The Alert Guidelines are tools used by Employee Plans Specialists during their review of retirement plans and are available to plan sponsors to use before submitting determination letter applications to the Service. Each numbered set consists of three items related by subject matter (Worksheet, Explanation and Attachment) that should be used together. For a list of all of the Alert Guidelines by subject matter, and the related items that belong to each set, see http://www.irs.gov/retirement/article/0,,id=97188,00.html

Employee Benefit Plans

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Explanation No. 6

Limitations On Contributions and Benefits

Note: This explanation has only been updated with respect to defined contribution plans. Explanation No. 6 will again be updated once the final regulations under section 415 are published.

The purpose of Form 8384, Worksheet Number 6, is to assist in determining if a plan meets the major requirements of § 415. However, there may be § 415 issues not mentioned in the worksheet that could affect the plan's qualification.

Generally, a "Yes" answer to a question on the worksheet indicates a favorable conclusion while a "No" answer signals a problem concerning plan qualification. This rule may be altered by specific instructions for a given question. Please explain any "No" answer in the "Comments" section of the worksheet.

In order for a plan to qualify, it must preclude the possibility that the § 415 limitations will be exceeded. However, no specific plan language is prescribed to comply with § 415. For example, if Plan X, which is a money purchase plan, has (1) a contribution formula of 100 percent of compensation actually paid or accrued, as defined in § 1.415-2(d) of the regulations, or $40,000, whichever is less; (2) does not allow employee contributions; (3) allocates employer contributions every year; and (4) uses all forfeitures to reduce employer contributions, then no other provisions are necessary with respect to § 415 as long as Plan X is the only plan maintained, or that has ever been maintained, by the employer.

For limitation years beginning after December 31, 1986, a plan will not fail to meet the definitely determinable benefits requirements merely because it incorporates the limitations of § 415 by reference. However, if a limitation of § 415 may be applied in more than one manner, the plan must specify the manner in which the limitation is to be applied instead of incorporating the limitation by reference. In addition, unless a plan provides that the limitations of § 415 that are incorporated by reference override any other plan provision (except as specifically stated), then all of the terms of the plan which relate to such limitations must satisfy the requirements of § 415, regardless of the incorporation by reference. Further, unless the plan incorporates by reference all the provisions of § 415 that may be so incorporated, then the terms of the plan must satisfy those provisions that are not incorporated by reference. Changes made by the Retirement Protection Act of 1994 (RPA '94), the Small Business Job Protection Act of 1996 (SBJPA '96), and the Economic Growth and Tax Relief Reconciliation Act of 2001 (EGTRRA) are described in II, III and IV below.

The sections cited at the end of each line explanation are to the Internal Revenue Code and the Income Tax Regulations, unless otherwise specified.

For plans which were in existence on May 6, 1986, please see Part V. For plans that were in existence on December 7, 1994, please see part VI.

I. GENERAL DEFINITIONS

Line a. If the plan does not define the limitation year, it is deemed to use the calendar year and this question should be answered "N/A". An employer may elect any other consecutive 12-month period by the adoption of a written resolution. The election may also be made by designating a different 12-month period in the initial adoption of the plan, or by an amendment to the plan so providing. Once established, the limitation year may only be changed as described in the preceding two sentences. Any such change may only be to a 12-month period commencing within the current limitation year. This will create a short limitation year which must be separately tested for § 415 purposes. If the plan is a defined contribution plan, and the limitation year is changed, the dollar limitation with respect to the short limitation year is determined by multiplying (A) the applicable dollar limitation for the calendar year in which the short limitation year ends by (B) a fraction, the numerator of which is the number of months (including fractional months) in the short limitation year, and the denominator of which is twelve (see Explanation No. 6 line II.b). The compensation limitation would be determined by considering only the compensation paid or accrued during the short limitation year. A defined benefit plan does not have to make any special adjustments to the dollar limitation for a short limitation year with regard to the accrual of benefits.
1.415-2(b)

Line b. Compensation, for purposes of applying the limitations of § 415, includes the following: (a) wages, salaries, fees for professional services and other amounts received (whether or not in cash) for personal services actually rendered in the course of employment with an employer maintaining the plan to the extent includible in gross income (including but not limited to commissions paid salesmen, compensation for service on the basis of a percentage of profits, commissions on insurance premiums, tips, bonuses, fringe benefits, and reimbursements or expense allowances under a nonaccountable plan (as described in Regs. § 1.62-2(c); (b) earned income (with respect to employees within the meaning of § 401(c)(1)); (c) amounts described in §§ 104(a)(3), 105(a) and 105(h) but only to the extent they are includible in the employee's gross income; (d) amounts paid or reimbursed by the employer for moving expenses incurred by the employee to the extent that such amounts are not deductible under § 217; (e) the value of a nonqualified stock option granted to an employee by the employer to the extent the value is includible in the employee's gross income; (f) the amount includible in the employee's gross income upon making the election in § 83(b); and (g) for limitation years beginning in 2005, if the choice is made to rely on Prop. Reg. 1.415(c)-2(e) for 2005 and 2006, payments made within 2 and ½ months after severance from employment if, absent a severance from employment such payments would have been paid to the employee while the employee continued in employment with the employer and are regular compensation for services during the employee's regular working hours, compensation for services outside the employee's regular working hours (such as overtime or shift differential), commissions, bonuses or other similar compensation, or payments for accrued bona fide sick, vacation, or other leave, but only if the employee would have been able to use the leave if employment had continued. Any payments not described above are not considered compensation if paid after severance from employment (even if they are paid within 2 and ½ months following severance from employment) except for payments to an individual who does not perform services for the employer by reason of qualified military service (within the meaning of §414(u)(1)) to the extent these payments do not exceed the amounts the individual would have received if the individual had continued to perform services for the employer rather than entering qualified military service.

For purposes of (a) and (b) above in this Line b., compensation includes foreign earned income (as defined in § 911(b)), whether or not excludable from gross income under § 911. Compensation under (a) and (b) above is to be determined without regard to the exclusions from gross income in §§ 931 and 933.

Compensation for purposes of § 415 does not include the following: (a) contributions made by the employer to a deferred compensation plan which, without regard to § 415, are not includible in the employee's gross income for the taxable year in which contributed; (b) employer contributions made on behalf of the employee to a simplified employee pension (SEP) plan described in § 408(k) for the taxable year in which contributed; (c) distributions from a deferred compensation plan (except from an unfunded nonqualified plan when includible in gross income); (d) amounts realized from the exercise of a nonqualified stock option, or when restricted stock (or property) held by an employee either becomes freely transferable or is no longer subject to a substantial risk of forfeiture; (e) amounts realized from the sale, exchange or other disposition of stock acquired under a qualified stock option; (f) other amounts which receive special tax benefits, such as premiums for group term life insurance (to the extent excludable from gross income) or employer contributions (whether or not under a salary reduction agreement) for the purchase of an annuity contract described in § 403(b) (whether or not excluded from gross income); and (g) for limitation years beginning in 2005, any payment that is not described in item (g) of the first paragraph of line b above is not considered compensation if paid after severance from employment, even if it is paid within 2½ months following severance from employment.

Compensation, for section 415 purposes, includes any elective deferrals under § 402(g)(3) and any amount which is contributed or deferred by the employer at the election of the employee and which is not includible in the gross income of the employee by reason of §§ 125, 132(f)(4) or 457. Amounts under §125 may include any amounts not available to a participant in cash in lieu of group health coverage because the participant is unable to certify that he or she has other health coverage (deemed § 125 compensation). An amount will be treated as an amount under § 125 only if the employer does not request or collect information regarding the participant's other health coverage as part of the enrollment process for the health plan.

The plan may adopt a safe harbor definition of § 415 compensation by using only the inclusions described above and all the exclusions mentioned above. The plan may also adopt either of the following definitions of compensation for § 415 purposes for employees other than self-employed individuals:

1. Wages within the meaning of § 3401(a) and all other payments of compensation to an employee by his employer (in the course of the employer's trade or business for which the employer is required to furnish the employee a written statement under §§ 6041(d), 6051(a)(3), and 6052 but determined without regard to any rules under § 3401(a) that limit the remuneration included in wages based on the nature or location of the employment or the services performed.
2. Wages as defined in § 3401(a) (income tax withholding) without regard to any rules limiting the amount included on the basis of the nature or location of employment or services performed.

The plan may also use its § 415 definition of compensation to determine its benefit formula or contribution rate. Regardless of what definition of compensation the plan uses for other purposes, to answer this question “Yes” the definition of compensation used to apply the § 415 limitations must preclude the possibility that these limitations will be exceeded. Therefore, if the plan does not use the safe harbor definition of compensation or one of the two alternatives described above in applying the § 415 limitations but instead uses a definition of compensation that may include one of the exclusions stated in the regulatory definition, the plan fails to meet this requirement. On the other hand, a plan does not fail to meet this requirement merely because it fails to include in its definition of compensation some of the items mentioned above.

A plan that incorporates § 415 by reference must specify which definition of compensation is incorporated.

In determining compensation for the limitation year, the plan must use compensation actually paid or includible in gross income in such year. The employer may also include amounts earned but not paid in a year because of the timing of pay periods if the amounts are paid in the first few weeks of the next year, the amounts are included uniformly and consistently for similarly situated employees, and amounts are not included in more than one limitation year.

If an employee is employed by two or more members of a controlled group of corporations, compensation for such employee includes compensation from all the employers in the controlled group whether or not they maintain the plan. This also applies to compensation from two or more members of commonly controlled trades or businesses and affiliated service groups.

Note that Q&A 9 of Notice 99-44 provides that for limitation years ending on or after December 1, 1999, to the extent that a plan applies the rules in section 1.415-6(b)(6) of the regulations, a defined contribution plan will not satisfy the requirements of section 401(a) unless a definition of compensation within the meaning of section 415(c)(3) as amended by SBJPA is used in applying these rules. (See line II.c. for a description of the rules in section 1.415-6(b)(6).) However, for limitation years ending on or before November 30, 1999, pursuant to section 7805(b)(8), the Service will not treat a defined contribution plan as failing to satisfy the requirements of section 401(a) merely because the rules in regulation 1.415-6(b)(6) are applied using a definition of compensation within the meaning of section 415(c)(3) prior to its amendment by SBJPA.

For limitation years beginning after 12/31/01, in the case of an annuity contract described in section 403(b) the term “participant’s compensation” for purposes of section 415 means includible compensation determined under section 403(b).

415(c)(3)(D)
415(c)(3)(E)
1.415-2(d)
Notice 87-21, Q&A 11, 1987-1 C.B 458
Notice 99-44, Q&A 9, 1999-2 C.B. 326, 329
Rev. Rul. 2002-7, 2002-1 C.B.925
Notice 2001-37, 2001-1 C.B.1340
Prop. Reg. 1.415(c)-2(e)

II. LIMITATIONS ON CONTRIBUTIONS

Line a. Annual additions include (a) employer contributions, (b) employee contributions, and (c) forfeitures credited to a participant’s account for any limitation year. Elective contributions and employee and matching contributions subject to the requirements of § 401(m) are annual additions regardless of whether they result in excess aggregate contributions, even if such excesses are corrected through distribution or recharacterization. Excess deferrals that are distributed in accordance with Regs. § 1.402(g)-1(e)(2) or (3) are not annual additions. Amounts allocated to an individual medical account, as defined in § 415(l)(2), which is part of a defined benefit plan maintained by the employer, and amounts attributable to post- retirement medical benefits allocated to the account of a key employee, as defined in § 419A(d)(3), under a welfare benefit fund, as defined in § 419(e), maintained by the employer are treated as annual additions to a defined contribution plan. However, the percentage of compensation limitation does not apply to such amounts. Repayment by an employee of a cash-out or previously withdrawn mandatory contributions which result in the restoration of amounts that were forfeited because of these distributions are not annual additions. Similarly, transfers of employer or employee contributions from another qualified plan, repayments of loans, or rollovers accepted by the plan are not annual additions. The regulations describe other amounts which are not annual additions and some amounts which are considered annual additions for limitation years other than the limitation year in which actually credited to the participant’s account. These regulations should be consulted to determine whether the plan correctly treats such amounts as annual additions. Generally, amounts are credited to a participant’s account if they are allocated to the account under the terms of the plan as of any date within the limitation year unless such allocation is dependent upon participation in the plan as of any time after such allocation date.

415(c); 415(l); 1.415-6; 419A(d)(2) and (3); 419(e)

Line b. A defined contribution plan must preclude the possibility that annual additions credited to any participant’s account in a limitation year will exceed the limitations of § 415. For limitation years beginning after 12/31/2001 the limitation is the lesser of $40,000 or 100% of compensation. The $40,000 figure will be adjusted annually by the Secretary for increases in the cost of living, with references to quarters and base periods, independently of the defined benefit dollar limit. Any adjustments will be in $1000 increments. A defined contribution plan may provide for an automatic increase in the dollar limitation to reflect cost-of-living increases, but is not required to do so. A new plan may use the dollar limitation in effect for its first limitation year and adjust the limit from that point.

If you are reviewing a defined benefit plan that provides for employee contributions (whether mandatory or voluntary), such employee contributions are treated as a separate defined contribution plan for § 415 purposes. Therefore such employee contributions must comply with this limitation requirement. You must also respond to IV.a. on the worksheet.

415(c)(1); 415(c)(3)(E); 415(d)(1); 415(d)(3); 415(d)(4); 1.415-6

Line c. If, as a result of the allocation of forfeitures, a reasonable error in estimating a participant’s annual compensation, a reasonable error in determining the amount of elective deferrals under §

402(g)(3) that may be made with respect to any individual under the limits of § 415, or under other limited facts and circumstances that the Commissioner finds justify the availability of the rules set forth in this paragraph, the annual additions under the terms of the plan for a particular participant would cause the limitations of § 415 applicable to that participant for the limitation year to be exceeded, the excess amounts shall not be deemed annual additions in that limitation year and § 415 is considered satisfied if they are treated in accordance with one of the following three methods:

Method #1. Excess amounts in the participant's account are allocated and reallocated to the other participants. If excess amounts remain after the § 415 limitation has been met for all the participants, such amounts are held unallocated in a suspense account. The amounts in the suspense account are allocated and reallocated, beginning in the next limitation year, before any employer or employee contributions which would constitute annual additions may be made to the plan. This method cannot be used in a pension plan because it would cause the plan to fail the requirement that benefits be definitely determinable.

Method #2. Excess amounts are used to reduce employer contributions for the next limitation year for that participant. If the participant is not covered by the plan at the end of the limitation year, the excess amounts are held in a suspense account and allocated and reallocated in the next limitation year in accordance with the rules in method #1. However, these amounts must be used to reduce employer contributions for all remaining participants and may not be distributed.

Method #3. Excess amounts are held unallocated in a suspense account. Beginning with the next limitation year these amounts are allocated and reallocated to all the participants in accordance with the rules of method #1. The excess amounts must be used to reduce employer contributions and may not be distributed.

Notwithstanding methods 1, 2 and 3 above, the plan may provide for the distribution of elective deferrals under § 402(g)(3) or the return of employee contributions (whether voluntary or involuntary), and for the distribution of gains attributable to those elective deferrals and employee contributions, to the extent that the distribution or return would reduce the excess amounts in the participant's account. These distributed or returned amounts are disregarded for purposes of § 402(g), the actual deferral percentage test of § 401(k)(3), and the actual contribution percentage test of § 401(m)(2). However, the return of mandatory employee contributions may result in discrimination under § 401(a)(4). If the plan does not provide for the return of gains attributed to returned employee contributions, such earnings will be considered as an employee contribution for the limitation year in which the returned contribution was made. For limitation years beginning after December 31, 1995, if a plan does not provide for the distribution of gains attributable to the distributed elective deferrals, such earnings will be considered as an employer contribution for the limitation year in which the distributed elective deferral was made. To the extent that investment gains or other income or investment losses are allocated to the suspense account, the entire amount allocated to participants from the suspense account, including any such gains or other income or less any such losses, is considered as the annual addition. Also, the exclusive benefit rule is not violated by a plan provision for the reversion to the employer of the suspense account upon termination of the plan. The methods above may be incorporated by reference. However, the method, whether employer contributions (and investment gains, income, or losses) are returned, and whether investment gains, income, or losses are allocated to a suspense account must be specified. See line I.b. regarding the definition of compensation that must be used in applying the foregoing rules.

1.415-6(b)(6); 1.401(a)-2(b); Notice 87-21, Q&A 11

Line d. A defined contribution plan may provide for contributions on behalf of a participant (other than a highly compensated employee) who has become permanently and totally disabled (as defined in § 22(e)(3)) even though the participant has no actual compensation. In such cases, the disabled participant is deemed to have compensation each year equal to the rate of compensation paid immediately before the participant became permanently and totally disabled.

However, for years beginning after December 31, 1996, in addition to the above,if plans provide for the continuation of contributions on behalf of all permanently and totally disabled participants (as defined in § 22(e)(3)), the special rule for contributions on behalf of disabled participants includes highly compensated employees, if the contributions are continued for a fixed or determinable period. The disabled participants are similarly deemed to have compensation each year equal to the rate of compensation paid immediately before the participant became permanently and totally disabled. 415(c)(3)(C).

Contributions made with respect to the imputed compensation of a disabled participant must be nonforfeitable when made.

Line e. The sum of the annual additions credited to a participant's account in any limitation year for all of the qualified defined contribution plans of the employer may not exceed the limitations of § 415(c).

A qualified defined contribution plan maintained by any member of a controlled group of corporations or commonly controlled trades or businesses (as defined in § 414(b) and (c) as modified by § 415(h)) or any member of an affiliated service group (as defined in § 414(m)), is considered maintained by all of the members for this purpose.

A qualified defined benefit plan maintained by the employer to which employee contributions are made is considered a separate defined contribution plan for this purpose to the extent such employee contributions constitute annual additions in the limitation year. Also, employer contributions allocated to (1) an individual account maintained under a defined benefit plan or (2) the account of a key employee under a welfare benefit trust described in § 419(e) to provide post-retirement medical benefits are treated as annual additions to a defined contribution plan.

The provisions of the plans must preclude the possibility that the total annual additions allocated to any participant in all such plans will exceed these limitations in any limitation year whether or not the § 415 limitations are incorporated by reference. Note that if the plans cannot have common participants, this requirement is satisfied.

A money purchase plan may provide for the automatic freezing or reduction of contributions to insure the limitations of § 415 are met without violating the requirement that benefits be definitely determinable if the plan provision precludes employer discretion.

A profit-sharing or stock bonus plan may also contain a provision for the automatic freezing or reduction of contributions, without violating the definite predetermined allocation formula requirement, if the plan provision precludes employer discretion. For example, if two defined contribution plans of one employer would otherwise provide for aggregate contributions exceeding the

limitations of § 415(c), the plan provisions must specify which plan will reduce contributions and allocations to prevent an excess annual addition and how the reduction will occur.

A 403(b) annuity contract is considered a plan maintained by the employee and must be aggregated when the employee is in control of the employer. Effective for limitation years beginning after 12/31/01 the special election for section 403(b) annuity contracts purchased by educational organizations, hospitals, home health service agencies and certain churches is eliminated.

415(f)(1)
415(k)(4)
1.415-1(d)(1)
1.401(a)-1(b)(1)(iii) and 1.415-8(a); 1.415-8(d)(2); 1.415-7(h)
Notice 87-21, Q&A 11

Note: This explanation has only been updated with respect to defined contribution plans. Explanation No. 6 will again be updated once the final regulations under section 415 are published. Parts III to VI below have not been updated.

III. LIMITATIONS ON BENEFITS - General Rule

Line a. The maximum annual benefit to which any participant may be entitled during the limitation year may not exceed the lesser of $90,000 or 100 percent of the participant's average compensation for the three consecutive calendar years of employment (or lesser period if the employee does not have three consecutive years) which produce the greatest aggregate compensation. A different 12-month period may be used if uniformly and consistently applied. The annual benefit is a benefit payable annually as a straight life annuity. The benefits attributable to employee contributions, rollover contributions, and assets transferred from another qualified plan are not taken into account for purposes of this limitation. The dollar limitation will be adjusted annually by the Commissioner for years beginning on or after January 1, 1988, to reflect the increase in the cost-of-living. The increased dollar limit becomes effective January 1 of each year, and may apply to any limitation year ending with or within the calendar year for which the increase is effective. A defined benefit plan may provide for an automatic increase in the dollar limitation to reflect cost-of-living increases, but is not required to do so. Plans that incorporate by reference must specify if such increase is not to apply.

The plan provisions must preclude the possibility that an annual benefit in excess of this limitation will become payable at any time. It is not enough that no participant has actually accrued a benefit in excess of this limitation.

415(b)(1) 415(b)(2) 415(d)(1) 415(d)(3) 1.415-3(b)1.415-5Notice 87-21, Q&A 11

Line b. RPA '94 and SBJPA '96 amended § 415(b)(2)(E) of the Code to provide interest rate and mortality assumptions for use in calculating the equivalent annual benefit for a benefit paid under a plan that is not a benefit paid annually in the form of a straight life annuity (or a qualified joint and survivor annuity), and for use in calculating the adjusted $90,000 limitation where the benefit begins either before or after social security retirement age. Plans may apply the changes made to § 415(b)(2)(E) by RPA '94 and SBJPA '96 to all plan benefits, including benefits accrued before the first day of the first limitation year beginning after 12/31/94, without violating § 411(d)(6). Such an amendment must be made retroactively effective, but may be adopted by the last day of the plan's remedial amendment period under § 401(b) for disqualifying provisions under SBJPA and GATT. If a plan terminates prior to the date amendments otherwise must be adopted, the plan must be amended for these changes in connection with the termination.

If a plan applies the changes made to § 415(b)(2)(E) by RPA '94 and SBJPA '96 to all plan benefits, the instructions under lines III.c. through III.k. apply and those lines should be completed. A plan may be amended, however, to apply the changes made to § 415(b)(2)(E) by RPA '94 and SBJPA '96 only to benefits accruing on or after a date that is later than the first day of the first limitation year beginning after 12/31/94; in such case, the instructions under lines III.c. through III.g. do not apply and should not be completed; however, the instructions under lines III.h. through III.k. continue to apply and the instructions under Part VI apply and the corresponding lines should be completed. 415(b)(2)(E) Rev. Rul. 98-1

Line c. If a defined benefit plan provides a retirement benefit in any form other than a straight life annuity, the plan benefit must be adjusted to an actuarially equivalent straight life annuity beginning at the same age. If the form of benefit is a straight life annuity or a qualified joint and survivor annuity, no adjustments are necessary. Examples of benefits that are not in the form of a straight life annuity are an annuity with a post-retirement death benefit or a lump sum.

In making these adjustments the following values are not taken into account: (1) the value of a qualified joint and survivor annuity to the extent such value exceeds the sum of (A) the value of a straight life annuity beginning on the same date and (B) the value of any post-retirement death benefits payable even if the annuity was not in the qualified joint and survivor form; (2) the value of ancillary benefits not directly related to retirement benefits (such as pre- retirement disability and death benefits, and post- retirement medical benefits); and (3) the value of benefits which reflect post-retirement cost-of-living increases to the extent such increases are made in accordance with Regs. § 1.415-5. Social Security supplements are directly related to retirement benefits and should be taken into account.

These adjustments must be based on reasonable assumptions; however, in no case may the interest rate assumption used be less than the greater of 5 percent or the rate specified in the plan. The rate specified in the plan includes the rate used to derive factors specified in the plan. Of course, different interest rate assumptions may be specified to determine the actuarial equivalence of different forms of benefits, and in such cases, the greater of the 5 percent rate or the rate applicable to that particular benefit must be used.

For limitation years beginning on or after January 1, 1995 (and for employers who have timely amended their plans to treat these rules as being effective on an earlier date that is on or after December 8, 1994), the actuarially equivalent straight life annuity for purposes of applying the limit in III.a. to benefits that are not subject to § 117(e)(3) is equal to the greater of the equivalent annual benefit computed using the interest rate and mortality table, or tabular factor, specified in the plan for actuarial equivalence for the particular form of benefit payable, and the equivalent annual benefit computed using a 5 percent interest rate assumption and the applicable mortality table. For plan benefits subject to § 417(e)(3), the equivalent annual straight life annuity is equal to the greater of the equivalent annual benefit computed using the interest rate and mortality table, or tabular factor, specified in the plan for actuarial equivalence for the particular form of benefit payable, and the equivalent annual benefit computed using the applicable interest rate and the applicable mortality table. The applicable interest rate used for determining actuarial equivalen-

cies is the annual interest rate on 30-year Treasury securities as specified by the Commissioner. The applicable mortality table is the mortality table described in Revenue Ruling 95-6, 1995-1 C.B. 80. Benefits subject to § 417(e)(3) include all forms except any annual benefit that (i) is nondecreasing for the life of the participant or, in the case of a QPSA, the life of the participant's spouse; or (ii) decreases during the life of the participant merely because of (a) the death of the survivor annuitant (but only if the reduction is to a level not below 50% of the annual benefit payable before the death of the survivor annuitant) or (b) the cessation or reduction of Social Security supplements or qualified disability benefits (as defined in § 411(a)(9)). A plan that has been amended to reflect the § 417(e)(3) changes of RPA '94 must use the same date for determining the applicable interest rate for purposes of applying changes made to § 415(b)(2)(E) by RPA '94 and SBJPA '96 that is used for purposes of § 417(e)(3). A plan that has not yet been amended to reflect the § 417(e)(3) changes may use any date for determining the applicable interest rate for purposes of applying the changes to § 415(b)(2)(E) that is permitted under § 417(e)(3) and the regulations thereunder for use in determining the applicable interest rate for purposes of § 417(e)(3). 415(b)(2)(E), 415(b)(2)(B) and 417(e)(3) 1.415-3(c), 1.417(e)-1T Notice 83- 10, G-2, 1983-1 C. B. 536 Rev. Rul. 95-6, 1995-1 C.B. 80

Lines d., e., and f. If a defined benefit plan provides a retirement benefit which begins at or after age 62 but before the participant attains social security retirement age (SSRA), the benefit is limited to a $90,000 (or the adjusted dollar limitation in Ill.a.) annual benefit reduced by: (i) in the case of a participant whose SSRA is 65, 5/9 of 1% for each month by which benefits commence before the month in which the participant attains age 65, or (ii) in the case of a participant whose SSRA is greater than 65, 5/9 of 1% for each of the first 36 months and 5/12 of 1% for each of the additional months (up to 24) by which benefits commence before the month in which the participant attains SSRA. SSRA is age 65 if the participant was born after 12/31/37 but before 1/1/38, age 66 if born before 1/1/55, and age 67 if born after 12/31/54. If the benefit begins before age 62, the benefit may not exceed the actuarial equivalent of the participant's maximum annual benefit beginning at age 62, with reduction for each month by which benefits commence before the month the participant attains age 62. Although in determining actuarial equivalence, a reasonable mortality table usually must be used, the mortality decrement may be ignored to the extent that a forfeiture does not occur at death. The interest rate used must be the greater of 5 percent or the rate specified in the plan for determining actuarial equivalence for early retirement. When a plan benefit is payable before age 62 in a form other than a straight life annuity, the interest rate used to determine actuarial equivalence for the change in the form of a benefit must be the greater of 5 percent or the rate used to determine actuarial equivalence for the particular benefit being compared to the limit. For limitation years beginning on or after January 1, 1995 (and for employers who have timely amended their plans to treat these rules as being effective on an earlier date that is on or after December 8, 1994), if the benefit begins before age 62, the benefit may not exceed the lesser of the equivalent amount computed using the interest rate and mortality table (or tabular factor) used in the plan for actuarial equivalence for early retirement benefits, and the amount computed using 5 percent interest and the applicable mortality table (to the extent that the mortality decrement is used prior to age 62). 415(b)(2)(C) 415(b)(2)(E)(i) 1.415-3(e) 1.415-3(b)(1)(i) Notice 83-10, G-3, Notice 87-21 Q&A-5, Rev. Rul. 95-6, Rev. Rul. 98-1

Line g. If the benefit under the plan begins after SSRA the plan may provide for an increase in the maximum dollar benefit to the actuarial equivalent of the dollar limitation described in Ill.a. beginning at SSRA, however, if such an increase is provided, the benefit payable must not exceed 100% of the participant's high three-year compensation. To determine actuarial equivalence the interest assumption used must be the lesser of 5 percent or the rate specified in the plan for determining actuarial equivalence for retirement after SSRA. For limitation years beginning on or after January 1, 1995 (and for employers who have timely amended their plans to treat these rules as being effective on an earlier date that is on or after December 8, 1994), if the benefit under the plan begins after SSRA the plan may provide for an increase in the maximum dollar limitation that is the lesser of the equivalent amount computed using the interest rate and mortality table (or tabular factor) used in the plan for actuarial equivalence for late retirement benefits, and the amount computed using 5 percent interest and the applicable mortality table. The accumulation of value after SSRA but prior to actual commencement of benefits must not reflect the mortality decrement to the extent that benefits will not be forfeited if the participant dies between SSRA and the date benefits actually commence. The adjusted annuity payable at the date benefits commence may reflect reduced life expectancy at that older age. Section 415 does not require a plan to provide such a benefit limit increase for benefits beginning after SSRA. If no such increase is to be provided, line Ill.e. of the worksheet should be answered "N/A". Plans that incorporate by reference must so state.

415(b)(2)(D) 415(b)(2)(E)(ii) Notice 83-10, G-4 Notice 87-21, Q&A 45 Rev. Ruls. 95-6 & 98-1

Line h. The annual benefit (without regard to the age at which benefits commence) payable with respect to a participant is not considered to exceed the otherwise applicable limitations on benefits under § 415(b) if (a) the employer-derived retirement benefits under the plan and all other defined benefit plans of the employer do not in the aggregate exceed $10,000, and (b) the employer has not at any time maintained a defined contribution plan in which the participant participated. For purposes of the special exception for total benefits not in excess of $10,000, employee contributions to a defined benefit plan are not considered a separate defined contribution plan, and no upward adjustment need be made to the value of the retirement benefit payable under the plan if the benefit payable is not in the form of a straight life annuity.

415(b)(4) 1.415-3(f)

Line i. The percentage limitation described in Ill.a. and the limitation of Ill.h. must be reduced for a participant who begins to receive retirement benefits under the plan when the participant has less than ten years of service. The reduction is accomplished by multiplying the otherwise applicable limitation by the following fraction: Years of service with the employer, including the current limitation year divided by 10.

For this purpose, a year of service may be determined on any reasonable and consistent basis. 415(b)(5)(A) 1.415-3(g)

Line j. The dollar limitation of III.a. is reduced for participants with less than 10 years of participation in the plan. Specifically, the dollar limitation is multiplied by a fraction, the numerator of which is the number of years (computed to fractional parts of a year) of participation in the defined benefit plan of the employer, and the denominator of which is 10 (the initial ten year phase-in limitation).

For purposes of determining a participant's years of participation, the participant shall be credited with a year of participation (computed to fractional parts of a year) for each accrual computation period for which: (1) the participant is credited with at least the service required to accrue a benefit, and (2) the participant is included as a plan participant under the eligibility provisions of the plan for at least one day of the accrual computation period. If these two conditions are met, the portion of a year of participation credited to the participant shall equal the amount of benefit accrual service credited to the participant for such accrual computation period. For example, if under the terms of a plan, a participant receives 1/10 of a year of benefit accrual service for an accrual computation period for each 200 hours of service, and the participant is credited with 1,000 hours of service for the period, the participant is credited with 1/2 a year of participation.

Example: B participates in a defined benefit plan which provides a benefit in the form of a straight life annuity. At the time benefits begin, B has eight years of service and four years of participation. Assuming no other adjustments are required, the maximum annual benefit is the lesser of (1) 80 percent of average compensation over the highest three consecutive years of service, or (2) 40 percent of $90,000.

415(b)(5)(B) Notice 87-21, Q&A 7

Line k. All the qualified defined benefit plans maintained by the employer (whether or not such plans are terminated) are treated as one defined benefit plan for purposes of the limitations under § 415(b). For this purpose, a defined benefit plan maintained by any member of a controlled group of corporations or commonly controlled trades or businesses (as defined in §§ 414(b) and (c) as modified by § 415(h)), or any member of an affiliated service group (as defined in § 414(m)), is considered maintained by all the members.

The provisions in the plans must preclude the possibility that the total annual benefit payable to any participant under all qualified defined benefit plans maintained by the employer will exceed these limitations whether or not the § 415 limitations are incorporated by reference. The use of a plan provision which automatically freezes or reduces the rate of benefit accrual to insure that these limitations are not exceeded will not violate the requirement that benefits must be definitely determinable if the plan provision precludes employer discretion. Note that if the plans cannot have common participants, this requirement is satisfied. 415(f)(1)(A) 1.415-8(a)(1) 1.401(a)-1(b)(1)(iii) Notice 87-21, Q&A 11

IV. LIMITATIONS ON CONTRIBUTIONS AND BENEFITS-BOTH DEFINED BENEFIT AND DEFINED CONTRIBUTION PLANS MAINTAINED BY EMPLOYER

Line a. [Note that SBJPA '96 repealed § 415(e) for limitation years beginning on or after January 1, 2000. Therefore, the rules/explanations for line a and line b are applicable only for limitation years beginning before January 1, 2000.] If an employee who is or may become a participant in this plan has at any time participated in a qualified defined contribution plan (including when applicable, a 403(b) annuity contract) and a qualified defined benefit plan maintained by the employer, (whether or not participation in such plans was concurrent), the terms of the plans must preclude the sum of the defined benefit plan fraction and the defined contribution plan fraction from exceeding 1.0 whether or not the § 415 limitations are incorporated by reference. If a qualified defined benefit plan maintained by the employer provides for employee contributions, these contributions are considered a separate defined contribution plan for this purpose.

The defined benefit plan fraction is determined as follows:

$$\frac{\text{Projected annual benefit under the plan}}{\text{Lesser of (i) the product of 1.25 multiplied by the current dollar limitation in effect under section 415(b), or (ii) the product of 1.4 multiplied by 100 percent of the participant's average compensation for the high 3 years.}}$$

The numerator and denominator of the defined benefit fraction are determined as of the close of the limitation year. The projected annual benefit is the annual benefit, as defined in Regs. § 1.415-3(b)(1)(i) (see line III.a.), to which a participant would be entitled under the terms of the plan assuming the participant will continue employment until the plan's normal retirement age (or his current age, if later), the participant's compensation for the limitation year will remain the same until the plan's normal retirement age, and all other relevant factors used to determine benefits will remain constant. If the participant has participated in more than one defined benefit plan maintained by the employer, the numerator is the sum of the projected annual benefits under all plans.

The defined contribution plan fraction is determined as follows:

$$\frac{\text{Sum of the annual additions for current and all prior limitation years}}{\text{Sum of the defined contribution plan increments determined for each limitation year}}$$

The defined contribution plan increment for each limitation year is the lesser of (1) the product of 1.25 multiplied by the dollar limitation in effect for that year under § 415(c), or (2) the product of 1.4 multiplied by 25 percent of the participant's compensation.

In determining the defined contribution fraction (with regard only to a defined contribution plan in existence on July 1, 1982) for any limitation year ending after December 31,1982, the plan administrator may use a special transition rule if it is applied to all defined contribution plans of the employer. Under the special transition rule, the denominator of the defined contribution fraction for all limitation years ending before January 1, 1983, can be computed by multiplying the sum of the maximum annual additions which could have been made for the periods of a participant's service with the employer (determined as under pre-TEFRA law) by the following fraction:

$$\frac{\text{Lesser of \$51,875, or 1.4 multiplied by 25 percent of the compensation of the participant for the limitation year ending in 1981}}{\text{Lesser of \$41,500 or 25 percent of the compensation of the participant for the limitation year ending in 1981}}$$

However, if a plan of the employer is top-heavy (within the meaning of § 416(g)) and does not meet the requirements of § 416(h)(2), the numerator of the special transition fraction is modified by substituting $41,500 for $51,875.

If the employer whose plan you are reviewing maintains another plan which makes the aggregate 1.0 limitation applicable, the plan provisions must preclude the possibility that contributions and benefits under all plans will exceed the limitation whether or not the § 415 limitations are incorporated by reference. The provision may freeze or reduce the rate of accruals or annual additions to accomplish this. Such a reduction in the accrued-benefit will not be considered a reduction in accrued benefits under § 411, but such reductions may be applied only to benefits accrued after the date such provision is made part of the plan's limitations. It is not required that each plan set out the entire method for assuring that

the limitations are satisfied. It is sufficient if the plan under review itself meets those limitations and the applicant has provided copies of the § 415 limitation provisions for the other plans and demonstrated that the plans in the aggregate cannot violate the § 415 limits. Special rules apply when determining the defined contribution fraction applicable to an individual on whose behalf a 403(b) annuity has been purchased. If the employer maintains a defined benefit plan and a 403(b) annuity contract had been purchased prior to commencing employment with an employer which the individual controls, the denominator of the defined contribution fraction is deemed equal to the numerator for such prior limitation year. 415(e) 415(e)(6)(C) 416(h)(4) 1.415-7 1.415-8(d) Notice 83-10, G-9 Notice 87-21, Q&A 11

Line b. For limitation years beginning before January 1, 2000, in the case of a top-heavy plan that does not meet the requirements of § 416(h)(2), the denominators of the defined benefit and defined contribution plan fractions under § 415(e) are computed by substituting a factor of 1.0 for 1.25.

416(h) Notice 83-10, G-12

Line c. Under TRA '86, plans are generally permitted to incorporate the limitations of section 415 by reference, including the limitations of section 415(e). SBJPA '96 repealed section 415(e), effective for limitation years beginning on or after January 1, 2000. For a plan that incorporates section 415 by reference, the section 415(e) repeal would generally be effective as of the first day of the first limitation year beginning in 2000. Where a defined benefit plan that incorporates section 415 by reference has not been amended otherwise to take the section 415(e) repeal into account, accrued benefits previously limited by pre-SBJPA '96 section 415(e) limits generally automatically increase upon the effective date of the repeal of section 415(e). Where a defined contribution plan that incorporates section 415 by reference has not been amended otherwise to take the section 415(e) repeal into account, annual additions that would be limited by pre-SBJPA '96 section 415(e) limits are no longer limited by section 415(e) and, in some cases, automatically increase when the section 415(e) repeal becomes effective.

Where a plan sponsor would like time to consider the extent to which a benefit increase relating to the repeal of section 415(e) might be provided at some later date, the plan sponsor may make an amendment that precludes a benefit increase that would otherwise occur as a result of the repeal of section 415(e). However, a plan amendment to limit the extent to which a benefit increase would occur that is not both adopted prior to, and effective as of, the first day of the first limitation year beginning on or after January 1, 2000, may fail to satisfy section 411(d)(6). Therefore, a plan sponsor wanting to limit such a benefit increase (even though a plan may be amended later during the plan's remedial amendment period to provide for the benefit increase) should adopt (or should have adopted, as the case may be) an amendment limiting the benefit increase prior to, and effective as of, the first day of the first limitation year beginning on or after January 1, 2000. Sample plan language (given below) is provided in Q&A 7 of Notice 99-44 that could be used by a plan sponsor to amend a defined benefit plan (on an interim basis or on a permanent basis) that would otherwise provide for a benefit increase due to the repeal of section 415(e), to retain the effect of the pre-SBJPA '96 section 415(e) limitations in determining a participant's accrued benefit under the plan (without failing to satisfy section 411(d)(6)).

Effective as of the first day of the first limitation year beginning on or after January 1, 2000 (the "Effective Date"), and notwithstanding any other provision of the Plan, the accrued benefit for any participant shall be determined by applying the terms of the Plan implementing the limitations of section 415 as if the limitations of section 415 continued to include the limitations of section 415(e) as in effect on the day immediately prior to the Effective Date. For this purpose, the defined contribution fraction is set equal to the defined contribution fraction as of the day immediately prior to the Effective Date.

[Note that a plan amendment that would limit the benefit increase that would otherwise result from the repeal of section 415(e) could affect certain other qualification requirements. See Q&A 8, Q&A 9, and Q&A 10 of Notice 99-44.]

Notice 99-44, Q&A 2, Q&A 7, Q&A 8, Q&A 9, Q&A 10

Line d. In order to make the repeal of section 415(e) effective for a plan, a plan that does not incorporate the limitations of section 415(e) by reference and contains specific section 415(e) language, must be amended (during the plan's remedial amendment period) to eliminate all provisions relating to section 415(e). Such amendment must be effective no earlier than the first day of the plan's first limitation year beginning in 2000 (the section 415(e) repeal effective date for the plan).

Line e. Notice 99-44 provided in Q&A 3 that, for employees or former employees that commenced benefits prior to the effective date of the section 415(e) repeal, a defined benefit plan can provide benefit increases to reflect the repeal of section 415(e), but only if such employee is a participant in the plan on or after that effective date. For these purposes, an employee or former employee is a participant in a plan on a date if the employee or former employee has an accrued benefit on that date (other than an accrued benefit arising solely from the repeal of section 415(e)). Thus, if a current or former employee accrues additional benefits under the plan that could have been accrued without regard to the repeal of section 415(e) (including benefits that accrue as a result of a plan amendment) on or after the effective date of the repeal for the plan, then the current or former employee may receive a benefit arising from the repeal of section 415(e). Employers who want to give such benefit increases to employees or former employees who commenced benefits prior to the repeal of section 415(e) may have to provide additional benefits not related to the section 415(e) repeal first. Current or former employees who do not have accrued benefits under the plan on or after the effective date of the section 415(e) repeal for the plan cannot be provided benefit increases that reflect the repeal of section 415(e).

Note that amendments to take the repeal of section 415(e) into account may also provide for section 415(d) cost-of-living adjustments to limitations under the plan (where such adjustments were previously not provided), and may provide specifically that benefits of terminated vested and retired employees (whose benefits are limited under section 415) are increased as limitations are adjusted under section 415(d).

V. SPECIAL RULES-PLANS IN EXISTENCE ON MAY 6,1986

Line a. Plans in existence on May 6, 1986, (pre-TRA '86 plan), will not be disqualified merely because annual additions, annual benefits, or a combination thereof, exceed the limitations of Parts

II, III and IV for any limitation year beginning before 1987. These pre-TRA ’86 plans, however, must comply with § 415 as in effect before its amendment by TRA ’86 for all pre-1987 limitation years. Parts I-IV of this worksheet may be used to test compliance with § 415 prior to TRA ’86 with the following adjustments:

(1) The dollar limitations (II.b.) on annual additions to a defined contribution plan for limitation years beginning before 1987 were as follows: 1975 and prior years- $25,000, 1976-$26,825, 1977-$28,175, 1978-$30,050, 1979-$32,700, 1980-$36,875, 1981-$41,500, 1982, 1983 and 1984—$45,475, after 1984-$30,000. These limitations apply only to limitation years ending with or within the above calendar years.

(2) The dollar limitations (III.a.) on the annual benefits of a defined benefit plan for limitation years beginning before 1987 were as follows: 1975 and prior years-$75,000, 1976-$80,475, 1977-$84,525, 1978-$90,150, 1979-$98,100, 1980-$110,625, 1981-$124,500, 1982,1983 and 1984-$136,425, after 1984-$90,000. These limitations apply only to limitation years ending with or within the above calendar years.

(3) No adjustment (III.c. and d.) was required for an annual benefit beginning after age 62.

(4) A benefit beginning at or after age 55 but before age 62 was limited to the greater of (i) the actuarial equivalent of a $90,000 annual benefit beginning at age 62, or (ii) an annual benefit of $75,000 (III.d.).

(5) A benefit beginning before age 55 was limited to the greater of (i) the actuarial equivalent of a $75,000 annual benefit beginning at age 55, or (ii) the actuarial equivalent of a $90,000 annual benefit beginning at age 62 (III.d.).

(6) An actuarial increase was permitted for an annual benefit commencing after age 65 (III.e.):

(7) The years of participation limitation did not apply and the years of service limitation also applied to the limit in III.a.(ii).

Section 1106(i)(3) of Pub. L. 99-514 (TRA ’86) Notice 87-21, Q&A 12

Line b. In the case of an individual who was a participant as of the beginning of the first limitation year beginning after December 31, 1986, in a defined benefit plan which was in existence on May 6, 1986, and which satisfied the requirements of § 415 for all years, if such participant’s “current accrued benefit” exceeded the limitations of Part III above, then that benefit shall be deemed to be the applicable dollar limitation. The “current accrued benefit” is the participant’s accrued benefit as of the close of the plan’s 1986 limitation year but determined without regard to any changes in the terms or conditions of the plan or cost- of-living increases after May 5, 1986. The participant’s “current accrued benefit” is also reflected in the denominator of the defined benefit fraction is the lesser of 1.25 times the participant’s “current accrued benefit” or 1.4 times the participant’s average compensation for the high 3 years. Any benefit accrued in excess of the 1986 “current accrued benefit” is not taken into account for purposes of the denominator of the defined benefit fraction.

Section 1106(i)(3) of Pub. L. 99-514 (TRA ’86) Notice 87-21, Q&A 12

Line c. In the case of two or more pre-TRA ’86 plans which satisfied § 415 before TRA ’86 to insure that the sum of the defined contribution fraction and the defined benefit fraction (both computed under TEFRA section 415 rules) does not exceed 1.0 as of the effective date of TEFRA, an adjustment is made to the numerator of the defined contribution fraction. The adjustment is to permanently subtract from the defined contribution fraction numerator an amount equal to the product of: (1) the sum of the defined contribution fraction and defined benefit fraction (computed as of the last day preceding the first limitation year beginning after 1986) minus one, times (2) the denominator of the defined contribution fraction (also computed as of the last day preceding the first limitation year beginning after 1986). Both fractions are computed in accordance with § 415 rules as amended by TRA ’86, taking into account the “current accrued benefit” preserved under V.b. above, if applicable. For purposes of this adjustment the special transition rule for computing the denominator of the defined contribution fraction (IV.a. above) applies, if elected.

Section 1106(i)(4) of Pub. L. 99-514 (TRA ’86) Notice 87-21, Q&A 14

Line d. As of the first day of the first limitation year beginning after 1986, the accrued benefits of participants in some plans may exceed the TRA ’86 benefit limitations (including the protected current accrued benefit). This may be the result of the establishment of a plan after May 5, 1986 or changes in the terms and conditions of a plan or cost-of-living adjustments after that date which produce accruals in excess of the TRA ’86 limits which are not protected. To avoid disqualification, such a plan must eliminate such excess accruals as of the first day of the first limitation year beginning after 1986. This reduction in accrued benefits to the limits allowed by TRA ’86 will not violate § 411(d)(6). Until the plan is amended for the changes to § 415 made by TRA ’86, the excess accruals may be eliminated operationally.

Section 1106(i)(3) of Pub. L. 99-514 (TRA ’86) 1.411(d)-4, A-2(b)(2)(xi)Notice 87-21, Q&A 13

VI. Transition Rules under RPA ’94 and SBJPA ’96

Line a. Plans in existence on December 7, 1994 (pre-RPA ’94 plans) must comply with § 415 as in effect before its amendment by RPA ’94 and SBJPA ’96 for all pre-1995 limitation years. You may use Part III to test compliance with § 415 prior to RPA ’94, as long as the required changes to § 415 made by RPA ’94 and SBJPA ’96 are disregarded.

Line b. A transition rule is provided by SBJPA ’96 that allows employers to not apply the changes made to § 415(b)(2)(E) by RPA ’94 and SBJPA ’96 to the accrued benefits of participants as of a date that is later than the first day of the first limitation year beginning after December 31, 1994. The changes made to § 415(b)(2)(E) by RPA ’94 and SBJPA ’96 provide a new interest rate and mortality table to be used for various purposes under § 415(b). For the plan to use the transition rule, the plan must have been adopted and in effect before December 8, 1994.

Under SBJPA ’96, the changes to § 415(b)(2)(E) are not required to be applied to benefits accrued before the earlier of (i) the later of the date a plan amendment applying the § 415(b)(2)(E) changes is adopted or made effective, or (ii) the first day of the first limitation year beginning after December 31, 1999. The date that a plan amendment applying the § 415(b)(2)(E) changes is made effective is the earliest date as of which, under the amendment, the § 415(b)(2)(E) changes apply to all benefits accruing for the participants under the plan. Thus, under the transition rule of SBJPA ’96, a plan may provide that the § 415(b)(2)(E) changes are made effective as of any date that is not earlier than the first day of the first limitation year beginning in 1995, but not later than the first day of the first limitation year beginning in 2000. The date specified under a plan to determine benefits to which the changes to § 415(b)(2)(E) are not applied is called a freeze date.

Line c. If the accrued benefit as of a freeze date described above is specified under the plan, such accrued benefit (which includes any annuity starting date or optional form of benefit) must be determined in accordance with the terms of the plan as in effect as of the freeze date. Further, the accrued benefit as of a freeze date must be determined after applying § 415 as in effect on December 7, 1994, including the participation requirements of § 415(b)(5), and without taking into account increases in the dollar limitation that becomes effective after the freeze date.

Line d. The freeze date under the plan must not be later than the day before the earlier of (1) the later of the date a plan amendment is adopted or made effective, and (2) the first day of the first limitation year beginning in 2000.

Line e. If the changes to § 415(b)(2)(E) are not applied to benefits accrued as of a freeze date, the plan can apply the § 415(b) limitations under the plan using one of three methods described below. The plan must specify which of the three methods is being used.

Method 1: Generally, the plan would apply the § 415(b) limitation using the procedures in III.c., III.d., III.e., and III.f. above. However, if the benefit is not payable in the form of an annual benefit within the meaning of § 415(b)(2)(A), computations should be added together to determine the actuarially equivalent straight life annuity under III.c., III.d., III.e., or III.f. above (whichever is applicable) is computed separately with respect to (1) benefits accrued as of the date chosen by the employer, and (2) the portion of the total plan benefit that exceeds the benefits accrued as of the date chosen by the employer. The actuarially equivalent straight life annuity computed with respect to the benefits in

(1) should be determined in accordance with § 415(b)(2)(E) as in effect on December 7, 1994 (i.e., prior to changes to § 415(b)(2)(E) made by RPA ’94 and SBJPA ’96). The actuarially equivalent straight life annuity computed with respect to the benefits in (2) should be determined taking into account the changes to § 415(b)(2)(E) made by RPA ’94 and SBJPA ’96. The results of these two separate computations are added together for purposes of applying the § 415(b) limitations under the plan.

As part of this method, plans may provide that in any event the participant will receive no less than the benefits accrued as of the date chosen by the employer, limited to the extent required under VI.h. below.

Method 2: Under this method, the plan would apply the § 415(b) limitations using the procedures in III.c., III.d., III.e., and III.f. above to the total plan benefit, but provide that in any event the particpant will receive no less than the benefits accrued as of the date chosen by the employer, limited to the extent required under IV.h. below.

Method 3: Under this method, the plan would apply the § 415(b) limitations by limiting a benefit only to the extent needed to satisfy either Method 1 or Method 2 described above.

A plan may specify that different methods are used for different groups of participants. If this is done, the plan should specify that such treatment is a benefit, right, or feature that must satisfy the requirements of § 1.401(a)(4)-4 of the regulations.

Lines f. and g. If the determination under § 415(b) is being made before the date determined in the second paragraph under VI.b. above, the plan rate and plan mortality table used to determine the actuarially equivalent straight life annuity with respect to the benefits accrued on the freeze date must be based on the plan provisions in effect on December 7, 1994. If the determination under § 415(b) is being made after the date determined in the second paragraph under VI.b. above, the plan rate and plan mortality table used to determine such actuarially equivalent straight life annuity must be based on the plan provisions in effect on the date of determination.

Line h. It is possible that the benefits accrued as of the date in the first sentence of the second paragraph of VI.b. above could be reduced in determinations made after such date. This could happen due to annual additions credited to a participant’s account in an existing defined contribution account, or changes in plan terms that occur after December 7, 1994 that must be taken into account prior to the determination of the benefits described in the preceding sentence, or if the total plan benefit determined before applying the § 415(b)(2)(E) changes made by RPA ’94 and SBJPA ’96 is smaller than the benefits described in the preceding sentence.