

Form 6044 (Rev. March 2008)	Department of the Treasury-Internal Revenue Service Employee Plan Deficiency Checklist Attachment #6 Limitations on Contributions and Benefits	Date
<i>For IRS Use</i>	Please furnish the amendment(s) requested in the section(s) checked below.	
I.a. 0601	Section _____ of the plan must define the term "limitation year." If not, the plan's limitation year is the calendar year. Regs. section 1.415(j)-1.	
I.b. 0602	Section _____ of the plan should be amended to define the term "compensation" in accordance with IRC section 415(c)(3) and section 1.415(c)-2 of the regulations.	
II.a. 0603	Section _____ of the plan should be amended to define annual additions in accordance with the Code and regulations. IRC sections 415(c), 415(l), 419A (d)(2) and (3), 419(e), and Regs. section 1.415(c)-1	
II.b. 0604	Section _____ of the plan must preclude the possibility that the annual additions to any participant's account for a limitation year will exceed the lesser of 100 percent of compensation or \$40,000, as adjusted for cost-of-living increases pursuant to IRC sections 415(c)(1), 415(d)(1), 415(d)(3), and 415(d)(4), and Regs. § 1.415(c)-1.	
II.c. 0605	Section _____ of the plan may provide for the use of one of the methods set forth in section 1.415-6(b)(6) of the 1981 regulations only with respect to limitation years beginning before July 1, 2007, and only in situations where excess annual additions may result from contributions based on estimated annual compensation, the allocation of forfeitures, or a reasonable error in determining the amount of elective deferrals under section 402(g)(3). Regs. section 1.401(a)-2(b), section 1.415-6(b)(6) of the 1981 regulations.	
II.d. 0606	Where a defined contribution plan provides for an employer to continue to make contributions on behalf of an employee who is permanently and totally disabled (as defined in section 22(e)(3) of the Code), then the imputed compensation upon which contributions are made must be no greater than the rate at which the participant was paid immediately before becoming permanently and totally disabled. A plan may provide for the continuation of contributions on behalf of all such disabled participants for a fixed or determinable period or only on behalf of those employees who were nonhighly compensated when they became disabled. Such contributions must be nonforfeitable when made. Section _____ of the plan should be amended accordingly. IRC section 415(c)(3)(C) and Regs. § 1.415(c)-2(g)(4).	

<p>II.e. 0607</p>	<p>Except as provided in this paragraph with respect to multiemployer plans (as defined in section 414(f)), section _____ of the plan must provide that all defined contribution plans (including voluntary employee contribution accounts in a defined benefit plan, mandatory contributions to a defined benefit plan, individual medical benefit accounts under section 401(h), key employee accounts under a welfare benefit plan described in section 419, and simplified employee pensions under section 408(k)) of the employer or a predecessor employer, whether or not terminated, will be treated as one defined contribution plan for purposes of the limitations under section 415(c). Otherwise each of the defined contribution plans must contain provisions which limit each plan, without involving employer discretion, such that the possibility is precluded that the aggregated defined contribution plans may exceed the limitations of section 415(c). Where the employer is a member of a controlled group of corporations or commonly controlled trades or businesses, or a member of an affiliated service group, within the meaning of sections 414(b), (c) or (m) and 415(g) and (h), the plan must provide that all such employers are treated as a single employer for purposes of the plan's application of the section 415 limitations. Notwithstanding the preceding, multiemployer plans are not aggregated with other multiemployer plans for purposes of section 415. IRC sections 419, 415(f)(1) and (k)(4); Regs. sections 1.415(a)-1(d), 1.415(c)-1, 1.415(f)(1), and 1.401(a)-1(b)(1)(iii).</p>
<p>III.a. 0608</p>	<p>Section _____ of the plan must provide that the annual benefit to which any participant may be entitled, in the form of a straight life annuity, shall not exceed the lesser of \$160,000 or 100 percent of the participant's high three year average compensation (or fewer, if the employee does not have three consecutive years). The percentage of compensation limit does not apply, however, if the plan is a governmental plan (as defined in section 414(d)), a multiemployer plan (as defined in section 414(f)), or a collectively bargained plan that is described in section 415(b)(7), and does not apply to a participant in an organization described in section 3121(w)(3)(A) who has never been a section 414(q) highly compensated employee of the organization. If a participant has distributions commencing at different times (i.e., multiple annuity starting dates), the limitations must be satisfied as of each annuity starting date, actuarially adjusting for past and future distributions. IRC sections 415(b)(1) and (3), 415(d)(1); Regs. sections 1.415-(a)-1(d)(3)(v), 1.415(b)-1(b), 1.415(b)-1(c)(5), 1.415(d)-1.</p>
<p>III.b. 0609</p>	<p>Section _____ of the plan must limit the compensation for a year that is used to determine a participant's high three-year average compensation for purposes of section 415 to the amount in effect for that year under section 401(a)(17). IRC § 401(a)(17); Regs. Sections 1.415(b)-1(a)(5)(i), 1.415(c)-2(f).</p>
<p>III.c. 0610</p>	<p>Section _____ of the plan must provide that, for purposes of applying the limits of section 415, a retirement benefit that is payable in any form other than a straight life annuity and that is not subject to section 417(e)(3) must be adjusted to an actuarially equivalent straight life annuity that equals:</p> <p>(i) for limitation years beginning on or after July 1, 2007, the greater of the annual amount of the straight life annuity (if any) payable under the plan at the same annuity starting date, and the annual amount of a straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the participant's form of benefit computed using an interest rate of 5 percent and the applicable mortality table under section 417(e)(3).</p> <p>(ii) for limitation years beginning before July 1, 2007, the annual amount of a straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the participant's form of benefit computed using whichever of the following produces the greater annual amount: (1) the interest rate and mortality table or other tabular factor specified in the plan for adjusting benefits in the same form; and (2) a 5 percent interest rate assumption and the applicable mortality table.</p> <p>The applicable mortality table is the mortality table described in Rev. Rul. 2001-62.</p> <p>IRC sections 415(b)(2)(B), 415(b)(2)(E) and 417(e)(3); Regs. Sections 1.415(b)-1(a), (b) and (c), 1.417(e)-1(d); Rev. Rul. 98-1, 1998-1 C.B. 249, Rev. Rul. 2001-62, 2001-2 C.B. 632.</p>
<p>III.d. 0611</p>	<p>Section _____ of the plan must provide that, for purposes of applying the limits of section 415, a retirement benefit that is payable in any form other than a straight life annuity and that is subject to section 417(e)(3) must be adjusted to an actuarially equivalent straight life annuity that equals:</p> <p>(i) (Note: This item (i) reflects the amendment of section 415(b)(2)(E)(ii) by section 303 of PPA '06 and is</p>

	<p>permitted, but may not yet be required, to be included in a plan whose remedial amendment cycle under Rev. Proc. 2007-44, 2007-28, I.R.B. 54, is Cycle B.) if the annuity starting date is in a plan year beginning after 2005, the annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the participant's form of benefit, using whichever of the following produces the greatest annual amount: (1) the interest rate and the mortality table or other tabular factor specified in the plan for adjusting benefits in the same form; (2) a 5.5 percent interest rate assumption and the applicable mortality table; and (3) the applicable interest rate under section 417(e)(3) and the applicable mortality table, divided by 1.05.</p> <p>(ii) if the annuity starting date is in a plan year beginning in 2004 or 2005, the annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the participant's form of benefit payable, using whichever of the following produces the greater annual amount: (1) the interest rate and mortality table or other tabular factor specified in the plan for adjusting benefits in the same form; and (2) 5.5 percent interest and the applicable mortality table.</p> <p>(iii) if the annuity starting date is on or after the first day of the first plan year beginning in 2004 and before December 31, 2004, and the plan applies the transition rule in section 101(d)(3) of PFEA '04 in lieu of the rule in (ii), the annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the participant's form of benefit, determined in accordance with Notice 2004-78.</p> <p>The applicable mortality table is the mortality table described in Rev. Rul. 2001-62.</p> <p>IRC sections 415(b)(2)(B), 415(b)(2)(E) and 417(e)(3); Regs. Sections 1.415(b)-1(a), (b) and (c), 1.417(e)-1(d); Rev. Rul. 98-1, 1998-1 C.B. 249, Rev. Rul. 2001-62, 2001-2 C.B. 632; Notice 2004-78, 2004-2 C.B. 879.</p>
<p>III.e. 0612</p>	<p>Section _____ of the plan must provide that where a retirement benefit is provided beginning before age 62, the benefit will be limited to:</p> <p>(i) if the annuity starting date is in a limitation year beginning before July 1, 2007, the annual amount of a benefit payable in the form of a straight life annuity commencing at the participant's annuity starting date that is the actuarial equivalent of the dollar limitation under section 415(b)(1)(A) (as adjusted under section 415(d)), with actuarial equivalence computed using whichever of the following produces the smaller annual amount: (1) the interest rate and mortality table or other tabular factor specified in the plan for determining actuarial equivalence for early retirement purposes; or (2) a 5 percent interest rate assumption and the applicable mortality table.</p> <p>(ii) if the annuity starting date is in a limitation year beginning on or after July 1, 2007, and the plan does not have an immediately commencing straight life annuity payable at both age 62 and the age of benefit commencement, the annual amount of a benefit payable in the form of a straight life annuity commencing at the participant's annuity starting date that is the actuarial equivalent of the dollar limitation under section 415(b)(1)(A) (as adjusted under section 415(d)), with actuarial equivalence computed using a 5 percent interest rate assumption and the applicable mortality table and expressing the participant's age based on completed calendar months as of the annuity starting date.</p> <p>(iii) if the annuity starting date is in a limitation year beginning on or after July 1, 2007, and the plan has an immediately commencing straight life annuity payable at both age 62 and the age of benefit commencement, the lesser of (1) the adjusted dollar limitation determined in accordance with (ii); and (2) the product of the dollar limitation under section 415(b)(1)(A) (as adjusted under section 415(d)) multiplied by the ratio of the annual amount of the immediately commencing straight life annuity under the plan at the participant's annuity starting date to the annual amount of the immediately commencing straight life annuity under the plan at age 62, both determined without applying the limitations of section 415.</p> <p>The applicable mortality table is the mortality table described in Rev. Rul. 2001-62.</p> <p>IRC sections 415(b)(2)(C) and 415(b)(2)(E)(i) and (v); Regs. sections 1.415(b)-1(d); Rev. Rul. 2001-62, 2001-2 C.B. 632.</p>
<p>III.f. 0613</p>	<p>If the benefit under the plan commences after age 65, the plan may provide that dollar limitation under section 415(b)(1)(A)(as adjusted under section 415(d)) on such benefit is increased to:</p> <p>(i) if the annuity starting date is in a limitation year beginning before July 1, 2007, the annual amount of a benefit payable in the form of a straight life annuity commencing at the participant's annuity starting date that is the actuarial equivalent of the dollar limitation under section 415(b)(1)(A)(as adjusted under section 415(d)), with</p>

	<p>actuarial equivalence computed using whichever of the following produces the smaller annual amount: (1) the interest rate and mortality table or other tabular factor specified in the plan for determining actuarial equivalence for delayed retirement purposes; or (2) a 5 percent interest rate assumption and the applicable mortality table.</p> <p>(ii) if the annuity starting date is in a limitation year beginning on or after July 1, 2007, and the plan does not have an immediately commencing straight life annuity payable at both age 65 and the age of benefit commencement, the annual amount of a benefit payable in the form of a straight life annuity commencing at the participant's annuity starting date that is the actuarial equivalent of the dollar limitation under section 415(b)(1)(A)(as adjusted under section 415(d)), with actuarial equivalence computed using a 5 percent interest rate assumption and the applicable mortality table and expressing the participant's age based on completed calendar months as of the annuity starting date.</p> <p>(iii) if the annuity starting date is in a limitation year beginning on or after July 1, 2007, and the plan has an immediately commencing straight life annuity payable at both age 65 and the age of benefit commencement, the lesser of (1) the adjusted dollar limitation determined in accordance with (ii); and (2) the product of the dollar limitation under section 415(b)(1)(A)(as adjusted under section 415(d)) multiplied by the ratio of the annual amount of the immediately commencing straight life annuity under the plan at the participant's annuity starting date to the annual amount of the immediately commencing straight life annuity under the plan at age 65, both determined without applying the limitations of section 415.</p> <p>The applicable mortality table is the mortality table described in Rev. Rul. 2001-62.</p> <p>IRC sections 415(b)(2)(D) and 415(b)(2)(E)(iii); Regs. § 1.415(b)-1(e); Rev. Rul. 2001-62, 2001-2 C.B. 632.</p>
III.g. 0614	<p>Because the plan's normal retirement age (NRA) is less than 65, the plan must coordinate the requirements for actuarial increase for delayed retirement and nonforfeitability of benefits with the limits of section 415 so that post-NRA actuarial increases do not cause the benefit to exceed those limits. One way to satisfy these requirements is to suspend the participant's benefit as permitted under section 411(a)(3)(B). However, the prohibition on amending a plan to place greater restrictions or conditions on section 411(d)(6) protected benefits by adding or modifying a suspension of benefits provision may eliminate suspension as an option. In this case, the plan must provide for the in-service payment of the participant's benefit if the participant has reached NRA and the benefit cannot be actuarially increased without violating section 415. IRC section 411(a)(3); Regs. Sections 1.411(d)-3(a)(3), 1.411(d)-3(j)(3); Rev. Rul. 2001-51, 2001-2 C.B. 427, Q&A-4.</p>
III.h. 0615	<p>The plan may provide that the otherwise applicable limitations on benefits of section 415(b) of the Code do not apply where the total employer-derived retirement benefits payable to a participant under this defined benefit plan and all other qualified defined benefit plans of the employer do not exceed \$10,000 in the aggregate. Where a plan provides the \$10,000 minimum benefit limitation, the plan must provide that the minimum benefit limitation is not applicable for a participant whose employer maintains or has maintained a defined contribution plan in which such employee participated. In the case of a multiemployer plan, the \$10,000 minimum benefit limitation applies regardless of whether the participant ever participated in another plan of the employer, provided that no such other plan was maintained as a result of collective bargaining with the same employee representative as the multiemployer plan. IRC 415(b)(4) and Regs. section 1.415(b)-1(f).</p>
III.i. 0616	<p>Section _____ of the plan must provide that the percentage of compensation limitation of section 415(b)(1)(B) and the \$10,000 minimum benefit limitation of section 415(b)(4), if provided, must be reduced where a participant has less than 10 years of service with the employer at the time the participant begins to receive retirement benefits under the plan. The reduction is made by multiplying the applicable limitation by the following fraction: Years of service with the employer as of, and including, the current limitation year, divided by 10. IRC section 415(b)(5)(B) , Regs. section 1.415(b)-1(g)(2).</p>
III.j. 0617	<p>Section _____ of the plan must provide that the dollar limitation of section 415(b)(1)(A) (as adjusted under section 415(d)) must be reduced where a participant has less than 10 years of participation when retirement benefits under the plan commence. The reduction is made by multiplying the dollar limitation by the following fraction: Years of participation with the employer as of, and including, the current limitation year, divided by 10. IRC section 415(b)(5)(A), Regs. section 1.415(b)-1(g)(1).</p>

III.k. 0618	<p>Except as provided in the following paragraph with respect to multiemployer plans (as defined in section 414(f)), section _____ of the plan must provide that all defined benefit plans of the employer (or a predecessor employer), whether or not terminated, will be treated as one defined benefit plan for purposes of the limitations under IRC section 415(b). (For this purpose, if the employer maintains a plan that provides a benefit which the participant accrued while performing services for a former employer, the former employer is a predecessor employer with respect to the participant in the plan. A former entity that antedates the employer is also a predecessor employer with respect to a participant if, under the facts and circumstances, the employer constitutes a continuation of all or a portion of the trade or business of the former entity.) Each of the defined benefit plans must contain provisions which limit each so that the possibility is precluded that the aggregate defined benefit plan may exceed the limitations of section 415(b). Where the employer is a member of a controlled group of corporations or commonly controlled trades or businesses, or a member of an affiliated service group within the meaning of sections 414(b), (c) or (m) and 415(g) and (h), the plan must provide that all such employers are treated as a single employer for purposes of the plan's application of the section 415 limitations. See section 1.415(f)-1 for rules regarding the benefits required to be taken into account when plans are aggregated.</p> <p>Multiemployer plans are not aggregated with other multiemployer plans for purposes of section 415. In addition, if the employer maintains a multiemployer plan and that plan so provides, only the benefits under the multiemployer plan that are provided by the employer are treated as benefits provided under the employer's plans that are not multiemployer plans. Finally, a multiemployer plan is disregarded for purposes of applying the percentage of compensation limitation under section 415(b)(1)(B) to a plan which is not a multiemployer plan. IRC sections 415(f)(1)(A) and 414(m)(4), and Regs. sections 1.415-8(a)(1) and 1.401(a)-1(b)(1)(iii).</p>
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