PLAN AMENDMENTS NOT REQUIRED UNTIL JANUARY 1, 1989

For provisions directing that if any amendments made by subtitle A or subtitle C of title XI [§§ 1101–1147 and 1171–1177] or title XVIII [§§ 1800–1899A] of Pub. L. 99–514 require an amendment to any plan, such plan amendment shall not be required to be made before the first plan year beginning on or after Jan. 1, 1989, see section 1140 of Pub. L. 99–514, as amended, set out as a note under section 401 of this title.

APPLICATION OF SECTION 419A(e) TO GROUP-TERM LIFE INSURANCE

Section 1851(a)(3)(B) of Pub. L. 99–514, as amended by Pub. L. 100–647, title I, § 1018(t)(2)(D), Nov. 10, 1988, 102 Stat. 3587, provided that: ''Subsection (e) of section 419A, section 505, and section 4976(b)(1)(B) of the Internal Revenue Code of 1954 [now 1986] (as amended by subparagraph (A)) shall not apply to any group-term life insurance to the extent that the amendments made by section 223(a) of the Tax Reform Act of 1984 [section 223(a) of Pub. L. 98–369, amending section 79 of this title] do not apply to such insurance by reason of paragraph (2) of section 223(d) of such Act [set out as a note under section 79 of this title].''

SUBPART E—TREATMENT OF TRANSFERS TO RETIREE HEALTH ACCOUNTS

Sec.
420. Transfers of excess pension assets to retiree health accounts.

## § 420. Transfers of excess pension assets to retiree health accounts

### (a) General rule

If there is a qualified transfer of any excess pension assets of a defined benefit plan to a health benefits account which is part of such plan—

(1) a trust which is part of such plan shall not be treated as failing to meet the requirements of subsection (a) or (h) of section 401 solely by reason of such transfer (or any other action authorized under this section),

(2) no amount shall be includible in the gross income of the employer maintaining the plan solely by reason of such transfer,

(3) such transfer shall not be treated—

(A) as an employer reversion for purposes of section 4980, or

(B) as a prohibited transaction for purposes of section 4975, and

(4) the limitations of subsection (d) shall apply to such employer.

### (b) Qualified transfer

For purposes of this section—

#### (1) In general

The term ''qualified transfer'' means a transfer—

(A) of excess pension assets of a defined benefit plan to a health benefits account which is part of such plan in a taxable year beginning after December 31, 1990,

(B) which does not contravene any other provision of law, and

(C) with respect to which the following requirements are met in connection with the plan—

(i) the use requirements of subsection (c)(1),

(ii) the vesting requirements of subsection (c)(2), and

(iii) the minimum cost requirements of subsection (c)(3).

#### (2) Only 1 transfer per year

##### (A) In general

No more than 1 transfer with respect to any plan during a taxable year may be treated as a qualified transfer for purposes of this section.

##### (B) Exception

A transfer described in paragraph (4) shall not be taken into account for purposes of subparagraph (A).

#### (3) Limitation on amount transferred

The amount of excess pension assets which may be transferred in a qualified transfer shall not exceed the amount which is reasonably estimated to be the amount the employer maintaining the plan will pay (whether directly or through reimbursement) out of such account during the taxable year of the transfer for qualified current retiree health liabilities.

#### (4) Special rule for 1990

##### (A) In general

Subject to the provisions of subsection (c), a transfer shall be treated as a qualified transfer if such transfer—

(i) is made after the close of the taxable year preceding the employer's first taxable year beginning after December 31, 1990, and before the earlier of—

(I) the due date (including extensions) for the filing of the return of tax for such preceding taxable year, or

(II) the date such return is filed, and

(ii) does not exceed the expenditures of the employer for qualified current retiree health liabilities for such preceding taxable year.

##### (B) Deduction reduced

The amount of the deductions otherwise allowable under this chapter to an employer for the taxable year preceding the employer's first taxable year beginning after December 31, 1990, shall be reduced by the amount of any qualified transfer to which this paragraph applies.

##### (C) Coordination with reduction rule

Subsection (e)(1)(B) shall not apply to a transfer described in subparagraph (A).

#### (5) Expiration

No transfer made after December 31, 2013, shall be treated as a qualified transfer.

### (c) Requirements of plans transferring assets

#### (1) Use of transferred assets

##### (A) In general

Any assets transferred to a health benefits account in a qualified transfer (and any income allocable thereto) shall be used only to pay qualified current retiree health liabilities (other than liabilities of key employees not taken into account under subsection (e)(1)(D)) for the taxable year of the transfer (whether directly or through reimbursement). In the case of a qualified future

transfer or collectively bargained transfer to which subsection (f) applies, any assets so transferred may also be used to pay liabilities described in subsection (f)(2)(C).

**(B) Amounts not used to pay for health benefits**

**(i) In general**

Any assets transferred to a health benefits account in a qualified transfer (and any income allocable thereto) which are not used as provided in subparagraph (A) shall be transferred out of the account to the transferor plan.

**(ii) Tax treatment of amounts**

Any amount transferred out of an account under clause (i)—

(I) shall not be includible in the gross income of the employer for such taxable year, but

(II) shall be treated as an employer reversion for purposes of section 4980 (without regard to subsection (d) thereof).

**(C) Ordering rule**

For purposes of this section, any amount paid out of a health benefits account shall be treated as paid first out of the assets and income described in subparagraph (A).

**(2) Requirements relating to pension benefits accruing before transfer**

**(A) In general**

The requirements of this paragraph are met if the plan provides that the accrued pension benefits of any participant or beneficiary under the plan become nonforfeitable in the same manner which would be required if the plan had terminated immediately before the qualified transfer (or in the case of a participant who separated during the 1-year period ending on the date of the transfer, immediately before such separation).

**(B) Special rule for 1990**

In the case of a qualified transfer described in subsection (b)(4), the requirements of this paragraph are met with respect to any participant who separated from service during the taxable year to which such transfer relates by recomputing such participant's benefits as if subparagraph (A) had applied immediately before such separation.

**(3) Minimum cost requirements**

**(A) In general**

The requirements of this paragraph are met if each group health plan or arrangement under which applicable health benefits are provided provides that the applicable employer cost for each taxable year during the cost maintenance period shall not be less than the higher of the applicable employer costs for each of the 2 taxable years immediately preceding the taxable year of the qualified transfer or, in the case of a transfer which involves a plan maintained by an employer described in subsection (f)(2)(E)(i)(III), if the plan meets the requirements of subsection (f)(2)(D)(i)(II).

**(B) Applicable employer cost**

For purposes of this paragraph, the term ''applicable employer cost'' means, with respect to any taxable year, the amount determined by dividing—

(i) the qualified current retiree health liabilities of the employer for such taxable year determined—

(I) without regard to any reduction under subsection (e)(1)(B), and

(II) in the case of a taxable year in which there was no qualified transfer, in the same manner as if there had been such a transfer at the end of the taxable year, by

(ii) the number of individuals to whom coverage for applicable health benefits was provided during such taxable year.

**(C) Election to compute cost separately**

An employer may elect to have this paragraph applied separately with respect to individuals eligible for benefits under title XVIII of the Social Security Act at any time during the taxable year and with respect to individuals not so eligible.

**(D) Cost maintenance period**

For purposes of this paragraph, the term ''cost maintenance period'' means the period of 5 taxable years beginning with the taxable year in which the qualified transfer occurs. If a taxable year is in two or more overlapping cost maintenance periods, this paragraph shall be applied by taking into account the highest applicable employer cost required to be provided under subparagraph (A) for such taxable year.

**(E) Regulations**

**(i) In general**

The Secretary shall prescribe such regulations as may be necessary to prevent an employer who significantly reduces retiree health coverage during the cost maintenance period from being treated as satisfying the minimum cost requirement of this subsection.

**(ii) Insignificant cost reductions permitted**

**(I) In general**

An eligible employer shall not be treated as failing to meet the requirements of this paragraph for any taxable year if, in lieu of any reduction of retiree health coverage permitted under the regulations prescribed under clause (i), the employer reduces applicable employer cost by an amount not in excess of the reduction in costs which would have occurred if the employer had made the maximum permissible reduction in retiree health coverage under such regulations. In applying such regulations to any subsequent taxable year, any reduction in applicable employer cost under this clause shall be treated as if it were an equivalent reduction in retiree health coverage.

**(II) Eligible employer**

For purposes of subclause (I), an employer shall be treated as an eligible em-

ployer for any taxable year if, for the preceding taxable year, the qualified current retiree health liabilities of the employer were at least 5 percent of the gross receipts of the employer. For purposes of this subclause, the rules of paragraphs (2), (3)(B), and (3)(C) of section 448(c) shall apply in determining the amount of an employer's gross receipts.

**(d) Limitations on employer**

For purposes of this title—

**(1) Deduction limitations**

No deduction shall be allowed—

(A) for the transfer of any amount to a health benefits account in a qualified transfer (or any retransfer to the plan under subsection (c)(1)(B)),

(B) for qualified current retiree health liabilities paid out of the assets (and income) described in subsection (c)(1), or

(C) for any amounts to which subparagraph (B) does not apply and which are paid for qualified current retiree health liabilities for the taxable year to the extent such amounts are not greater than the excess (if any) of—

(i) the amount determined under subparagraph (A) (and income allocable thereto), over

(ii) the amount determined under subparagraph (B).

**(2) No contributions allowed**

An employer may not contribute after December 31, 1990, any amount to a health benefits account or welfare benefit fund (as defined in section 419(e)(1)) with respect to qualified current retiree health liabilities for which transferred assets are required to be used under subsection (c)(1).

**(e) Definition and special rules**

For purposes of this section—

**(1) Qualified current retiree health liabilities**

For purposes of this section—

**(A) In general**

The term ''qualified current retiree health liabilities'' means, with respect to any taxable year, the aggregate amounts (including administrative expenses) which would have been allowable as a deduction to the employer for such taxable year with respect to applicable health benefits provided during such taxable year if—

(i) such benefits were provided directly by the employer, and

(ii) the employer used the cash receipts and disbursements method of accounting.

For purposes of the preceding sentence, the rule of section 419(c)(3)(B) shall apply.

**(B) Reductions for amounts previously set aside**

The amount determined under subparagraph (A) shall be reduced by the amount which bears the same ratio to such amount as—

(i) the value (as of the close of the plan year preceding the year of the qualified transfer) of the assets in all health benefits accounts or welfare benefit funds (as defined in section 419(e)(1)) set aside to pay for the qualified current retiree health liability, bears to

(ii) the present value of the qualified current retiree health liabilities for all plan years (determined without regard to this subparagraph).

**(C) Applicable health benefits**

The term ''applicable health benefits'' means health benefits or coverage which are provided to—

(i) retired employees who, immediately before the qualified transfer, are entitled to receive such benefits upon retirement and who are entitled to pension benefits under the plan, and

(ii) their spouses and dependents.

**(D) Key employees excluded**

If an employee is a key employee (within the meaning of section 416(i)(1)) with respect to any plan year ending in a taxable year, such employee shall not be taken into account in computing qualified current retiree health liabilities for such taxable year or in calculating applicable employer cost under subsection (c)(3)(B).

**(2) Excess pension assets**

The term ''excess pension assets'' means the excess (if any) of—

(A) the lesser of—

(i) the fair market value of the plan's assets (reduced by the prefunding balance and funding standard carryover balance determined under section 430(f)), or

(ii) the value of plan assets as determined under section 430(g)(3) after reduction under section 430(f), over

(B) 125 percent of the sum of the funding target and the target normal cost determined under section 430 for such plan year.

**(3) Health benefits account**

The term ''health benefits account'' means an account established and maintained under section 401(h).

**(4) Coordination with section 430**

In the case of a qualified transfer, any assets so transferred shall not, for purposes of this section and section 430, be treated as assets in the plan.

**(5) Application to multiemployer plans**

In the case of a multiemployer plan, this section shall be applied to any such plan—

(A) by treating any reference in this section to an employer as a reference to all employers maintaining the plan (or, if appropriate, the plan sponsor), and

(B) in accordance with such modifications of this section (and the provisions of this title relating to this section) as the Secretary determines appropriate to reflect the fact the plan is not maintained by a single employer.

**(f) Qualified transfers to cover future retiree health costs and collectively bargained retiree health benefits**

**(1) In general**

An employer maintaining a defined benefit plan (other than a multiemployer plan) may, in lieu of a qualified transfer, elect for any taxable year to have the plan make—

(A) a qualified future transfer, or

(B) a collectively bargained transfer.

Except as provided in this subsection, a qualified future transfer and a collectively bargained transfer shall be treated for purposes of this title and the Employee Retirement Income Security Act of 1974 as if it were a qualified transfer.

**(2) Qualified future and collectively bargained transfers**

For purposes of this subsection—

**(A) In general**

The terms ''qualified future transfer'' and ''collectively bargained transfer'' mean a transfer which meets all of the requirements for a qualified transfer, except that—

(i) the determination of excess pension assets shall be made under subparagraph (B),

(ii) the limitation on the amount transferred shall be determined under subparagraph (C),

(iii) the minimum cost requirements of subsection (c)(3) shall be modified as provided under subparagraph (D), and

(iv) in the case of a collectively bargained transfer, the requirements of subparagraph (E) shall be met with respect to the transfer.

**(B) Excess pension assets**

**(i) In general**

In determining excess pension assets for purposes of this subsection, subsection (e)(2) shall be applied by substituting ''120 percent'' for ''125 percent''.

**(ii) Requirement to maintain funded status**

If, as of any valuation date of any plan year in the transfer period, the amount determined under subsection (e)(2)(B) (after application of clause (i)) exceeds the amount determined under subsection (e)(2)(A), either—

(I) the employer maintaining the plan shall make contributions to the plan in an amount not less than the amount required to reduce such excess to zero as of such date, or

(II) there is transferred from the health benefits account to the plan an amount not less than the amount required to reduce such excess to zero as of such date.

**(C) Limitation on amount transferred**

Notwithstanding subsection (b)(3), the amount of the excess pension assets which may be transferred—

(i) in the case of a qualified future transfer shall be equal to the sum of—

(I) if the transfer period includes the taxable year of the transfer, the amount determined under subsection (b)(3) for such taxable year, plus

(II) in the case of all other taxable years in the transfer period, the sum of the qualified current retiree health liabilities which the plan reasonably estimates, in accordance with guidance issued by the Secretary, will be incurred for each of such years, and

(ii) in the case of a collectively bargained transfer, shall not exceed the amount which is reasonably estimated, in accordance with the provisions of the collective bargaining agreement and generally accepted accounting principles, to be the amount the employer maintaining the plan will pay (whether directly or through reimbursement) out of such account during the collectively bargained cost maintenance period for collectively bargained retiree health liabilities.

**(D) Minimum cost requirements**

**(i) In general**

The requirements of subsection (c)(3) shall be treated as met if—

(I) in the case of a qualified future transfer, each group health plan or arrangement under which applicable health benefits are provided provides applicable health benefits during the period beginning with the first year of the transfer period and ending with the last day of the 4th year following the transfer period such that the annual average amount of the applicable employer cost during such period is not less than the applicable employer cost determined under subsection (c)(3)(A) with respect to the transfer, and

(II) in the case of a collectively bargained transfer, each collectively bargained group health plan under which collectively bargained health benefits are provided provides that the collectively bargained employer cost for each taxable year during the collectively bargained cost maintenance period shall not be less than the amount specified by the collective bargaining agreement.

**(ii) Election to maintain benefits for future transfers**

An employer may elect, in lieu of the requirements of clause (i)(I), to meet the requirements of subsection (c)(3) by meeting the requirements of such subsection (as in effect before the amendments made by section 535 of the Tax Relief Extension Act of 1999) for each of the years described in the period under clause (i)(I).

**(iii) Collectively bargained employer cost**

For purposes of this subparagraph, the term ''collectively bargained employer cost'' means the average cost per covered individual of providing collectively bargained retiree health benefits as determined in accordance with the applicable

collective bargaining agreement. Such agreement may provide for an appropriate reduction in the collectively bargained employer cost to take into account any portion of the collectively bargained retiree health benefits that is provided or financed by a government program or other source.

**(E) Special rules for collectively bargained transfers**

**(i) In general**

A collectively bargained transfer shall only include a transfer which—

(I) is made in accordance with a collective bargaining agreement,

(II) before the transfer, the employer designates, in a written notice delivered to each employee organization that is a party to the collective bargaining agreement, as a collectively bargained transfer in accordance with this section, and

(III) involves a plan maintained by an employer which, in its taxable year ending in 2005, provided health benefits or coverage to retirees and their spouses and dependents under all of the benefit plans maintained by the employer, but only if the aggregate cost (including administrative expenses) of such benefits or coverage which would have been allowable as a deduction to the employer (if such benefits or coverage had been provided directly by the employer and the employer used the cash receipts and disbursements method of accounting) is at least 5 percent of the gross receipts of the employer (determined in accordance with the last sentence of subsection (c)(3)(E)(ii)(II)) for such taxable year, or a plan maintained by a successor to such employer.

**(ii) Use of assets**

Any assets transferred to a health benefits account in a collectively bargained transfer (and any income allocable thereto) shall be used only to pay collectively bargained retiree health liabilities (other than liabilities of key employees not taken into account under paragraph (6)(B)(iii)) for the taxable year of the transfer or for any subsequent taxable year during the collectively bargained cost maintenance period (whether directly or through reimbursement).

**(3) Coordination with other transfers**

In applying subsection (b)(3) to any subsequent transfer during a taxable year in a transfer period or collectively bargained cost maintenance period, qualified current retiree health liabilities shall be reduced by any such liabilities taken into account with respect to the qualified future transfer or collectively bargained transfer to which such period relates.

**(4) Special deduction rules for collectively bargained transfers**

In the case of a collectively bargained transfer—

(A) the limitation under subsection (d)(1)(C) shall not apply, and

(B) notwithstanding subsection (d)(2), an employer may contribute an amount to a health benefits account or welfare benefit fund (as defined in section 419(e)(1)) with respect to collectively bargained retiree health liabilities for which transferred assets are required to be used under subsection (c)(1)(B), and the deductibility of any such contribution shall be governed by the limits applicable to the deductibility of contributions to a welfare benefit fund under a collective bargaining agreement (as determined under section 419A(f)(5)(A)) without regard to whether such contributions are made to a health benefits account or welfare benefit fund and without regard to the provisions of section 404 or the other provisions of this section.

The Secretary shall provide rules to ensure that the application of this paragraph does not result in a deduction being allowed more than once for the same contribution or for 2 or more contributions or expenditures relating to the same collectively bargained retiree health liabilities.

**(5) Transfer period**

For purposes of this subsection, the term ''transfer period'' means, with respect to any transfer, a period of consecutive taxable years (not less than 2) specified in the election under paragraph (1) which begins and ends during the 10-taxable-year period beginning with the taxable year of the transfer.

**(6) Terms relating to collectively bargained transfers**

For purposes of this subsection—

**(A) Collectively bargained cost maintenance period**

The term ''collectively bargained cost maintenance period'' means, with respect to each covered retiree and his covered spouse and dependents, the shorter of—

(i) the remaining lifetime of such covered retiree and his covered spouse and dependents, or

(ii) the period of coverage provided by the collectively bargained health plan (determined as of the date of the collectively bargained transfer) with respect to such covered retiree and his covered spouse and dependents.

**(B) Collectively bargained retiree health liabilities**

**(i) In general**

The term ''collectively bargained retiree health liabilities'' means the present value, as of the beginning of a taxable year and determined in accordance with the applicable collective bargaining agreement, of all collectively bargained health benefits (including administrative expenses) for such taxable year and all subsequent taxable years during the collectively bargained cost maintenance period.

**(ii) Reduction for amounts previously set aside**

The amount determined under clause (i) shall be reduced by the value (as of the close of the plan year preceding the year of the collectively bargained transfer) of the assets in all health benefits accounts or welfare benefit funds (as defined in section 419(e)(1)) set aside to pay for the collectively bargained retiree health liabilities.

**(iii) Key employees excluded**

If an employee is a key employee (within the meaning of section 416(I)(1))[1] with respect to any plan year ending in a taxable year, such employee shall not be taken into account in computing collectively bargained retiree health liabilities for such taxable year or in calculating collectively bargained employer cost under subsection (c)(3)(C).

**(C) Collectively bargained health benefits**

The term ''collectively bargained health benefits'' means health benefits or coverage which are provided to—

(i) retired employees who, immediately before the collectively bargained transfer, are entitled to receive such benefits upon retirement and who are entitled to pension benefits under the plan, and their spouses and dependents, and

(ii) if specified by the provisions of the collective bargaining agreement governing the collectively bargained transfer, active employees who, following their retirement, are entitled to receive such benefits and who are entitled to pension benefits under the plan, and their spouses and dependents.

**(D) Collectively bargained health plan**

The term ''collectively bargained health plan'' means a group health plan or arrangement for retired employees and their spouses and dependents that is maintained pursuant to 1 or more collective bargaining agreements.

(Added Pub. L. 101–508, title XII, §12011(a), Nov. 5, 1990, 104 Stat. 1388–567; amended Pub. L. 103–465, title VII, §731(a)–(c)(3), Dec. 8, 1994, 108 Stat. 5003, 5004; Pub. L. 104–188, title I, §1704(a), (t)(32), Aug. 20, 1996, 110 Stat. 1878, 1889; Pub. L. 106–170, title V, §535(a)(1), (b), Dec. 17, 1999, 113 Stat. 1934; Pub. L. 108–218, title II, §204(a), Apr. 10, 2004, 118 Stat. 609; Pub. L. 108–357, title VII, §709(b)(1), (2), Oct. 22, 2004, 118 Stat. 1551, 1552; Pub. L. 109–280, title I, §114(d), title VIII, §§841(a), 842(a), Aug. 17, 2006, 120 Stat. 854, 1005, 1009; Pub. L. 110–28, title VI, §§6612(a), (b), 6613(a), May 25, 2007, 121 Stat. 181; Pub. L. 110–458, title I, §108(i)(1), (2), Dec. 23, 2008, 122 Stat. 5110.)

REFERENCES IN TEXT

The Social Security Act, referred to in subsec. (c)(3)(C), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Title XVIII of the Act is classified generally to subchapter XVIII (§1395 et seq.) of chapter 7 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

The Employee Retirement Income Security Act of 1974, referred to in subsec. (f)(1), is Pub. L. 93–406, Sept. 2, 1974, 88 Stat. 829, as amended, which is classified principally to chapter 18 (§1001 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of Title 29 and Tables.

Subsection (c)(3) as in effect before the amendments made by section 535 of the Tax Relief Extension Act of 1999, referred to in subsec. (f)(2)(D)(ii), is subsec. (c)(3) of this section prior to its general amendment by section 535(b)(1) of Pub. L. 106–170.

AMENDMENTS

2008—Subsec. (c)(1)(A). Pub. L. 110–458, §108(i)(1), inserted last sentence ''In the case of a qualified future transfer or collectively bargained transfer to which subsection (f) applies, any assets so transferred may also be used to pay liabilities described in subsection (f)(2)(C).''

Subsec. (f)(2)(D)(i)(I). Pub. L. 110–458, §108(i)(2), struck out ''such'' after ''average amount of''.

2007—Subsec. (c)(3)(A). Pub. L. 110–28, §6613(a), substituted ''transfer or, in the case of a transfer which involves a plan maintained by an employer described in subsection (f)(2)(E)(i)(III), if the plan meets the requirements of subsection (f)(2)(D)(i)(II).'' for ''transfer.''

Subsec. (e)(2)(B). Pub. L. 110–28, §6612(b), substituted ''funding target'' for ''funding shortfall''.

Subsec. (f)(2)(E)(i)(III). Pub. L. 110–28, §6612(a), substituted ''subsection (c)(3)(E)(ii)(II)'' for ''subsection (c)(2)(E)(ii)(II)''.

2006—Subsec. (a). Pub. L. 109–280, §842(a)(1), struck out ''(other than a multiemployer plan)'' after ''defined benefit plan'' in introductory provisions.

Subsec. (e)(2). Pub. L. 109–280, §114(d)(1), reenacted heading without change and amended text of par. (2) generally. Prior to amendment, text read as follows: ''The term 'excess pension assets' means the excess (if any) of—

''(A) the amount determined under section 412(c)(7)(A)(ii), over

''(B) the greater of—

''(i) the amount determined under section 412(c)(7)(A)(i), or

''(ii) 125 percent of current liability (as defined in section 412(c)(7)(B)).

The determination under this paragraph shall be made as of the most recent valuation date of the plan preceding the qualified transfer.''

Subsec. (e)(4). Pub. L. 109–280, §114(d)(2), amended heading and text of par. (4) generally. Prior to amendment, text read as follows: ''In the case of a qualified transfer to a health benefits account—

''(A) any assets transferred in a plan year on or before the valuation date for such year (and any income allocable thereto) shall, for purposes of section 412, be treated as assets in the plan as of the valuation date for such year, and

''(B) the plan shall be treated as having a net experience loss under section 412(b)(2)(B)(iv) in an amount equal to the amount of such transfer (reduced by any amounts transferred back to the pension plan under subsection (c)(1)(B)) and for which amortization charges begin for the first plan year after the plan year in which such transfer occurs, except that such section shall be applied to such amount by substituting '10 plan years' for '5 plan years'.''

Subsec. (e)(5). Pub. L. 109–280, §842(a)(2), added par. (5).

Subsec. (f). Pub. L. 109–280, §841(a), added subsec. (f).

2004—Subsec. (b)(5). Pub. L. 108–218 substituted ''2013'' for ''2005''.

Subsec. (c)(3)(E). Pub. L. 108–357 designated existing provisions as cl. (i), inserted heading, and added cl. (ii).

1999—Subsec. (b)(1)(C)(iii). Pub. L. 106–170, §535(b)(2)(A), substituted ''cost'' for ''benefits''.

Subsec. (b)(5). Pub. L. 106–170, §535(a)(1), substituted ''made after December 31, 2005'' for ''in any taxable year beginning after December 31, 2000''.

[1] So in original. Probably should be ''416(i)(1))''.

Subsec. (c)(3). Pub. L. 106–170, § 535(b)(1), amended heading and text of par. (3) generally, substituting present provisions for provisions relating to maintenance of benefit requirements.

Subsec. (e)(1)(D). Pub. L. 106–170, § 535(b)(2)(B), substituted ''or in calculating applicable employer cost under subsection (c)(3)(B)'' for ''and shall not be subject to the minimum benefit requirements of subsection (c)(3)''.

1996—Pub. L. 104–188, § 1704(a), provided that, except as otherwise expressly provided, whenever in title XII of Pub. L. 101–508 an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986. Section 12011(a) of title XII of Pub. L. 101–508 directed the amendment of part I of subchapter D of chapter 1 by adding this subpart, including this section, without specifying that amendment was to the Internal Revenue Code of 1986.

Subsec. (e)(1)(C). Pub. L. 104–188, § 1704(t)(32), substituted ''means'' for ''mean''.

1994—Subsec. (b)(1)(C)(iii). Pub. L. 103–465, § 731(c)(1), substituted ''benefits'' for ''cost''.

Subsec. (b)(5). Pub. L. 103–465, § 731(a), substituted ''2000'' for ''1995''.

Subsec. (c)(3). Pub. L. 103–465, § 731(b), amended par. (3) generally, substituting present provisions for provisions outlining minimum cost requirements for plans, providing for elections to compute costs separately, and defining ''applicable employer cost'' and ''cost maintenance period''.

Subsec. (e)(1)(B). Pub. L. 103–465, § 731(c)(2), reenacted subpar. (B) heading without change and amended text generally. Prior to amendment, text read as follows: ''The amount determined under subparagraph (A) shall be reduced by any amount previously contributed to a health benefits account or welfare benefit fund (as defined in section 419(e)(1)) to pay for the qualified current retiree health liabilities. The portion of any reserves remaining as of the close of December 31, 1990, shall be allocated on a pro rata basis to qualified current retiree health liabilities.''

Subsec. (e)(1)(D). Pub. L. 103–465, § 731(c)(3), substituted ''and shall not be subject to the minimum benefit requirements of subsection (c)(3)'' for ''or in calculating applicable employer cost under subsection (c)(3)(B)''.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by Pub. L. 110–458 effective as if included in the provisions of Pub. L. 109–280 to which the amendment relates, except as otherwise provided, see section 112 of Pub. L. 110–458, set out as a note under section 72 of this title.

EFFECTIVE DATE OF 2007 AMENDMENT

Pub. L. 110–28, title VI, § 6612(c), May 25, 2007, 121 Stat. 181, provided that: ''The amendments made by this section [amending this section] shall take effect as if included in the provisions of the Pension Protection Act of 2006 [Pub. L. 109–280] to which they relate.''

Pub. L. 110–28, title VI, § 6613(b), May 25, 2007, 121 Stat. 181, provided that: ''The amendment made by subsection (a) [amending this section] shall apply to transfers after the date of the enactment of this Act [May 25, 2007].''

EFFECTIVE DATE OF 2006 AMENDMENT

Amendment by section 114(d) of Pub. L. 109–280 applicable to plan years beginning after 2007, see section 114(g)(1) of Pub. L. 109–280, as added by Pub. L. 110–458, set out as a note under section 401 of this title.

Pub. L. 109–280, title VIII, § 841(b), Aug. 17, 2006, 120 Stat. 1009, provided that: ''The amendments made by this section [amending this section] shall apply to transfers after the date of the enactment of this Act [Aug. 17, 2006].''

Pub. L. 109–280, title VIII, § 842(b), Aug. 17, 2006, 120 Stat. 1009, provided that: ''The amendment made by this section [amending this section] shall apply to transfers made in taxable years beginning after December 31, 2006.''

EFFECTIVE DATE OF 2004 AMENDMENT

Pub. L. 108–357, title VII, § 709(b)(3), Oct. 22, 2004, 118 Stat. 1552, provided that: ''The amendments made by this subsection [amending this section] shall apply to taxable years ending after the date of the enactment of this Act [Oct. 22, 2004].''

EFFECTIVE DATE OF 1999 AMENDMENT

Pub. L. 106–170, title V, § 535(c), Dec. 17, 1999, 113 Stat. 1935, provided that:

''(1) IN GENERAL.—The amendments made by this section [amending this section and sections 1021, 1103, and 1108 of Title 29, Labor] shall apply to qualified transfers occurring after the date of the enactment of this Act [Dec. 17, 1999].

''(2) TRANSITION RULE.—If the cost maintenance period for any qualified transfer after the date of the enactment of this Act [Dec. 17, 1999] includes any portion of a benefit maintenance period for any qualified transfer on or before such date, the amendments made by subsection (b) [amending this section] shall not apply to such portion of the cost maintenance period (and such portion shall be treated as a benefit maintenance period).''

EFFECTIVE DATE OF 1994 AMENDMENT

Section 731(d) of Pub. L. 103–465 provided that:

''(1) EXTENSION.—The amendments made by subsections (a) and (c)(3) [amending this section] shall apply to taxable years beginning after December 31, 1995.

''(2) BENEFITS.—The amendments made by subsections (b) and (c)(1) and (2) [amending this section] shall apply to qualified transfers occurring after the date of the enactment of this Act [Dec. 8, 1994].''

EFFECTIVE DATE

Section 12011(c) of Pub. L. 101–508 provided that:

''(1) IN GENERAL.—The amendments made by this section [enacting this section and amending section 401 of this title] shall apply to transfers in taxable years beginning after December 31, 1990.

''(2) WAIVER OF ESTIMATED TAX PENALTIES.—No addition to tax shall be made under section 6654 or section 6655 of the Internal Revenue Code of 1986 for the taxable year preceding the taxpayer's 1st taxable year beginning after December 31, 1990, with respect to any underpayment to the extent such underpayment was created or increased by reason of section 420(b)(4)(B) of such Code (as added by subsection (a)).''

APPLICABILITY OF AMENDMENTS BY SUBTITLES A AND B OF TITLE I OF PUB. L. 109–280

For special rules on applicability of amendments by subtitles A (§§ 101–107) and B (§§ 111–116) of title I of Pub. L. 109–280 to certain eligible cooperative plans, PBGC settlement plans, and eligible government contractor plans, see sections 104, 105, and 106 of Pub. L. 109–280, set out as notes under section 401 of this title.

## PART II—CERTAIN STOCK OPTIONS

Sec.
421. General rules.
422. Incentive stock options.
[422A. Renumbered.]
423. Employee stock purchase plans.
424. Definitions and special rules.
[425. Renumbered.]

AMENDMENTS

1990—Pub. L. 101–508, title XI, § 11801(b)(6), (c)(9)(A)(ii), Nov. 5, 1990, 104 Stat. 1388–522, 1388–524, struck out items 422 ''Qualified stock options'' and 424 ''Restricted stock options'' and redesignated items 422A and 425 as 422 and 424, respectively.