, the date such an amendment was effective). The "optional delayed effective date" is discussed at Reg. 1.417(e)-1(d)(8)(ii).
- (3) All plans (whether or not in existence on December 7, 1994) were permitted to accelerate the application of the revised rules under 417(e) to a date earlier than the first day of the first plan year beginning after 1994. This "optional accelerated effective date" could not be prior to December 8, 1994. The "optional accelerated effective date" is the date the plan was amended to apply both the *applicable interest rate* and the *applicable mortality table* (or, if later, the date such an amendment was effective).

- (4) With regard to plan amendments required by the new rules under IRC 417(e), Rev. Proc. 99-23 (1999-16 I.R.B. 5) extended the remedial amendment period under IRC 401(b) until the last day of the first plan year beginning in 2000. Even if the sponsor availed itself of this extension, the provisions of the amended plan must have been effective as of the first day of the first plan year beginning in 2000. Furthermore, any single-sum distributions with annuity starting dates that were on or after that effective date, but prior to the date the amendment was adopted, must have been equal in amount to the greater of (i) the amount that would be determined under the plan without regard to the amendment and (ii) the amount determined under the plan with regard to the amendment.
- (5) The extension of the remedial amendment period discussed in item (4) was extended for an additional year by Rev. Proc. 2000-27 (2000-1 C.B. 1272). Thus, the remedial amendment period was extended until the last day of the first plan year beginning in 2001.
- (6) The requirements of IRC 417(e) that existed prior to the revisions of RPA 94 are set forth in Reg. 1.417(e)-1(d)(9).

4.72.10.6 (05-17-2002)

**Basic
provisions of
IRC 411(d)(6)**

- (1) ERISA added IRC 411(d)(6), which prohibits the reduction of a participant's accrued benefit by a plan amendment. For purposes of determining whether or not a participant's accrued benefit is reduced, all plan provisions which directly or indirectly affect the computation of the accrued benefit are taken into account. Plan provisions that indirectly affect the computation of a participant's accrued benefits include plan provisions relating to actuarial factors for determining optional or early retirement benefits. See Reg. 1.411(d)-3(b).
- (2) Rev. Rul. 81-12, 1981-1 C.B. 228, provides that a change in actuarial assumptions that results in a decrease in the accrued benefits of any participant violates the anti-cutback provisions of IRC 411(d)(6). In general, a plan may only change actuarial assumptions without regard to IRC 411(d)(6) if the change is limited to benefits accrued after the later of the date the amendment is effective or adopted. However, this revenue ruling adds the option of applying the new assumptions to all benefit accruals, including those accrued before the date of the change. To use this option, the plan must provide that the benefit determined under the new assumptions will not be less than the benefit that had been accrued as of the date of the change, determined under the prior assumptions.

4.72.10.6.1 (05-17-2002)

**Relief from IRC
411(d)(6)**

- (1) Section 767(d)(2) of RPA 94 provides that no violation of IRC 411(d)(6) will occur merely because a plan is amended to use the *applicable interest rate* and *applicable mortality table* required by IRC 417(e)(3), even if such an amendment serves to reduce the value of a participant's accrued benefit payable as a single-sum distribution. In accordance with this provision, Reg. 1.417(e)-1(d)(10) provides various forms of relief from the anti-cutback rules of IRC 411(d)(6).

At various points, the regulation refers to interest rates that are “based on” the interest rates used by the Pension Benefit Guaranty Corporation (“PBGC”). An interest rate is “based on” the PBGC rate if it (i) is equal to a specified percentage of the PBGC rate, (ii) is defined to differ from the PBGC rate by a specified number of basis points (a basis point is 0.01%), or (iii) is equal to the average of any rates defined under items (i) and (ii) over a specified period. See Reg. 1.417(e)-1(d)(10)(vi)(B).

- (2) The numbering of the following items parallels the numbering of the paragraphs under Reg. 1.417(e)-1(d)(10). For example, item (3) below corresponds to Reg. 1.417(e)-1(d)(10)(iii).

- (1) Subject to two conditions, there is no failure to satisfy IRC 411(d)(6) merely because a plan is amended to cease applying the valuation requirements of IRC 417(e) to certain forms of benefit. The forms of benefit that can be so treated are those set forth in Reg. 1.417(e)-1(d)(6) (and discussed in the “Overview” at section 4.72.10.1.2 of this guidance).

The first condition is that the amendment be adopted before the first day of the plan year beginning in 2001. The second condition is that the amendment cannot be applied retroactively (i.e., it can not be used to affect the amount of a distribution whose annuity starting date was prior to the date the amendment was adopted).

- (2) Provided one condition is satisfied, there is no violation of IRC 411(d)(6) merely because a plan is amended to change the time for determining the *applicable interest rate*. Amendments that change the time for determining the rate by indirect means (such as a change in the plan year) fall within the scope of this relief.

The condition is that, in the case of any single-sum distribution for which the annuity starting date falls within a certain period, the amount of the distribution must not be less than the greater of two amounts. The first amount is the value calculated using the interest rate that would have been used under the pre-amended version of the plan; the second amount is the value calculated using the interest rate determined under the amended version of the plan. The period during which this condition applies starts on the effective date of the amendment. The period ends one year after the later of the effective date of the amendment or its date of adoption.

- (3) Subject to two conditions, there is no violation of IRC 411(d)(6) merely because a plan is amended with regard to the interest rate or mortality table used to compute the value of a participant's single-sum distribution, even if such an amendment serves to reduce the single-sum value of a participant's accrued benefit.

The first condition is that, prior to the amendment, the interest rate used by the plan for this purpose was either the interest rate used by the PBGC or a rate that was based on the PBGC rate.

The second condition is that, under the amended plan, the present value of a participant's benefit can not be less than the amounts determined by using the *applicable interest rate* and the *applicable mortality table* in effect for the first full calendar month preceding the calendar month that contains the annuity starting date. Thus, with regard to the interest rate, this relief can be invoked only if the amended plan defines its *stability period* to be one calendar month and defines the *lookback month* to be the first calendar month preceding the stability period.

The operation of this item (3) is illustrated in Example 1 of Reg. 1.417(e)-1(d)(10)(vii).

- (4) This relief is similar to that under item (3). Thus, relief is granted for plan amendments that change the interest rate or mortality table that is used to calculate the value of a participant's single-sum distribution. As with the relief described under item (3), there are two conditions. The first condition is the same as for item (3) (i.e., the relief applies only if the plan, prior to amendment, had used the PBGC interest rate, or a rate based on the PBGC rate, for determining the amount of a single-sum distribution). The sole difference lies in the second condition. Here, the second condition is that the *applicable interest rate* must be the one in effect for the calendar month that contains the date as of which the plan, prior to amendment, would have determined the PBGC rate. Alternatively, this second condition can be met by using one of the two calendar months prior to the month described in the previous sentence.
- (5) This relief is similar to that under item (3). Thus, relief is granted for plan amendments that change the interest rate or mortality table that is used to calculate the value of a participant's single-sum distribution. There are three conditions that must be met, as follows:
- (A) The interest rate used by the plan prior to the amendment was the PBGC interest rate (or a rate based on the PBGC rate).
 - (B) The value of a single-sum distribution under the amended plan is not less than the amount determined using the *applicable interest rate* and the *applicable mortality table*.

- (C) For a period of one year after the effective date of the amendment, the amount of any single-sum distribution is calculated using whichever of two interest rates produces the larger distribution amount. The first interest rate is the rate determined under the terms of the amended plan. The second interest rate is the rate determined under the terms of the amended plan, but determined as of a date that is either one month or two months (as specified in the plan) before the date for determining the interest rate under the terms of the plan prior to the amendment.

Alternatively, the plan can meet this condition (C) by satisfying the condition under item (2) above.

The operation of this item (5) is illustrated in Example 3 of Reg. 1.417(e)-1(d)(10)(vii). The operation of condition (C) is illustrated in Example 5 of that regulation.

- (6) Reg. 1.417(e)-1(d)(10)(vi) contains special rules. The lettering of the following items corresponds to the regulation. For example, item (B) corresponds to Reg. 1.417(e)-1(d)(10)(vi)(B).

- (A) Plans that invoke the relief of items (3), (4) or (5) above do not fail to satisfy the conditions of those relief items merely because the plans provide temporary additional benefits. The purpose of this special rule is to permit a plan to achieve a transition between “old” and “new” law in a manner that is more gradual than might otherwise have been the case.

The operation of this special rule is illustrated in Example 4 of Reg. 1.417(e)-1(d)(10)(vii).

(B) The relief provided by items (3), (4) and (5) above apply only if the interest rate being replaced was the PBGC rate (or a rate based on the PBGC rate). If a plan had calculated the amount of its single-sum distributions using an interest rate other than the PBGC rate (or a rate based on the PBGC rate), the usual strictures of IRC 411(d)(6) and Rev. Rul. 81-12 continue to apply to the benefit accrued as of the date the plan was amended.

The operation of this special rule is illustrated in Example 2 of Reg. 1.417(e)-1(d)(10)(vii).

(C) This special rule is the condition described above under relief item (5)(C). It is illustrated in Example 5 of Reg. 1.417(e)-1(d)(10)(vii).

(7) The regulation's discussion of the relationship between IRC 417(e) and IRC 411(d)(6) closes with seven examples. They are not reproduced here.

4.72.10.6.2 (05-17-2002)

**Examination
steps**

- (1) Determine if a plan amendment eliminates any optional forms of benefit, such as a single-sum distribution option.
- (2) Check whether actuarial assumptions used to compute accrued benefits have been amended. If yes, determine whether the amendment complies with IRC 411(d)(6). In general, an increase in the interest rate will result in a decrease in the amount of the present value, thereby resulting in a reduction in the accrued benefit in violation of IRC 411(d)(6). Also, based upon the effective date of and date of adoption of amendments changing the actuarial assumptions, determine if the amendment satisfies IRC 411(d)(6). Two permissible approaches to satisfying IRC 411(d)(6) in such situations are described in Rev. Rul. 81-12. See section 4.72.10.6.1(2) of this guidance for a discussion of this revenue ruling.

