

Section 401.-Qualified Pension, Profit-Sharing, and Stock Bonus Plans

*26 CFR 1.401-1: Qualified pension, profit-sharing, and stock bonus plans.
(Also Section 411; 11.411(b)-1.)*

Qualification; pension plan benefits offset by profit-sharing plan benefits . A defined benefit plan that provides a stated benefit offset by the benefits provided by a concurrently operating profit-sharing plan will not fail to satisfy the requirements of section 401 of the Code after September 2, 1974, merely because of the offset provision. Guidelines are provided for determining whether such a plan satisfies the accrued benefit requirements of section 411(b). Rev. Rul. 69-502 superseded.

Rev. Rul. 76-~~259~~

The purpose of this Revenue Ruling is to (1) reconsider the position set forth in Rev. Rul. 69-502, 1969-2 C.B. 89, in light of the Employee Retirement Income Security Act of 1974 (ERISA), P.L. 93-406, 1974-3 C.B. 1, and (2) provide guidelines as to how the accrued benefits of a defined benefit plan that are offset by the benefits of a defined contribution plan should be tested to determine whether the accrued benefit requirements of section 411(b) of the Internal Revenue Code of 1954 are satisfied.

Rev. Rul. 69-502 considers an arrangement whereby the employer establishes a profit-sharing plan intended to be qualified under section 401(a) of the Code and also establishes a defined benefit plan which provides a stated benefit offset by the benefits provided by the profit-sharing plan. Rev. Rul. 69-502 finds, in accordance with section 1.401-1(b)(3) of the Income Tax Regulations, that the profit-sharing plan is not for the exclusive benefit of employees because contributions to such plan relieve the employer of the obligation to contribute to the defined benefit plan. Rev. Rul. 69-502 also finds that the defined benefit plan does not provide definitely determinable benefits within the meaning of section 1.401-1(b)(1) of the regulations because such plan benefits are offset by the benefits provided by the profit-sharing plan.

It is the position of the Service that under subchapter D of chapter 1 as amended by ERISA an arrangement described in Rev. Rul. 69-502 does not fail to satisfy the requirements of section 401 of the Code after September 2, 1974, the date of enactment of ERISA, merely because of the type of such arrangement. See section 414(k).

Section 1.401-1(b) of the regulations will be modified to permit such an arrangement.

The defined benefit plan in this arrangement must, however, provide definitely determinable benefits. Such defined benefit plan will not be considered to provide definitely determinable benefits unless the benefit offset by the profit-sharing plan is determined in a manner that precludes discretion on the part of the employer. In particular, the defined benefit plan must provide the actuarial basis that will be employed to determine the benefit deemed to be provided by the profit-sharing plan. Also, the defined benefit plan must specify the time as of which such determination is made (the determination date) in a manner which precludes discretion on the part of the employer.

The defined benefit plan will not fail to provide definitely determinable benefits merely because the profit-sharing plan does not have a definite contribution formula.

A separate issue raised by the arrangement considered in this Revenue Ruling is the method of determining whether the accrued benefit of a defined benefit plan in such an arrangement satisfies the requirements of section

411(b)(1) of the Code. Such accrued benefit will be deemed to satisfy the requirements of section 411(b)(1) of the Code if each of the following two conditions is satisfied:

(1) the accrued benefit under the defined benefit plan determined without regard to the offset derived from the profit-sharing plan satisfies the requirements of section 411(b)(1) of the Code; and

(2) the offset to the benefit otherwise payable is equal to the amount deemed provided on the determination date by the vested portion of the account balance in the profit-sharing plan (plus the additional amount that would have been provided by any prior distribution from the account balance).

The requirements of the second condition in the preceding sentence will not fail to be satisfied merely because the defined benefit plan states that only a specified portion of the vested account balance will be the offset. Thus, for example, in the case of a contributory profit-sharing plan, the defined benefit plan may specify that the offset is limited to the vested portion of the account balance attributable to employer contributions as determined under the profit-sharing plan.

Rev. Rul. 69-502 is hereby superseded effective September 2, 1974.

