

## Internal Revenue Service, Treasury

## § 1.401(m)-0

§§1.401(l)-1 through 1.401(l)-6 apply to plan years beginning on or after January 1, 1994.

(2) *Plans of tax-exempt organizations.* In the case of plans maintained by an organization exempt from income taxation under section 501(a), including plans subject to section 403(b)(12)(A)(i) (nonelective plans), §§1.401(l)-1 through 1.401(l)-6 apply to plan years beginning on or after January 1, 1996.

(3) *Defined contribution plans.* A defined contribution plan satisfies section 401(l) with respect to a plan year beginning on or after the effective date of these regulations, as set forth in paragraphs (b)(1) and (b)(2) of this section, if it satisfies the applicable requirements of §§1.401(l)-1 through 1.401(l)-5 for the plan year.

(4) *Defined benefit plans.* A defined benefit excess plan or offset plan satisfies section 401(l) with respect to all plan years, beginning on or after the effective date of these regulations, as set forth in paragraphs (b)(1) and (b)(2) of this section, by satisfying the applicable requirements of §§1.401(l)-1 through 1.401(l)-5 and the requirements of §1.401(a)(4)-13(c) (and §1.401(a)(4)-13(d), if applicable), using a fresh-start date that is on or after December 31, 1988, and before the effective date of these regulations. A defined benefit excess plan or offset plan that does not satisfy section 401(l) with respect to all plan years beginning on or after the effective date of these regulations may, under the rules of §1.401(a)(4)-13(c) (and §1.401(a)(4)-13(d), if applicable), satisfy section 401(l) for plan years beginning after a fresh-start date by satisfying the applicable requirements of §§1.401(l)-1 through 1.401(l)-5 after the fresh-start date.

(c) *Compliance during transition period.* For plan years beginning on or after January 1, 1989, and before the effective date of these regulations, as set forth in paragraph (b) of this section, a plan must be operated in accordance with a reasonable, good faith interpretation of section 401(l). Whether a plan is operated in accordance with a reasonable, good faith interpretation of section 401(l) will generally be determined based on all of the relevant facts and circumstances, including the extent to

which an employer has resolved unclear issues in its favor. A plan will be deemed to be operated in accordance with a reasonable, good faith interpretation of section 401(l) if it is operated in accordance with the terms of §§1.401(l)-1 through 1.401(l)-5.

[T.D. 8486, 58 FR 46835, Sept. 3, 1993]

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[Reserved]

### § 1.401(m)-5 *Definitions.*

[T.D. 9169, 69 FR 78184, Dec. 29, 2004, as amended by T.D. 9237, 71 FR 10, Jan. 3, 2006; T.D. 9447, 74 FR 8210, Feb. 24, 2009; T.D. 9641, 78 FR 68738, Nov. 15, 2013]

### § 1.401(m)-1 **Employee contributions and matching contributions.**

- (a) *General nondiscrimination rules*—(1) *Nondiscriminatory amount of contributions*—(i) *Exclusive means of amounts testing.* A defined contribution plan does not satisfy section 401(a) for a plan year unless the amount of employee contributions and matching contributions to the plan for the plan year satisfies section 401(a)(4). The amount of employee contributions and matching contributions under a plan satisfies the requirements of section 401(a)(4) with respect to amounts if and only if the amount of employee contributions and matching contributions satisfies the nondiscrimination test of section 401(m) under paragraph (b) of this section and the plan satisfies the additional requirements of paragraph (c) of this section. See § 1.401(a)(4)-1(b)(2)(ii)(B).
- (ii) *Testing benefits, rights and features.* A plan that provides for employee contributions or matching contributions must satisfy the requirements of section 401(a)(4) relating to benefits, rights and features in addition to the requirement regarding amounts described in paragraph (a)(1)(i) of this section. For example,