

Part IV. --- Items of General Interest

New Alternatives for Defined Benefit Master and Prototype and Volume Submitter Plans

Announcement 2001-63

Rev. Rul. 98-1, 1998-1 C.B. 249, provides guidance concerning changes to § 415 of the Internal Revenue Code that were made by the Uruguay Round Agreements Act, which included the Retirement Protection Act of 1994, and by the Small Business Job Protection Act of 1996. Section 415 limits the contributions and benefits under qualified pension, profit-sharing, etc., plans. Q&A-12 of Rev. Rul. 98-1 provides that a defined benefit plan may provide that changes to § 415(b)(2)(E) do not apply to benefits accrued before a certain date, which is referred to here as the "RPA '94 Freeze Date." In addition, the pre-RPA '94 Freeze Date accrued benefits are referred to as "old-law benefits." Q&A-14 of Rev. Rul. 98-1 contains three methods for applying the limitations in § 415(b) in a defined benefit plan that does not apply the changes to § 415(b)(2)(E) to old-law benefits. (How and when the RPA '94 Freeze Date and a participant's old-law benefit are determined are described in Q&A-13 of Rev. Rul. 98-1.)

Previously, the Master and Prototype program and the volume submitter program have permitted only one of the three methods (Method 2) described in Q&A-14 of Rev. Rul. 98-1. These programs also have required the RPA '94 Freeze Date to be the same date as the plan's § 417(e) effective date (i.e., the plan's date as of which the RPA '94 changes to § 417(e)(3) apply). However, commentators have requested the use of all three methods in these programs. They have also requested the use of different dates for the plan's RPA'94 Freeze Date and the plan's § 417(e) effective date.

The Service is now allowing the use of all three methods and the use of different dates

for the plan's RPA '94 Freeze Date and the plan's § 417(e) effective date. The Service has revised Item #40 (Section 415 Limitation on Benefits) of the February 2000, version of the Defined Benefit Listing of Required Modifications and Information Package (the "DB LRM") to include all three methods described in Q&A-14 of Rev. Rul. 98-1 and the use of different dates for the plan's RPA '94 Freeze Date and the plan's § 417(e) effective date. The Service is accepting these revisions in requests for opinion letters for master and prototype plans and advisory letters for volume submitter specimen plans.

The revisions to DB LRM Item #40 will be posted to the Employee Plans Internet address at www.irs.gov/ep. In addition, a paper copy of those revisions to the DB LRM may be obtained by writing to the Internal Revenue Service at EP Rulings and Agreements, Att'n: T:EP:RA:ICU, 1111 Constitution Ave., N.W., Washington, D.C. 20024 or by sending a fax to EP Rulings and Agreements, Taxpayer Request, Att'n: Ms. Nancy Arrington, 202-283-9554.