

Changes to DC LRM Dated 2-2000
7-18-01

1. LRM 27, page 28, First Note to reviewer, cite to LRM #23C change to **#27C**.
2. LRM 42, page 65, after end of LRM section 6.3, add the following note to reviewer:

(Note to reviewer: Profit-sharing plans satisfying all of the requirements of LRM section 6.1 for a participant such that the plan is not required to provide a qualified joint and survivor annuity for the participant, but that do provide such annuity (even if the annuity is the normal form), may replace the qualified joint and survivor annuity with payment in a single-sum distribution form that is otherwise identical to such annuity in accordance with the requirements under regulations 1.411(d)-4 Q&A 2(e).)

3. LRM 43, page 67, Provision #1, first paragraph, line 11: change if to it.
4. LRM 44, page 69, Section 1, second paragraph, 6th line: delete “and the participant’s spouse (or where either the participant or the spouse has died, the survivor)”.
Page 71, section 3, first paragraph: delete parenthetical and insert October 17, 2000.
5. LRM 50, page 82, First Note to reviewer, revise last sentence to read:

Note: Section 411(d)(6) prevents a plan from being amended to eliminate or restrict optional forms of benefits and any other "section 411(d)(6) protected benefits" with respect to benefits attributable to service before the amendment except as expressly provided under the 1.411(d)-4 regulations. (See LRM 60).

6. LRM 60, page 88, Sample Plan Language, line 7: delete “or eliminating an optional form of benefit”. Add after end of paragraph:

No amendment to the plan shall be effective to eliminate or restrict an optional form of benefit. The preceding sentence shall not apply to a plan amendment that eliminates or restricts the ability of a participant to receive payment of his or her account balance under a particular optional form of benefit if the amendment satisfies the conditions in (1) and (2) below:

- (1) The amendment provides a single-sum distribution form that is otherwise identical to the optional form of benefit eliminated or restricted. For purposes of this condition (1), a single-sum distribution form is otherwise identical only if it is identical in all respects to the eliminated or restricted optional form of benefit (or would be identical except that it provides greater rights to the participant) except with respect to the timing of payments after commencement.
- (2) The amendment is not effective unless the amendment provides that the amendment shall not apply to any distribution with an annuity starting date earlier than the earlier of: (i) the 90th day after the date the participant receiving the distribution has been furnished a summary that reflects the amendment and that satisfies the ERISA requirements at 29 CFR 2520.104b-3 relating to a summary of material modifications or (ii) the first day of the second plan year following the plan year in which the amendment is adopted.

(Note to reviewer: Plan amendments may also provide exceptions from the general prohibition against the elimination or restriction of optional forms of benefit for in-kind distributions and elective transfers as specified under regulations 1.411(d)-4 Q&A 2 and 3.)

(Note to Reviewer: Plans may provide for an exception from the general prohibition against the elimination or restriction of optional forms for certain elective transfers. If a plan provides for the elimination or restriction of optional forms for elective transfers made on or after January 1, 2002, the plan must also provide that where the participant is eligible to receive an immediate distribution of the participant’s entire nonforfeitable accrued benefit in a single-sum distribution that would consist entirely of an eligible rollover distribution under §401(a)(31), such transfer will be accomplished as a direct rollover under 401(a)(31). See LRM 51 and regulations 1.411(d)-Q&A3(a)(4)&(c)(1)(ii).)

7. LRM 90, page 106, replace with:

DC 90. Document Provision:

**Statement of Requirement: Reliance on opinion letter,
Rev. Proc. 2000-20, 5.13, 5.14, 6.
Rev. Proc. 2001-6, 2001-1 I.R.B. 194;
Announcement 2001-77, 2001-30 I.R.B.**

(Note to reviewer: This sample language, or a similar provision, must appear in all standardized plans in close proximity to the employer's signature line.)

Sample Adoption Agreement Language:

The adopting employer may rely on an opinion letter issued by the Internal Revenue Service as evidence that the plan is qualified under section 401 of the Internal Revenue Code except to the extent provided in Rev. Proc. 2000-20, 2000-6 I.R.B. 553 and Announcement 2001-77, 2001-30 I.R.B.

An employer who has ever maintained or who later adopts any plan (including a welfare benefit fund, as defined in section 419(e) of the Code, which provides post-retirement medical benefits allocated to separate accounts for key employees, as defined in section 419A(d)(3) of the Code, or an individual medical account, as defined in section 415(1)(2) of the Code) in addition to this plan may not rely on the opinion letter issued by the Internal Revenue Service with respect to the requirements of sections 415 and 416.

If the employer who adopts or maintains multiple plans wishes to obtain reliance with respect to the requirements of sections 415 and 416, application for a determination letter must be made to Employee Plans Determinations of the Internal Revenue Service.

The employer may not rely on the opinion letter in certain other circumstances, which are specified in the opinion letter issued with respect to the plan or in Revenue Procedure 2000-20 and Announcement 2001-77.

This adoption agreement may be used only in conjunction with basic plan document #_____.

8. LRM 94, page 112, replace with:

DC 94. Document Provision:

**Statement of Requirement: Reliance on opinion letter,
Rev. Proc. 2000-20, 5.13, 5.14;
Rev. Proc. 2001-6, 2001-1 I.R.B. 194;
Announcement 2001-77, 2001-30 I.R.B.**

(Note to reviewer: This sample language, or a similar provision, must appear in all nonstandardized plans in close proximity to the employer's signature line.)

Sample Adoption Agreement Language:

The adopting employer may rely on an opinion letter issued by the Internal Revenue Service as evidence that the plan is qualified under section 401 of the Internal Revenue Code only to the extent provided in Announcement 2001-77, 2001-30 I.R.B.

The employer may not rely on the opinion letter in certain other circumstances or with respect to certain qualification requirements, which are specified in the opinion letter issued with respect to the plan and in Announcement 2001-77.

In order to have reliance in such circumstances or with respect to such qualification requirements, application for a determination letter must be made to Employee Plans Determinations of the Internal Revenue Service.

This adoption agreement may be used only in conjunction with basic plan document # _____.