

## **Chapter 9**

### **Section 415(b) adjustments**

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### **Overall track of chapter**

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**Overview of  
chapter**

This chapter focuses on the GATT/SBJPA changes to section 415(b) of the Code. The chapter is broken into the following sections:

- Overview of the 415 adjustments (B, C and D), including background information on Pre GATT and SBJPA and GATT changes
  - Detailed Explanation of B, C and D adjustments after GATT
  - Required plan language
  - Effective dates/Transition rules
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*Chapter 9- Section 415(b) adjustments*

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## **Introduction**

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**Section 415(b)** Under EGTRRA, section 415(b)(1) provides the following limitations on defined benefit plans:

Benefits with respect to a participant exceed the limitation of this subsection if, when expressed as an annual benefit (within the meaning of paragraph (2)), such annual benefit is greater than the lesser of—

(A) \$ 160,000, or

(B) 100 percent of the participant's average compensation for his high 3 years.

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**Annual benefit defined under 415(b)(2)** Section 415(b)(2) of the Code defines the term “annual benefit” as a benefit payable annually in the form of a straight life annuity with no ancillary benefits. Thus, the limits of IRC 415(b) are expressed in terms of a straight life annuity.

Note that the benefits attributable to employee contributions, rollover contributions and assets transferred to another qualified plan are not taken into account for purposes of this limitation.

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**What is a straight life annuity?** It is the same amount paid at the same intervals (e.g. monthly or annually) over the remaining lifetime of an individual. Once the individual dies, payment stops.

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## Introduction, Continued

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### Types of adjustments

This chapter will be covering the adjustments made with respect to 415(b). These adjustments become necessary when:

- A participant's form of benefit is not a straight life annuity or
- A participant is not paid at social security retirement age.

Thus, there are **two types of adjustments**:

- Adjusting an optional form of benefit to an "equivalent straight life annuity", commonly referred to as the "form adjustment" or "B" adjustment.
  - Adjusting the 415-dollar limitation for benefits paid earlier or later than social security retirement age, commonly referred to as the "age adjustments" or "C" and "D" adjustments.
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## Assumptions

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### Introduction

To calculate:

- the participant's benefit to an equivalent straight life annuity (B adjustment) or
- adjust the IRC section 415 \$90,000 limitation for commencement of benefit payments before or after SSRA (C and D adjustments),

**actuarial assumptions** must be chosen. The choice of these assumptions can have a dramatic impact on these calculations.

The two assumptions that are used are the interest rate and a mortality table.

**Note to instructor:** compare role of interest rates on assumptions. The example should illustrate the adjustment to a single life annuity by picking a high and low interest rate. Suggestion - use examples out of Q&A 7 & 8 of Rev. Rul 98-1).

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## Assumptions, Continued

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### Effect of the interest rate choice

Understanding the impact of the interest rate will make it easier to understand the 415 adjustments. Without getting into specific calculations, use these “rules of thumb” to understand the importance of the interest rates:

The use of a **higher** interest rate will lower the underlying benefit for the B adjustment or the 415 limitation for the C and D adjustments.

The use of a **lower** interest rate will increase the underlying benefit for the B adjustment or the 415 limitation for the C and D adjustments.

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### Effect of mortality assumption

To calculate an equivalent benefit, a mortality assumption may be used. The mortality assumption (i.e. the mortality decrement) **reduces the equivalent benefit** by the probability that the participant would die before receiving the benefit. The employer choosing a mortality table implements the mortality assumption. If an employer chooses:

- An older mortality table, the life expectancies were lower, resulting in higher probability of death and a greater reduction of the benefit.
  - A recently issued mortality table, the life expectancies are higher, resulting in a lower probability of death and a lower reduction of the benefit.
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### GATT requires mortality table

GATT allows the Commissioner to require a certain mortality table. As will be explained below, the Commissioner does require certain mortality tables to be used when calculating the equivalent benefit under the rules as amended by GATT..

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### Mortality assumption is not used in all conversions

A mortality assumption does not have to be used if the benefit is not forfeited upon the death of the participant. Some plans provide that upon the death of the participant, the benefits remain with the participant’s beneficiaries.

As with a QJSA, which provides that upon death of the participant for benefits to continue for the life of the surviving spouse, no mortality decrement is taken into consideration. However, benefits will stop upon the death of the surviving spouse

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## Assumptions, Continued

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**Example-term certain feature, no forfeiture**

If there is a “term certain” feature, where payments are guaranteed for a certain period of time, benefits may extend beyond the life of the participant. For example, the benefit above, \$100 per month for life of the participant, guaranteed for 20 years, and \$50 per month for the life of the surviving spouse.

In this instance, the participant is guaranteed a benefit of \$100 per month for 20 years, even if the participant dies before the end of the 20-year period. This portion of the accrued benefit would not be reduced by a mortality assumption, since the employee will receive this portion whether or not the employee dies. Thus, a mortality decrement (decrease) from a mortality table cannot be used for this portion.

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**Once assumptions are chosen, the adjustment is calculated**

Once the assumptions are chosen, the adjustment is made to the participant’s benefit (under the B adjustment for optional forms of benefits) or the \$90,000 limitation (under the C and D adjustments for benefits paid earlier or later than social security retirement age). The adjusted benefit or adjusted limitation is then used to determine if the participant’s benefit provided by the plan exceeds the 415 limitation.

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**Role of section 415(b)(2)(E)-limiting the assumptions**

Because of the dramatic impact the choice of assumptions can have in determining the above adjustments, IRC section 415(b)(2)(E) provides certain **limits** on the actuarial assumptions that can be used by the plan.

Thus, IRC 415(b)(2)(E) requires that a plan use:

- a specific range of interest rates and
- specific mortality tables

when calculating the B adjustment (optional form of benefit) or C and D adjustment (adjusting the dollar limitation when benefits are not paid at social security retirement age).

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## Assumptions, Continued

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Set of assumptions are “compared”

As will be explained below, B, C or D adjustments are calculated using both the GATT assumptions and the plan’s assumptions. The set of assumptions that are required to be used are the following:

To convert to an equivalent straight life annuity (B adjustment), the set of assumptions that **produce the higher benefit** is used.

To adjust the 415 limitation (C and D adjustment), the set of assumptions **that produce the lower limitation** is used.

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## Overview of converting optional form – B adjustment and GATT changes

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Introduction

This section will give a summary of the basic requirements of the B, C and D adjustments, along with background information on the GATT changes.

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Required actuarial adjustment for optional forms of benefits-the “B” adjustment

Section 415(b)(2)(B) requires that an actuarial adjustment be made for certain forms of benefits other than a straight life annuity. If the benefit under the plan is payable in any form other than a straight life annuity, the determination as to whether the 415 limits are satisfied shall be made by **adjusting the participant’s benefit** so that the benefit is **equivalent to a straight life annuity**.

For purposes of this adjustment, any portion of any joint and survivor annuity, which constitutes a qualified joint and survivor annuity, shall not be taken into account.

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GATT changes to B adjustment

GATT changed the way section 415 limits are applied by requiring:

- certain interest rate assumptions, and
  - specific mortality tables.
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## Overview of converting optional form – B adjustment and GATT changes, Continued

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### **B adjustment— interest assumptions prior to GATT**

The requirements prior to the enactment of GATT were that for purposes of adjusting the B limitation (optional form of benefit), the interest rate assumption could not be less than the **greater of**:

- 5% or
- Rate specified by the plan.

Thus, the minimum rate that had to be used was 5%.

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### **GATT change- Linkage of 417(e)(3) interest rates for optional forms subject to 417(e)(3)**

GATT changed the interest rate with respect to an optional form of benefit subject to 417(e)(3). Thus, for **any form of benefit subject to 417(e)(3)**, the interest rate assumption used to adjust the optional form could not be less than the greater of:

- the applicable interest rate, which is the 30-year treasury rate, or
  - the rate used by the plan.
- 

### **B Adjustment- mortality assumption prior to GATT**

The mortality table used for adjustments under section 415(b)(2), including the B adjustment, is generally the table used for actuarial equivalence for the specific benefit form under the plan, but the plan could specify another reasonable mortality table for this purpose. Thus, prior to GATT there was no specific mortality table required for the B adjustment.

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## **Overview of converting optional form – B adjustment and GATT changes, Continued**

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**How the actuarial assumptions are chosen under GATT**

The interest and the mortality assumptions that the plan uses are not “directly” compared with the interest and mortality assumptions required by GATT. As stated above, each set of assumptions is first used to calculate the equivalent single life annuity.

The equivalent single life annuity calculated using the plan’s set of assumptions is compared with the equivalent single life annuity calculated using the required assumptions under GATT.

The highest equivalent single life annuity is then compared with the 415 limitations.

Thus, the set of mortality and interest assumptions that produce the highest single life annuity is used for purposes of the 415 limitations.

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## Overview of adjusting 415 limitation when benefits commence before SSRA – C and D adjustments

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**Background** Section 415(b)(2)(C) and (D) require that an actuarial adjustment be made to the dollar limitation of IRC 415(b)(1) if the benefit is paid at a time other than social security retirement age. The Tax Reform Act of 1986 (TRA '86) tied adjustments to the section 415(b) Defined Benefit dollar limitation for benefits commencing earlier or later than social security retirement age (“SSRA”), rather than to age 65 (and ages 62 and 55) as in effect under prior law.

Prior to TRA '86, early retirement adjustments were applicable only for ages under 62, and no adjustment was required for retirement between ages 62 and 65. These adjustments are further explained in Notice 87-21, 1987-1 C.B. 458. No adjustment is made to the high three-year average compensation limitation for early (or late) retirement.

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**How the C adjustment is made**

If retirement income benefits under a plan commence before a participant's SSRA, IRC section 415(b)(2)(C) requires an adjustment to be made to determine whether the benefits that are payable at the earlier age satisfy the 415 limits.

This determination is made **by reducing the 415 dollar limitation** so that the reduced 415 limitation (beginning when such retirement income benefit begins) is actuarially equivalent to a \$90,000 annual benefit beginning at the applicable SSRA.

The \$90,000 amount is, of course, adjusted as applicable under section 415(d).

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**Defining SSRA** Under Notice 87-21, social security retirement age is defined as follows:

- 65 for a participant born before 1-1-38 ;
- 66 for a participant born after 12-31-37 and before 1-1-55
- 67 for a participant born after 12-31-54.

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## Overview of adjusting 415 limitation when benefits commence before SSRA – C and D adjustments, Continued

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### There are 2 C adjustments

The two C adjustments are based on when the benefit begins.

- If the benefit begins before SSRA but **on or after age 62**, the first adjustment applies.
  - If the benefit begins **before age 62**, then the first **and** second adjustment applies.
- 

### First C adjustment

The first adjustment to the **415 dollar limitation** is a straight percentage for a number of months in accordance with section 216(l) of the Social Security Act and Notice 87-21. Note that this reduction only applies from **Social Security Retirement Age (“SSRA”) down to age 62**. **Note that GATT did not change this first adjustment.**

The adjustment to the dollar limit is as follows:

- 5/9 of 1% for the first 36 months
  - 5/12 of 1% for the next 24 months if the social security age is greater than 65.
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### EGTRRA eliminated the first adjustment

**For limitation years ending after 12-31-2001**, the 415 dollar limit will no longer be adjusted from SSRA, but will be reduced if benefits commence **prior to age 62** (the second adjustment).

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### Second C adjustment prior to GATT

If benefits commence prior to age 62, the 415 dollar limitation is further adjusted to an amount payable at the earlier age which is equivalent to the age 62 adjusted limitation, using the greater of:

- The plan rate for early retirement, or
- 5%.

The plan could use its mortality table used for early retirement, but another reasonable mortality table specified by the plan could be used. Thus, prior to GATT, there was no specific mortality table required for the C adjustment.

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## Overview of adjusting 415 limitation when benefits commence before SSRA – C and D adjustments, Continued

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### Second C adjustment after GATT and SBJPA changes

The GATT/SBJPA change to the second C adjustment is similar to the changes to the B adjustment. The actuarial adjustment to the 415 limitation is calculated using the following assumptions:

- 5% and the “applicable mortality table”, or
- the plan’s interest rate and mortality table.

The set of assumptions that are used is the set that produces the **smaller** dollar limit.

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### If benefits commence after SSRA-D adjustment

If the benefit begins **after** the social security retirement age, IRC section 415(b)(2)(D) requires the \$90,000 limitation to be **increased** so that such limitation equals an annual benefit, which is equivalent to a \$90,000 annual benefit beginning at the social security retirement age. However, the benefit payable must not exceed 100% of the participant's high three-year average compensation. No adjustment is made to the high three-year compensation limitation for late retirement.

As with the second C adjustment, the interest and mortality assumptions used for purposes of adjusting the dollar limitation where benefits commence after a participant's SSRA must satisfy the requirements of section 415(b)(2)(E).

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### Prior to GATT

Section 415(b)(2)(E) provided that for purposes of adjusting the dollar limitation for benefits commencing after the social security retirement age, the interest rate assumption shall be the lesser of 5% or the rate specified in the plan.

In determining actuarial equivalence for these purposes, a reasonable mortality table may be used to the extent that a forfeiture can occur on death between normal retirement age and the commencement of benefits. Thus, no required mortality table prior to GATT.

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## Overview of adjusting 415 limitation when benefits commence before SSRA – C and D adjustments, Continued

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**Mortality table not used if benefits are not forfeited**

If there is no forfeiture upon death, that is if the participant dies between SSRA and the date benefits actually commence and the benefits are not forfeited, the accumulation of value after social security retirement age but prior to the actual commencement of benefits must not reflect the mortality decrement (decrease)

This means that a mortality assumption is NOT used if benefits are not forfeited upon the death of the participant. (See IRC section 415(b)(2) and Q&A G-4 of Notice 83-10.)

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**D adjustment after GATT and SBJPA changes**

If benefits commence after SSRA, the 415 dollar limitation is adjusted to an amount payable at the later age which is equivalent to the age 65 limitation, using the lesser of :

- the plan rate and plan mortality used for late retirement benefits under the plan, or
  - 5 percent interest and the applicable mortality table,.
-

## **B adjustment – specific requirements for converting an optional form of benefit into an equivalent straight life annuity**

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### **Introduction**

As stated above, section 415(b)(2)(B) requires that benefits payable in a form other than a straight life annuity must be actuarially adjusted to an equivalent straight life annuity before applying the 415 limits. The actuarial adjustments are made using interest and mortality assumptions. Section 415(b)(2)(E) provides limits on the assumptions that can be chosen by the plan.

As will be explained below, the choice of interest assumptions will be based, in part, as to whether the optional form of benefit is subject to section 417(e)(3).

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### **Assumptions if benefit is subject to section 417(e)(3)**

For benefits subject to section 417(e)(3), the equivalent annual benefit is **the greater of the equivalent annual straight life annuity benefit** computed using the following assumptions:

- The “applicable interest rate” (30 year treasury rate) and the “applicable mortality table”, or
  - The plan interest rate and mortality table (used to determine actuarial equivalence under the plan for the form of benefit being paid).
- 

### **Assumptions if benefit not subject to section 417(e)(3)**

For benefits not subject to 417(e)(3), the equivalent annual benefit is the greater of the equivalent annual straight life annuity benefit computed using:

- 5% and the “applicable mortality table”, or
- the plan interest rate and the “applicable mortality table”

Note that GATT/SBJPA only required the applicable mortality table for these optional forms of benefit.

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## **Brief summary – section 417(e)**

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### **Introduction**

IRC section 417(e) provides for several requirements, such as providing:

1. the rules for determining the present value (lump sum value) of a straight life annuity or qualified joint and survivor annuity using an applicable mortality table and an applicable interest rate (section 417(e)(3)).
  2. restrictions on cash-outs, that is, if an annual benefit, converted to a lump sum, exceeds a certain amount, a participant has to consent before a lump sum distribution can be made.
  3. for the minimum amount that a participant must receive from the plan for certain optional forms of payment.
- 

### **Converting normal form of benefit**

As stated above, section 417(e)(3) provides the minimum requirements for converting a participant's normal form of benefit into another form of benefit that is subject to 417(e)(3). The actuarial assumptions of section 417(e)(3) that are used to convert the normal form of benefit are:

- the applicable interest rate and
- the applicable mortality table.

Please note that section 417(e)(3) does not prevent a plan from having more generous assumptions than those required by it. Section 417(e)(3) simply provides the minimum value that the participant must receive.

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### **Rationale for using 417(e)(3) assumptions for 415 purposes**

As stated above, optional forms of benefits were converted FROM a normal form of benefit based on the 417(e)(3) assumptions. Thus, to convert the optional form BACK to a straight life annuity, the 417(e)(3) assumptions are required to be used when determining whether the equivalent straight life annuity satisfies the 415 limitation.

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## Forms of benefit subject to 417(e)(3)

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### Defining optional forms of benefits

A DB plan normally expresses the retirement benefit it is providing in the form of a straight life annuity. For example, 5% of average comp for high 3 times years of service (YOS) for life.

If a participant elects to have the benefit paid in another form, this is considered to be an optional form of benefit. If a DB plan permits a lump sum optional form and a participant elects this form, an actuarial calculation will have to be done to compute its value based on the straight life annuity normal retirement provided by the plan.

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### Type of optional form is important for determining interest rate

As stated above, GATT changed the interest rate with respect to an optional form of benefit **subject to 417(e)(3)**. The interest rate required for this form of benefit is a 30 year Treasury Interest rate.

Thus, whether an optional form of benefit is subject to section 417(e)(3) is important for determining the amount which must be paid to the participant, subject to the 415 limits.

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### Benefits subject to 417(e)

Benefits subject to section 417(e)(3) include all forms of benefits except benefits payable in the form of an annual benefit for life. Such benefit **does not decrease** during the life of the participant (or in the case of a QPSA, the life of the participant's spouse).

Examples of optional forms of benefits that are not based on the life of an individual include (and therefore "subject to" 417(e)):

- Lump sum,
  - Decreasing annuities, or
  - Term certain annuities, which guarantee a payout for a specific number of years, but not for life.
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## Forms of benefit subject to 417(e)(3), Continued

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**Benefits not subject to section 417(e)**

Optional forms of benefits can be those forms of benefits that are based upon the life of a participant. These types of benefits are **NOT** subject to section 417(e) requirements.

For example, a married participant elects a single life annuity. Such a life annuity would be an optional form of benefit.

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**Another type of optional form-payable earlier than normal retirement age**

An optional form of benefit can also be the normal form of benefit paid earlier than normal retirement age.

For example, a qualified joint and survivor annuity payable at age 62. Even though the benefit is paid as a qualified joint and survivor annuity, the benefit is an optional form because the annuity starting date is prior to the participant reaching normal retirement age.

Please note that 415 adjusts the 415 limitation under the C and D adjustments to address this type of optional form of benefit.

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**Optional forms of benefits must be the actuarial equivalent of the normal form of benefit**

All optional forms of benefits must be the actuarial equivalent of the normal form of benefit distributed at normal retirement age. Depending upon the optional form of benefit selected by the participant, the requirements of IRC section 417(e)(3) may have to be followed.

For purposes of testing the optional form of benefit against the 415(b) limits, the optional form of benefit must be converted to the actuarial equivalent of a straight life annuity at benefit commencement age.

If the plan does not offer any optional forms of benefit (you can only get a benefit in a single life annuity, or if married, a QJSA/QPSA), then there will be no “form adjustment(s)” under 415(b).

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## Definitions of Applicable interest rate and applicable mortality table

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**Introduction** This section describes the definitions of applicable interest rate and applicable mortality table. As stated above, these definitions are important for the B, C and D adjustments.

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### Applicable interest rate

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**Determining the applicable interest rate-introduction** The "applicable interest rate" refers to the 30-year Treasury rate. Since this rate is a fluctuating rate, there is a particular method to lock in the rate to calculate the lump sum equivalent during a period, such as a plan year. Although the 30-year Treasury rates are no longer being issued, the IRS is still publishing the 30-year Treasury rates monthly.

The method to determine this rate is based on several definitions under Treas. Reg. Section 1.417(e)-1(d)(4), such as lookback month and stability period.

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**Definition of lookback month** **Lookback month** — the month chosen to determine the interest rate (which remains constant during the stability period). This month can be the first, second, third, fourth or fifth calendar month (or a combination for an average - see exception under 1.417(e)-1(d)(4)(iv)) which immediately precedes the stability period.

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## Applicable interest rate, Continued

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### Definition of stability period

**Stability period** — the period over which the interest rate for the lookback month is used to calculate each distribution commencing within such period (the period which contains the annuity starting dates).

For example, if the stability period is a plan year, the lookback month immediately preceding this plan year will determine the applicable interest rate used to calculate all single sum distributions for all participants within that plan year.

The stability period can be:

- 1 calendar month; or
- 1 calendar quarter; or
- 1 plan quarter; or
- 1 plan year; or
- 1 calendar year.

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### Example illustrating lookback month

The stability period is the calendar year. In 1998, there were 40 single sum distributions throughout the year. The lookback month chosen by the employer was the third calendar month immediately preceding the 1998 calendar year. Thus, the interest rate that is used to calculate the lump sums for all 1998 distributions would be the 30-year Treasury rate for October, 1997.

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### Plan requirements for applicable interest rate

The lookback month and stability period must be set forth in the plan. However the plan does not need to "define" each term. For example, the plan need not say, "the stability period is .... and the lookback month is ...", but rather can say "... the GATT interest rate shall mean the annual rate of interest on 30-year Treasury securities for the **month prior to the first day of the Plan Year that includes the date of distribution.**"

So in this example the stability period is the plan year; the lookback month is 1 month *immediately prior to the stability period*, so if the plan year was on a calendar basis, it would be December, and so the rate for December of the prior year, would be used.

**Note - the applicable interest rate for 415(b) purposes must be the same applicable interest rate used for 417(e)(3) purposes.**

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## **Applicable mortality table**

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**Mortality table  
prior to GATT**

Prior to GATT, there was no requirement to use a specific mortality table under either 415(b)(2) or 417(e)(3). A DB plan simply had to use a reasonable mortality table for these purposes.

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**B adjustment-  
mortality table-  
GATT changed  
the mortality  
table**

GATT now provides that the Commissioner require a specific mortality table, which is based on the prevailing insurance commissioner's standard table. Thus, the plan must use the "applicable mortality table", which is the 83 GAM table (blended 50% male, 50% female) as found in Rev. Rul. 95-6.

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**Mortality table  
for annuity  
starting dates  
on or after  
12-31-2002**

For Annuity Starting Dates beginning **on or after 12-31-2002**, the "Applicable Mortality Table" is the 1994 GAR Table projected to 2002, blended 50% unloaded male and 50% unloaded female mortality rates. See Revenue Ruling 2001-62.

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## **Plan language – overall 415 requirements**

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### **Introduction**

The following language was taken from The Defined Benefit List of Required Modifications, LRM 40. The LRM language will serve as an example of plan language necessary to satisfy the 415 requirements. Commentary will be provided to explain each provision. The LRM language will be broken up and analyzed to better illustrate the 415 requirements. The related worksheet questions and deficiency paragraphs will also be provided.

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### **Background of section 1, LRM 40**

The following LRM provisions cover definitions of:

- Annual benefit,
  - Maximum permissible amount,
  - Defined benefit compensation limitation, and
  - Defined Benefit dollar limitation.
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### **Comment - section 1.1 of LRM 40**

Section 1.1 that follows provides for the overall scheme of the 415 limitations by stating that the Annual Benefit (term to be defined) will not exceed the Maximum Permissible Benefit (the 415 limitations that will be defined). Immediately following this section will be the definitions that will help explain section 1.1.

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## Plan language – overall 415 requirements, Continued

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LRM - 415 plan language refers to an annual benefit

Section 1.1. The **Annual Benefit** otherwise payable to a participant at any time will not exceed the **Maximum Permissible Benefit**. If the benefit the participant would otherwise accrue in a Limitation Year would produce an Annual Benefit in excess of the Maximum Permissible Benefit, the benefit must be limited (or the rate of accrual reduced) to a benefit that does not exceed the Maximum Permissible Benefit.

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LRM definitions which provide for the 415 limitations - section 5, LRM 40

Section 5.11. **Maximum Permissible Benefit:** The lesser of the Defined Benefit Dollar Limitation or the Defined Benefit Compensation Limitation (both adjusted where required, as provided below).

Section 5.4. **Defined Benefit Compensation Limitation:** 100 percent of a participant's High Three-Year Average Compensation, payable in the form of a straight life annuity.

Section 5.5. **Defined Benefit Dollar Limitation:** \$90,000, automatically adjusted, effective January 1 of each year, under § 415(d) of the Internal Revenue Code in such manner as the Secretary shall prescribe, and payable in the form of a straight life annuity. The new limitation will apply to Limitation Years ending with or within the calendar year of the date of the adjustment.

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Worksheet 6 - Limitations on Benefits – Defined Benefit Plans Only, Section III. a.

a. Is the annual benefit to which any participant is entitled, during the limitation year, limited to the lesser of (i) 100% of the participant's average compensation for the high three years of service, or (ii) \$90,000 (or such larger amount as adjusted for cost-of-living increases pursuant to section 415(d))? [0621]

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*Continued on next page*

## Plan language – overall 415 requirements, Continued

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**Deficiency  
Paragraph 621**

Section \_\_\_\_\_ of the plan must provide that the annual benefit to which any participant may be entitled, in the form of a straight life annuity, shall not exceed the lesser of \$90,000 or 100 percent of the participant's high three year average compensation (or fewer, if the employee does not have three consecutive years). IRC sections 415(b)(1) and (2), 415(d); Regs. sections 1.415-3(a)(3) and (b).

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**LRM Plan  
Language -  
defining annual  
benefit**

Section 5.2. Annual Benefit: A benefit that is payable annually in the form of a straight life annuity.

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**Comment -  
annual benefit  
is a straight life  
annuity**

Note that the language above uses the definition of Annual Benefit to require that the participant's benefit that is compared with the 415 limitation is a straight life annuity. If the form of benefit is not a straight life annuity, the plan has to provide for adjustments to convert the benefit into an equivalent straight life annuity (see plan provision immediately below).

Thus, a benefit that is not a life annuity has to be adjusted to a life annuity before the section 415 limits can be applied. As stated above, the plan must provide that a participant's annual benefit, in the form of a straight life annuity, cannot exceed the 415 limitations, either the dollar amount or the compensation limit.

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**LRM - If  
benefit is not a  
straight life  
annuity**

Except as provided below, where a benefit is payable in a form **other than a straight life annuity**, the **benefit must be adjusted to an actuarially equivalent straight life annuity** before applying the limitations of this article.

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## Plan language – “B Adjustment” – converting an optional form of benefit to an equivalent straight life annuity

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**Introduction** The following LRM language will implement the GATT changes. However, if the plan delays implementation of the GATT requirements, the plan will be providing for an “old law benefit” etc. This will be explained later in the chapter.

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**LRM Plan language – B adjustment - converting optional form to single life annuity - not subject to 417(e)** Effective for limitation years beginning on or after January 1, 1995, **where a participant’s benefit must be adjusted to an actuarially equivalent straight life annuity**, the actuarially equivalent straight life annuity is equal to **the greater of the annuity benefit computed using**

the interest rate specified in section \_\_\_\_\_ of the plan and the mortality table (or other tabular factor) specified in section \_\_\_\_\_ of the plan, and

the annuity benefit computed using a 5 percent interest rate assumption and the applicable mortality table defined in section \_\_\_\_\_ of the plan.

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*Continued on next page*



## Plan language – “B Adjustment” – converting an optional form of benefit to an equivalent straight life annuity, Continued

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**Comment on  
above plan  
language**

The above language refers to the B adjustment for optional forms of benefits that are **not** subject to 417(e), i.e. those forms of payment that are based on the life of an individual.

With the language above, the plan provides that the interest rate and mortality table that is used is the rate and mortality table that produces the greater benefit.

Note that the “5% interest rate” is compared with the plan’s interest rate. As a rule of thumb, the lesser interest rate that is used will convert a benefit to a higher equivalent straight-life annuity benefit. In addition, with respect to the mortality table, the shorter life expectancy that is used will produce the greater benefit. Generally, the older mortality tables will produce the shorter life expectancies.

Also, note the effective date — for limitation years beginning on or after January 1, 1995 is the earliest GATT effective date. As will be explained later in this chapter, a plan can delay the GATT effective date and preserve the “old law benefit” which is the converted benefit that does not use the GATT assumptions.

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**Worksheet 6 -  
Limitations on  
Benefits –  
Defined Benefit  
Plans Only,  
Section III. c.**

c. If the plan provides for a retirement benefit which is payable in a form other than a straight life annuity, and the benefit is not subject to section 417(e)(3), is the benefit, for purposes of applying the limitation in III.a., adjusted to an actuarially equivalent straight life annuity that is equal to the greater of the equivalent annual benefit computed using the interest rate and mortality table (or other tabular factor) specified in the plan, and the equivalent annual benefit computed using an interest rate of 5 percent and the applicable mortality table under Rev. Rul. 95-6? [0651, 0652, 0653].

---

**Comments**

Question c. refers to the form adjustment of the benefit. The adjustment results in a “bigger benefit.”

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*Continued on next page*

## Plan language – “B Adjustment” – converting an optional form of benefit to an equivalent straight life annuity, Continued

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**Comment on the following plan language**

The following language requires the GATT assumptions for optional forms of benefits that are subject to section 417(e)(3). Thus, the interest assumption that is part of the GATT assumptions is changed from 5% to “the applicable interest rate”.

The first part of the LRM provision defines the optional form of benefit that is subject to 417(e)(3) as a form **other than** a life annuity form of benefit which would not be subject to section 417(e)(3)(this is “1” and “2”). Thus, the way this LRM provision works, if the particular benefit being converted is **NOT** 1 or 2, then the benefit is some form of a lump sum or term certain **that is subject to the 417(e)(3) requirements.**

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**LRM provision B adjustment for optional forms that are subject to 417(e)(3)**

In determining the actuarially equivalent straight life annuity for a benefit form **other than**

- (1) a nondecreasing annuity payable for a period of not less than the life of the participant (or, in the case of a qualified pre-retirement survivor annuity, the life of the surviving spouse), or
- (2) an annuity that decreases during the life of the participant merely because of
  - (a) the death of the survivor annuitant (but only if the reduction is not below 50% of the benefit payable before the death of the survivor annuitant), or
  - (b) the cessation or reduction of Social Security supplements or qualified disability payments (as defined in § 401(a)(11)),

**“the applicable interest rate”, as defined in section \_\_\_\_\_ of the plan, will be substituted for “a 5 percent interest rate assumption” in the preceding sentence.**

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*Continued on next page*

## Plan language – “B Adjustment” – converting an optional form of benefit to an equivalent straight life annuity, Continued

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### Comment on B adjustment for optional form

The “preceding sentence” referred to is the previous LRM language which provides for the plan’s rate or the 5% (see above). Thus, for benefits subject to 417(e), the term “applicable interest rate” replaces the term “5% interest rate assumption”, which has the effect of using the applicable interest rate as an assumption to convert the benefit to an equivalent single life annuity.

This portion of the LRM language simply replaces the 5% interest rate for the “applicable interest rate” if the optional form of benefit is **subject to section 417(e)(3)**, i.e. a “lump sum” or “term certain” benefit.

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### Worksheet 6 - Limitations on Benefits – Defined Benefit Plans Only, Section III. d.

d. If the plan provides for a retirement benefit which is payable in a form other than a straight life annuity, and the benefit is subject to section 417(e)(3), is the benefit, for purposes of applying the limitation in III.a., adjusted to an actuarially equivalent straight life annuity that is equal to the greater of the equivalent annual benefit computed using the interest rate and mortality table (or other tabular factor) specified in the plan, and the equivalent annual benefit computed using the 30-year Treasury security rate (the applicable rate) and the applicable mortality table under Rev. Rul. 95-6? [0651, 0652, 0653].

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### Comments

Question d. refers to the form adjustment of the benefit. The adjustment results in a “bigger benefit.”

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*Continued on next page*

**Plan language – “B Adjustment” – converting an optional form of benefit to an equivalent straight life annuity, Continued**

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**Alternative plan language for benefits subject to 417(e)**

Effective for limitation years beginning on or after January 1, 1995, for a benefit subject to section 417(e), **where a participant’s benefit must be adjusted to an actuarially equivalent straight life annuity**, the actuarially equivalent straight life annuity is equal to **the greater of the annuity benefit computed using**

the interest rate specified in section \_\_\_\_\_ of the plan and the mortality table (or other tabular factor) specified in section \_\_\_\_\_ of the plan, and

the annuity benefit computed using the **Applicable Interest Rate assumption** and the applicable mortality table defined in section \_\_\_\_\_ of the plan.

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**Commentary on above language**

The above language simply illustrates possible language for the adjustment of a benefit subject to section 417(e)(3) by specifying the particular GATT interest assumptions.

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**Plan language – “B Adjustment” – converting an optional form of benefit to an equivalent straight life annuity, Continued**

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**Defining applicable interest rate — LRM 42**

Section 2. The applicable interest rate is the rate of interest on 30-year Treasury securities as specified by the Commissioner for the lookback month for the stability period specified in the *adoption agreement*.

**Note – LRM makes reference to an adoption agreement ; if no adoption agreement is used, language must be revised slightly**

**The lookback month** applicable to the stability period is the first, second, third, fourth, or fifth calendar month **preceding the first day of the stability period**, as specified in section \_\_\_\_\_ of the *adoption agreement*.

**The stability period** is the successive period of one calendar month, one plan quarter, one calendar quarter, one plan year, or one calendar year, as specified in section \_\_\_\_\_ of the adoption agreement, that contains the annuity starting date for the distribution and for which the applicable interest rate remains constant.

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## **Second adjustment – 415(b)(2)(E) adjustment to dollar limitation – C and D Adjustments**

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**Background-  
Section 415(b)**

Section 415(b) prior to the enactment of EGTRRA provides that a plan may not provide a greater benefit than the lesser of:

- \$90,000 (indexed for inflation) or
- 100% of participant's average annual compensation for the high three years.

The benefit that is measured against these limitations is a straight life annuity payable at social security retirement age.

**EGTRRA increased** the section 415 limits applicable to a participant's benefits. For limitation years ending after 12-31-01, a participant's benefit cannot **exceed the lesser of—**

\$ 160,000, or

- 100 percent of the participant's average compensation for his high 3 years.

See the EGTRRA chapter for further details.

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## Section 415(b)(2)(C) adjustments – introduction

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### Recap and introduction

As stated above, there are two types of adjustments that need to be made to determine the limits under section 415(b):

- If a plan offers an optional form of benefit, (B adjustment) and
- If a participant’s benefit is payable before (C adjustment) or after the participant’s social security retirement age (D adjustment).

Once the adjustments are made, the participant’s “equivalent” annual benefit under the B adjustment (if applicable) is compared with the “adjusted 415(b) dollar limit” under the C or D adjustment (if applicable).

The section above explained the B limitation. This section will explain the C adjustments.

---

### Defining the C Adjustments

As stated above, the B adjustment applies the 415 limits by **converting a participant’s benefit** to an equivalent straight life annuity.

In contrast, the C and D adjustments **convert the 415(b)-dollar limitation** (the \$90,000 limitation, indexed for inflation) and compares that dollar limitation to participant’s straight life annuity. Thus, the 415(b)-dollar limitation is adjusted whenever the participant receives a benefit prior to or after the social security retirement age.

Pre-EGTRRA, there are two overall adjustments for the C adjustment (prior to Social Security Retirement Age):

1. **Pre-EGTRRA adjustment** - Benefits paid earlier than social security retirement age but after age 62
  2. Benefits paid before age 62.
- 

### What age is used to adjust the 415 limitation

The adjustments to the 415(b) dollar limit are based on the age of the participant at the time that the payment commences (annuity starting date)

Thus, if a participant is 61 at the time of the participant’s annuity starting date, the 415(b) dollar limitation must be adjusted from the social security retirement to age 61.

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## Section 415(b)(2)(C) adjustment — first adjustment to age 62 if benefit commences before social security retirement age

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**Pre EGTRRA-  
First  
adjustment  
under section  
415(b)(2)(C)**

The first adjustment to the **dollar limitation** is a straight percentage for a number of months in accordance with section 216(l) of the Social Security Act and Notice 87-21. Note that this reduction only applies from **Social Security Retirement Age (“SSRA”) down to age 62**. Note that GATT did not change this first adjustment.

---

**TRA 86  
language**

The adjustment to the dollar limit is as follows:

- 5/9 of 1% for the first 36 months
  - 5/12 of 1% for the next 24 months if the social security age is greater than 65. Remember, SSRA can be as high as age 67, thus the need for the extra 24 months reduction.
- 

**Example  
illustrating  
adjustment to  
age 62**

Assume that the participant’s social security retirement age is 66, and the participant wants a distribution in 1999 at age 62.

The 1999-dollar amount is \$130,000. The adjustment is as follows:

For the first 3 years, the adjustment is 20%, which is adjustment down for the first 36 months. The remaining year gets an adjustment of 5% (5/12 of 1% for 12 months).

So the 415(b) dollar limit is  $130,000 \times .75$  or \$97,500 at age 62.

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**Section 415(b)(2)(C) adjustment — first adjustment to age 62 if benefit commences before social security retirement age,**

Continued

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**LRM plan language-First "C" adjustment, commencing before SSRA but after age 62**

If the Annual Benefit of the participant commences before the participant's Social Security Retirement Age, **but on or after age 62**, the Defined Benefit Dollar Limitation (as reduced in (a) above, if necessary) shall be determined as follows:

- (i) **If a participant's Social Security Retirement Age is 65**, for benefits commencing on or after age 62, the Defined Benefit Dollar Limitation is reduced by  $\frac{5}{9}$  of one percent for each month by which benefits commence before the month in which the participant attains age 65.
  
- (ii) **If a participant's Social Security Retirement Age is greater than 65**, for benefits commencing on or after age 62, the Defined Benefit Dollar Limitation is reduced by
  - $\frac{5}{9}$  of one percent** for each of the first 36 months, and
  
  - $\frac{5}{12}$  of one percent** for each of the additional months (up to 24 months) by which benefits commence before the month of the participant's Social Security Retirement Age.

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*Continued on next page*

**Section 415(b)(2)(C) adjustment — first adjustment to age 62 if benefit commences before social security retirement age,**

Continued

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**Worksheet 6 -  
Limitations on  
Benefits –  
Defined Benefit  
Plans Only,  
Section III. e.**

e. If the plan provides a retirement benefit beginning at or after age 62, but before social security retirement age (SSRA), is the benefit limited to a \$90,000 (or the adjusted dollar limitation in Ill.a.) annual benefit reduced by:

(i) in the case of a participant whose SSRA is 65, 5/9 of 1% for each month by which benefits commence before the month in which the participant attains age 65, or

(ii) in the case of a participant whose SSRA is greater than 65, 5/9 of 1% for each of the first 36 months and 5/12 of 1% for each of the additional months (up to 24) by which benefits commence before the month in which the participant attains SSRA? [0656, 0657, 0658, 0659]

---

**Comments**

The reductions above were deleted pursuant to EGTRRA and may not be included in plans effective after December 31, 2001.

---

**EGTRRA  
eliminated the  
first adjustment**

**For limitation years ending after 12-31-2001**, the 415 dollar limit will no longer be adjusted from SSRA, but will be reduced **below age 62** (the second adjustment). See the EGTRRA chapter for further details.

---

## Section 415(b)(2)(C) second adjustment – adjustment if benefit commences before participant attains age 62

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### Second C adjustment

For purposes of adjusting the dollar limitation for a participant whose benefit is commencing prior to age 62, the process to adjust the dollar limitation is similar to the adjustment process to determine an equivalent single life annuity under the B adjustment. Thus, interest and mortality assumptions must be used. Such assumptions must satisfy the requirements of section 415(b)(2)(E).

As stated above, because of the dramatic impact the choice of assumptions can have in determining the above adjustments, section 415(b)(2)(E) provides certain **limits** on the actuarial assumptions that can be used by the plan.

Thus, 415(b)(2)(E) requires that a plan use:

- a specific range of interest rates and
- specific mortality tables

when calculating the B adjustment (optional form of benefit) or C and D adjustment (adjusting the dollar limitation when benefits are not paid at social security retirement age).

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### Contrasting the 415(b)(2)(B) adjustment with the 415(b)(2)(C) adjustment

As you may recall above, the B adjustment converted the participant's benefit to an equivalent straight life annuity. This adjustment used the 415(b)(2)(E) assumptions to produce the **larger benefit**.

The B adjustment converted the participant's benefit to an equivalent single life annuity by using the required assumptions under section 415(b)(2)(E). Note that the "applicable interest rate" was used instead of the 5% rate if the benefit was a lump sum benefit, i.e. a benefit subject to 417(e).

The C adjustment does not adjust the benefit, but adjusts the 415 dollar limitation. **The limits of section 415(b)(2)(E) for this adjustment require the plan to use those assumptions which produce the smaller dollar limit.**

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## Section 415(b)(2)(C) second adjustment – adjustment if benefit commences before participant attains age 62, Continued

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**Recap of which assumptions to use for the B and C adjustment**

Thus, if the plan needs to calculate both the B and C adjustments, different assumptions will be used because

- the B adjustment will use the set of assumptions to produce the greater benefit, (i.e smaller interest rate) and
  - the C adjustment will use the set of assumptions that will produce the lesser dollar limitation (i.e. larger interest rate).
- 

**Recap of C adjustment prior to GATT**

When benefits commenced prior to age 62, the 415 dollar limitation is adjusted to an amount payable at the earlier age which is equivalent to the age 62 limitation, using the greater of:

- The plan rate for early retirement, or
- 5%.

The plan could use its mortality table used for early retirement, but another reasonable mortality table specified by the plan could be used. Thus, prior to GATT, any reasonable mortality table could be used.

---

**If the plan uses a different set of assumptions to calculate the IRC 415(b) limit**

With GATT, for the first time, Congress required plans to use a specific interest rate and mortality table as the standard for calculating the 415(b) dollar limit for annuity starting dates that commence earlier than age 62. As a result, two calculations are necessary if the plan uses a different interest rate and different mortality table than those required by GATT to calculate the 415(b) dollar limit. The lesser dollar limit at the age of distribution would be used as required under Q&A 7 and Q&A 8 of Rev. Rul. 98-1. You may note that for Pre-GATT assumptions, there is no requirement to do two calculations if the plan uses different assumptions.

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*Continued on next page*

**Section 415(b)(2)(C) second adjustment – adjustment if benefit commences before participant attains age 62, Continued**

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**Recap of C adjustment after GATT and SBJPA changes**

Under GATT, as amended by SBJPA, the actuarial adjustment is calculated using the following set of assumptions whichever produces the **smaller** dollar limit:

- 5% and the “applicable mortality table”, or
  - the plan’s interest rate and mortality table.
- 

**What age is used to adjust the 415 limitation -**

The adjustments to the 415(b)-dollar limit are based on the age of the participant at the time the benefit payment commences. Thus, if a participant is 61 at the time the participant’s annuity starting date commences, the 415(b)-dollar limitation must be adjusted from the social security retirement to age 61.

---

**Defining the “Applicable Mortality Table”- annuity starting dates prior to age 62**

GATT and SBJPA changed the mortality assumption with respect to the adjustment for annuity starting dates commencing before the participant turns age 62.

- GATT/SBJBA requires plans to use the mortality table specified in Rev. Rul. 95-6, which is the 83 GAM blended 50% male and 50% female (“the applicable mortality table”).
  - Rev. Rul. 95-6 was replaced by 2001-62 (effective after 12-31-02) which is the 1994 GAR Table projected to 2002, blended 50% unloaded male and 50% unloaded female mortality rates.
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*Continued on next page*

**Section 415(b)(2)(C) second adjustment – adjustment if benefit commences before participant attains age 62, Continued**

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**Explanation of following plan language**

The following LRM plan language is broken up into three parts.

- The first part simply establishes that there is a reduction to the DB dollar limitation if benefit commence prior to age 62.
  - The second part provides for the actual GATT language on the assumptions that are used for adjusting the DB dollar limit,
  - The third part provides that the DB dollar limit shall not be reduced by a mortality factor if benefits are not forfeited upon the death of the participant.
- 

**LRM language - establishing the C adjustment - part 1**

If the benefit of a participant commences **prior to age 62**, the Defined Benefit Dollar Limitation applicable to the participant at such earlier age is an annual benefit payable in the form of a straight life annuity that is:

- the actuarial equivalent of the Defined Benefit Dollar Limitation for age 62, as determined above,
  - reduced for each month by which benefits commence before the month in which the participant attains age 62.
- 

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**Section 415(b)(2)(C) second adjustment – adjustment if benefit commences before participant attains age 62, Continued**

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**Specific GATT language for C adjustment - part 2**

Effective for Limitation Years beginning on or after January 1, 1995, the Defined Benefit Dollar Limitation applicable **at an age prior to age 62 is determined as the lesser of**

- the actuarial equivalent of the Defined Benefit Dollar Limitation for age 62 computed using the interest rate and mortality table (or other tabular factor) specified in section \_\_\_\_\_ of the plan, and
- the actuarial equivalent of the Defined Benefit Dollar Limitation for age 62 computed using a 5 percent interest rate and the applicable mortality table as defined in section \_\_\_\_\_ of the plan.

**(Note to reviewer: The 1st blank above should be filled in with the section number of the plan that specifies the actuarial equivalence factors to be used for early retirement purposes. The 2nd blank above should be filled in with the section number of the plan corresponding to section 3 of LRM #42.)**

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**Mortality table does not apply if the participant's benefit is not forfeited upon death - part 3**

Any decrease in the Defined Benefit Dollar Limitation determined in accordance with this provision (c) shall not reflect a mortality decrement if benefits are not forfeited upon the death of the participant. If any benefits are forfeited upon death, the full mortality decrement is taken into account.

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**Section 415(b)(2)(C) second adjustment – adjustment if benefit commences before participant attains age 62, Continued**

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EGTRRA  
§ 611(a)

3.2 Maximum permissible benefit: The "maximum permissible benefit" is the lesser of the defined benefit dollar limitation or the defined benefit compensation limitation (both adjusted where required, as provided in (a) and, if applicable, in (b) or (c) below).

(b) If the benefit of a participant begins prior to age 62, the defined benefit dollar limitation applicable to the participant at such earlier age is an annual benefit payable in the form of a straight life annuity beginning at the earlier age that is the actuarial equivalent of the defined benefit dollar limitation applicable to the participant at age 62 (adjusted under (a) above, if required). The defined benefit dollar limitation applicable at an age prior to age 62 is determined as the lesser of (i) the actuarial equivalent (at such age) of the defined benefit dollar limitation computed using the interest rate and mortality table (or other tabular factor) specified in section \_\_\_\_\_ of the plan and (ii) the actuarial equivalent (at such age) of the defined benefit dollar limitation computed using a 5 percent interest rate and the applicable mortality table as defined in section \_\_\_\_\_ of the plan. Any decrease in the defined benefit dollar limitation determined in accordance with this paragraph (b) shall not reflect a mortality decrement if benefits are not forfeited upon the death of the participant. If any benefits are forfeited upon death, the full mortality decrement is taken into account.

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**Section 415(b)(2)(C) second adjustment – adjustment if benefit commences before participant attains age 62, Continued**

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**Worksheet 6 -  
Limitations on  
Benefits –  
Defined Benefit  
Plans Only,  
Section III. f.**

f. If a plan provides a retirement benefit beginning before age 62, is the benefit limited to the reduced limitation for benefits commencing at age 62, calculated as provided in III.e. above, with the dollar limitation for benefits commencing at age 62 further reduced for each month by which benefits commence before the month in which the participant attains age 62 so that such limitation is the lesser of the equivalent amount computed using the interest rate and mortality table (or tabular factor) used in the plan for actuarial equivalence for early retirement benefits, and the amount computed using 5 percent interest and the applicable mortality table (to the extent that the mortality decrement is used prior to age 62), regardless of whether the benefit is or is not subject to section 417(e)(3)? [0656, 0657, 0658, 0659]

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**Comments**

Question f. refers to the 2<sup>nd</sup> part of the C adjustment

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**Deficiency  
Paragraph 656,  
657, 658, 659**

Where a retirement benefit is provided at or after age 62 but prior to the participant's social security retirement age (SSRA), then section \_\_\_\_\_ of the plan should provide that the benefit may not exceed an annual benefit of \$90,000 reduced by: (i) in the case of a participant whose SSRA is 65, 5/9 of 1% for each month by which benefits commence before the month in which the participant attains age 65, or (ii) in the case of a participant whose SSRA is greater than 65, 5/9 of 1 % for each of the first 36 months and 5/12 of 1% for each of the additional months (up to 24) by which benefits commence before the month in which the participant attains SSRA.

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**Section 415(b)(2)(C) second adjustment – adjustment if benefit commences before participant attains age 62, Continued**

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Deficiency  
Paragraph 656,  
657, 658, 659  
(continued)

If the benefit begins before age 62, the benefit must be limited to the actuarial equivalent of the participant's limitation for benefits commencing at age 62, with the reduced dollar limitation for such benefits further reduced for each month by which benefits commence before the month in which the participant attains age 62. Prior to the first day of the first limitation year beginning in 1995, in order to determine actuarial equivalence for this purpose, the interest rate assumption used by the plan may not be less than the greater of 5 percent or the rate specified in the plan for determining actuarial equivalence for early retirement. SSRA is age 65 if the participant was born before 1/1/38, age 66 if born before 1/1/55, and age 67 if born after 12/31/54. For limitation years beginning on or after January 1, 1995 (and for employers who have elected to treat these rules as in effect on or after December 8, 1994), if the benefit begins before age 62, the benefit may not exceed the lesser of the equivalent amount computed using the interest rate and mortality table (or tabular factor) used in the plan for actuarial equivalence for early retirement benefits, and the amount computed using 5 percent interest and the applicable mortality table (to the extent that the mortality decrement is used prior to age 62), regardless of whether the benefit is or is not subject to section 417(e)(3). IRC sections 415(b)(2)(C) and 415(b)(2)(E)(i), Regs. sections 1.415-3(e) and 1.415-3(b)(1)(i), Notice 83-10, 1983-1 C.B. 536 and Notice 87-21, Q&A 5,1987-1 C.B. 458, and Rev. Ruls. 95-6 and 98-1.

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## Section 415(b)(2)(D) – the D adjustment – adjustment if benefits commence after the participant’s social security retirement age

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**The 415(b) dollar limit adjusted actuarially for annuity starting date after SSRA.**

The same procedure used for the C adjustment is used for distributions after SSRA (i.e. the “D adjustment”). The plan would use the sets of actuarial assumptions to increase the 415(b) dollar limit to an amount at the later age that is actuarially equivalent to the defined benefit limit.

Therefore, for limitation years beginning on or after January 1, 1995, the adjusted 415(b) dollar limit is the lesser of the age adjusted limits calculated using:

- the plan’s stated interest and the plan’s mortality table, or
- 5% and the “applicable mortality table”

Like with the C adjustment, the lesser age adjusted dollar limitation is chosen from the two calculations.

Remember that the benefit payable must not exceed 100% of the participant’s high three-year average compensation as well.

---

**LRM 40**

Under Section 5.11 Maximum Permissible Benefit:

(d) If the benefit of a participant commences after the participant's Social Security Retirement Age, the Defined Benefit Dollar Limitation applicable to the participant at the later age is the annual benefit payable in the form of a straight life annuity commencing at the later age that is actuarially equivalent to the Defined Benefit Dollar Limitation applicable to the participant (adjusted under (a) above, if necessary) at the participant's Social Security Retirement Age.

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**Section 415(b)(2)(D) – the D adjustment – adjustment if benefits commence after the participant’s social security retirement age, Continued**

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**LRM 40**  
(continued)

Effective for Limitation Years beginning on or after January 1, 1995, the actuarial equivalent of the Defined Benefit Dollar Limitation at the participant’s Social Security Retirement Age is determined as the lesser of the actuarial equivalent of the Defined Benefit Dollar Limitation at the participant’s Social Security Retirement Age computed using the interest rate and mortality table (or other tabular factor) specified in section of the plan, and the actuarial equivalent of the Defined Benefit Dollar Limitation at the participant’s Social Security Retirement Age computed using a 5 percent interest rate assumption and the applicable mortality table as defined in section of the plan. For these purposes, mortality between a participant’s Social Security Retirement Age and the age at which benefits commence must be ignored.

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*Continued on next page*

**Section 415(b)(2)(D) – the D adjustment – adjustment if benefits commence after the participant’s social security retirement age, Continued**

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**EGTRRA  
§ 611(a)**

3.2 Maximum permissible benefit: The “maximum permissible benefit” is the lesser of the defined benefit dollar limitation or the defined benefit compensation limitation (both adjusted where required, as provided in (a) and, if applicable, in (b) or (c) below).

(c) If the benefit of a participant begins after the participant attains age 65, the defined benefit dollar limitation applicable to the participant at the later age is the annual benefit payable in the form of a straight life annuity beginning at the later age that is actuarially equivalent to the defined benefit dollar limitation applicable to the participant at age 65 (adjusted under (a) above, if required). The actuarial equivalent of the defined benefit dollar limitation applicable at an age after age 65 is determined as (i) the lesser of the actuarial equivalent (at such age) of the defined benefit dollar limitation computed using the interest rate and mortality table (or other tabular factor) specified in section \_\_\_\_\_ of the plan and (ii) the actuarial equivalent (at such age) of the defined benefit dollar limitation computed using a 5 percent interest rate assumption and the applicable mortality table as defined in section \_\_\_\_\_ of the plan. For these purposes, mortality between age 65 and the age at which benefits commence shall be ignored.

---

**Impact on first  
adjustment by  
EGTRRA**

Above age 65 the limit is increased using 5% and the applicable mortality table or the plan’s assumptions, whichever produces the smaller dollar increase. (EGTRRA P.L. 107-16, Sec. 611)

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*Continued on next page*

**Section 415(b)(2)(D) – the D adjustment – adjustment if benefits commence after the participant’s social security retirement age, Continued**

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**Worksheet 6 -  
Limitations on  
Benefits –  
Defined Benefit  
Plans Only,  
Section III. g.**

g. If the retirement benefit under the plan may begin after SSRA, does the plan provide for an increase in the maximum dollar limitation on benefits that is the lesser of the equivalent amount computed using the interest rate and mortality table (or tabular factor) used in the plan for actuarial equivalence for late retirement benefits, and the amount computed using the 5 percent interest and the applicable mortality table, regardless of whether the benefit is or is not subject to section 417(e)(3)? Note: A plan is not required to provide this increased maximum dollar benefit. [0660, 0661].

---

**Deficiency  
Paragraph 660,  
661**

If the benefit under the plan commences after social security retirement age (SSRA), the plan may provide for an increase in the maximum dollar limitation on such benefit to an amount that is actuarially equivalent to the maximum dollar limitation on a benefit commencing at SSRA. The increased maximum benefit, however, must not exceed 100 percent of the participant's high 3 year average compensation. The maximum dollar limitation on benefits is the lesser of the equivalent amount computed using the interest rate and mortality table (or tabular factor) used in the plan for actuarial equivalence for late retirement benefits, and the amount computed using 5 percent interest and the applicable mortality table, regardless of whether the benefit is or is not subject to section 417(e)(3). Section \_\_\_\_\_ of the plan should be amended accordingly. IRC sections 415(b)(2)(D) and 415(b)(2)(E)(ii), Notice 83-10, G-4, 1983-1 C.B. 536 and Notice 87-21, Q&As 4 and 5, 1987-1 C.B. 458, and Rev. Ruls. 95-6 and 98-1.

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## Transition rules for GATT and SBJPA changes

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**Introduction** This section provides an overview of the transition rules, and then provides specific transition rules with respect to the B, C and D adjustments. The transition rules allow a plan to protect what is commonly referred to as an “old law benefit” (defined later).

---

**Transition rules - plan in existence on 12-7-94** As covered above, GATT changed the assumptions that plans are to use with respect to 415(b) and 417(e). These changes must be specified by the plan.

When SBJPA was enacted in 1996 it changed when the GATT rules of 1994 had to be applied from 1995 to 2000 and slightly modified the GATT rules. The choice to delay the implementation out to 2000 is only available for plan in existence on 12-7-94.

If the plan was in existence at the time that GATT was enacted (12-7-94), such a plan had a choice as to when to implement the GATT assumptions as amended by SBJPA. The plan could either:

1. **apply** the new GATT requirements to **all benefits** under the plan as of the GATT effective date.
2. **delay** the implementation date of the new GATT requirements regarding GATT/SBJPA 415(b) assumptions. In other words, a plan in existence on 12-7-94 could choose to transition into the GATT rules and protect an accrued benefit under the pre-GATT rules through the 1999 limitation year.

Plans that incorporate 415 by reference would be required to apply the GATT requirements as of the GATT effective date to all benefits (first option).

---

**Why delay??** A DB plan would choose this option because it had participants with accrued benefits as of the effective date of the GATT changes that were limited by IRC 415. If the plan did not choose to protect these participants’ accrued benefits under the pre-GATT rules, their accrued benefits would suddenly decrease in value due to the implementation of the GATT 415 changes (with no 411(d)(6) violation).

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*Continued on next page*

## Transition rules for GATT and SBJPA changes, Continued

---

**How can you reduce without violating 411(d)(6)?**

NO violation of IRC section 411(d)(6) is considered to have occurred due to a provision under GATT, specifically section 767(d)(2) of RPA '94. (Note, RPA '94 is considered part of GATT).

Section 767(d)(2) states that “a participant’s accrued benefit is not considered to be reduced in violation of IRC 411(d)(6) merely because the plan is amended to apply the GATT changes to IRC 415(b)(2)(E)”.

---

**Plans choosing to immediately apply GATT changes**

**A plan can choose to apply the GATT changes to IRC section 415 to** benefits accrued both before and after the GATT effective date. This means that the new GATT assumptions would apply to benefits accrued both before and after 1995.

---

**Delaying implementation of the GATT changes**

Plans that delay the implementation of GATT changes are protecting some portion of a participant’s benefit under section 411(d)(6). These benefits are “protected” by using the Pre-GATT assumptions with respect to benefits that accrued on or before the date the GATT changes are implemented. As stated above, only those plans in existence as of 12-7-94 can delay GATT implementation. (This is what is commonly referred to as an Option II plan or an “old law benefit” plan).

If the employer elects to delay the GATT changes after the GATT effective date, the old 415 assumptions (those that would be used under plan terms as in effect immediately prior to GATT) produce the “old law benefit” as of the “freeze date” under Rev. Rul. 98-1.

The implementation date **must be no later than** the first day of the limitation year beginning after 12-31-99. Thus, the GATT assumptions must be implemented by the first day of the 2000 limitation year.

The 2000 limitation year is the latest that such plans can implement the GATT amendments. Thus, Plans can adopt the GATT amendments **any time** between the 1996 limitation year and the 2000 limitation year. The plan must implement the GATT changes **no later** than the 2000 limitation year.

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*Continued on next page*



## Transition rules for GATT and SBJPA changes, Continued

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**For plans not in existence on 12-7-94** For plans **not in existence on 12-7-94** (plans first effective after that date), the GATT assumptions have to apply for plan limitation years beginning after 12-31-94 (i.e. for the 1995 limitation year) or such later year as the plan first becomes effective..

---

## Plan that delays implementation of GATT assumptions — description of amendments

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**Introduction** As stated above, plans in existence on 12-7-94 have the option of delaying the implementation of the GATT assumptions.

By delaying the GATT assumptions, the plan uses the Pre-GATT assumptions on those benefits accrued prior to the final implementation of the GATT assumptions. The Pre-GATT assumptions are the assumptions that would have been used under plan terms that were in effect prior to the changes made by GATT.

This section describes how the plan provides for the Pre-GATT assumptions, including specific amendments that provide the following requirements.

Preserving the Pre-GATT assumptions is simply an application of the Fresh Start principles. As explained below, the freeze date for the benefits accrued up to the implementation of the GATT assumptions is really the Fresh Start date. The benefits accrued up to the freeze date are the benefits to which one of the fresh start methods are utilized.

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*Continued on next page*

## Plan that delays implementation of GATT assumptions — description of amendments, Continued

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**Required plan term-defining “Freeze Date”**

The employer may amend the plan to provide that the GATT assumptions will not be made effective for benefits accrued by a participant until the date specified in the plan amendment (commonly referred to as “Option 2).

Therefore, the old law or Pre-GATT assumptions would apply for the benefits accrued as of this date. This date is defined in Q&A – 13, Q&A – 22 of Rev. Rul. 98-1 as the date as of which the old law benefit is determined. This is the “freeze date”.

**The plan must state that the 415(b)(2)(E) changes will be applied to benefits accruing after such freeze date, but not to benefits accruing on or before such date.**

---

**Required plan term – “old law benefits”**

Old Law Benefits (see Q&A – 13 of Rev. Rul. 98-1) – which is the accrued benefit to which the GATT changes will not apply, i.e. the benefit accrued prior to the implementation of the GATT assumptions. **The plan must specifically define this term.**

---

**Required plan term – “final implementation date”**

Final Implementation Date (Q&A – 12) is the date as of which the section 415(b)(2)(E) GATT changes are fully applicable to all new benefit accruals for all participants under the plan.

---

**Required plan language-specify method of applying 415(b) limitation**

Method for applying the section 415(b) Limitation (see Q&A – 14 of Rev. Rul. 98-1 below) – the method by which section 415(b) is applied to a participant’s total plan benefit.

There are 3 methods: "sum-of", "wear-away" or "extended wear-away".

Plan amendments must be specific as to the method that will be used for any participant; the plan cannot simply reference one of the methods in the revenue ruling.

Different freeze dates may be used for different participants, but this would be a benefit, right or feature (BRF - Demo 3) under Treas. Reg. 1.401(a)(4)-4.

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## Impact of Law Changes on Determination Worksheets

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### Background

Several sections of Worksheets 6 and 2A have been affected by law changes. The completion of these worksheets is complicated by their expression of Code requirements in terminology differing from that usually found in plan language. The specialist must recognize the ideas reflected in the worksheet terminology so they can then be sought in plan documents.

Although some of the following material may have been covered above, this part of the chapter focuses solely on the worksheets.

---

### THE IDEA

When implementing a change in interest rate and mortality assumptions, a problem arises with respect to calculating the benefit that has already accrued prior to the adoption of these assumptions

---

### Time Line

\_\_\_\_\_ • \_\_\_\_\_  
Period of accrual under prior law     $\wedge$     Period of accrual under new law  
New  
Assumptions

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## Definitions

---

**Introduction** To understand the timeline below, the following definitions should be understood:

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**Old-Law Benefit** The period of accrual under the prior law is referred to as the **OLD-LAW BENEFIT**.

**OLD-LAW BENEFITS** are the benefits to which the changes are not applied.

---

**Final Implementation Date** The date the new assumptions are implemented is the **FINAL IMPLEMENTATION DATE**. It is the earlier of (1) the later of the date a plan amendment applying the changes is adopted or made effective, or (ii) the first day of the first limitation year beginning after December 31, 1999. ◀

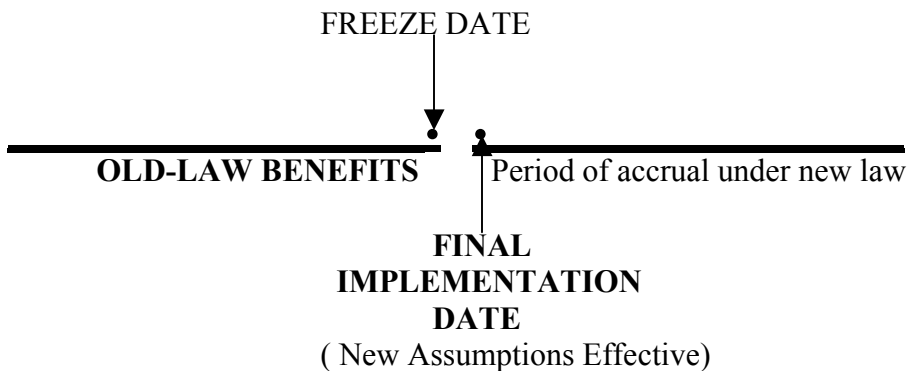
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**Freeze Date** The **FREEZE DATE** is the date specified in the plan for the determination of the **OLD-LAW BENEFIT**, and is before the **FINAL IMPLEMENTATION DATE**.

The plan may provide that the freeze date for all participants is the day before the final implementation date for the plan. Alternatively, the plan may specify an earlier date as the freeze date for some or all participants.

---

**Integrating concepts into the Time Line** Applying these terms to the ideas previously discussed , our time line becomes:



## Worksheet 6

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### Introduction

Having identified the ideas involved in the interest and mortality table assumptions impacting IRC Section 415(b), we now turn to the worksheets to see how these factors are reflected in the review of a plan document.

---

### Plans in Existence on December 7, 1994. Section VI. a.

- a. If this is a pre-RPA '94 defined benefit plan, did it satisfy the limitations of section 415 prior to amendment by RPA '94 and SBJPA '96? [0647]?

**Comment:** The initial question above keys on whether or not the plan satisfied the requirements prior to amendment for the new assumptions. Citation of a prior DL, amendment, resolution would generally suffice. This is an additional requirement to the plan's ability to protect an old law benefit. If the plan did not satisfy the pre-GATT (i.e. TRA '86) 415 requirements, it is not entitled to protect an old law benefit.

---

### VI b, Plans in Existence on December 7, 1994.

- b. If this is a pre-RPA '94 defined benefit plan, does it provide that the **new interest rate and mortality table** required under section 415(b)(2)(E) as amended by RPA '94 and SBJPA '96 **will not apply to** a participant's **accrued benefit** (including any annuity starting date or optional benefit form) determined in accordance with the terms of the plan as in effect as of a specified date(s) (**freeze date(s)**)? [0648]

**Comment:** Question b **notes** the presence of the **new interest rate and mortality assumption**, and observes that **they would not be applicable** to what we have learned is called the **OLD-LAW BENEFIT**.

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*Continued on next page*

**Worksheet 6, Continued**

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**VI (c)- Plans in Existence on December 7, 1994**

- c. Is the accrued benefit under VI.b. determined after applying section 415 as in effect on December 7, 1994, including the participation requirements of section 415(b)(5), and without taking into account increases in the dollar limitation (for defined benefit plans) that become effective after the freeze date?

Comment: Question c refers to the **OLD-LAW BENEFIT** of question b, and indicates that COL adjustments to the dollar limitation after the **FREEZE DATE** should not be applicable.

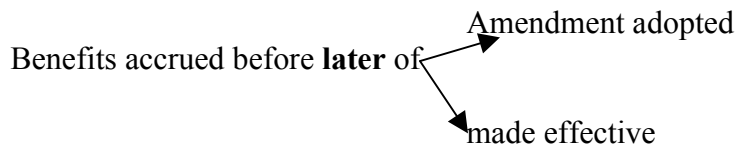
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**SBJPA-when GATT amendments must be made**

SBJPA provided that plans adopted and in effect before December 8, 1994 are not required to apply the provisions of section 767 with respect to benefits accrued before the later of:

- the date a plan amendment applying the amendments is adopted or made effective, BUT
  - not later than the first day of the first limitation year beginning after 1999.
- 

**Diagram**



but **not later than 2000 limitation year.**

---

**VI. (d) Plans in Existence on December 7, 1994**

- d. Is the freeze date under the plan a date (or dates) that is not later than the day before the earlier of (1) the later of the date a plan amendment is adopted or made effective, and (2) the first day of the first limitation year beginning in 2000?
- 

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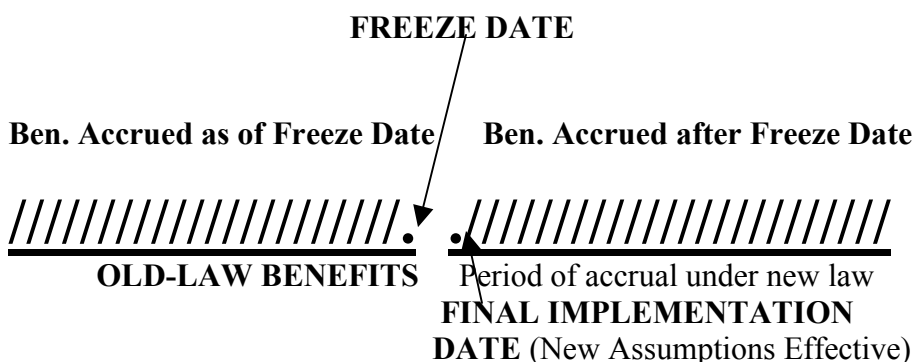
Worksheet 6, Continued

VI (e)(i)- Plans in Existence on December 7, 1994

- e. Is section 415(b) applied to benefits under the plan using one of the following three general methods:
- i. If the plan provides a retirement benefit that is not payable in the form of a straight life annuity, is the equivalent annual benefit **computed separately** with respect to
    - 1) benefits accrued as of the date specified in VI.b. above, and
    - 2) the portion of the total plan benefit, if any, that exceeds the benefits accrued as of the date specified in VI.b. above,

and is the accrued benefit after limitation by section 415 not less than the accrued benefit as of the freeze date (limited to the extent required under Q&A-15 of Rev. Rul. 98-1)?

Time-line-Diagram



Section VI. e. (ii)

- ii. If the plan provides a retirement benefit that is not payable in the form of a straight life annuity, is the equivalent annual benefit computed **with respect to the total plan benefit, using the new interest rate and mortality table** required under section 415(b)(2)(E) as amended by RPA '94 and SBJPA '96, **and** is the **accrued benefit** after limitation by section 415 **not less than the accrued benefit as of the freeze date** (limited to the extent required under Q&A-15 of Rev. Rul. 98-1)?

Continued on next page

**Worksheet 6, Continued**

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Section VI. e.  
(iii)

iii. Does the plan limit benefits only to the extent necessary to satisfy VI.e.(i) or VI.e.(ii) above? [0649]

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Section VI. f.  
Plans in  
Existence on  
December 7,  
1994

f. If VI.b. is "Yes," are determinations under section 415(b) that are made **before** the date in VI.d., above, **and that are made with respect to the benefit accrued as of the freeze date**, based on the plan rate and plan mortality table under the provisions of the plan, and section 415(b)(2)(E), in effect on December 7, 1994? [0649]

Comment: "Attacking" this paragraph in segments, we note that "If Part VI.b. is "Yes," refers to the **OLD-LAW BENEFIT**. What is being asked is whether the **OLD-LAW BENEFIT** is being determined by applying the interest rate and mortality table assumptions in effect on December 7, 1994?

---

Section VI. g.  
Plans in  
Existence on  
December 7,  
1994.

g. If VI.b. is "Yes," are determinations under section 415(b) that are made **before** the date in VI.d. above, **and that are made with respect to the portion of the total plan benefit, if any, that exceeds the benefits accrued as of the freeze date**, based on the plan rate and plan mortality table under the provisions of the plan in effect on the date of determination and in accordance with the changes made to section 415(b)(2)(E) by RPA '94 and SBJPA '96? [0649]

Comment: the question refers to the option of applying the new assumptions to the benefit before the FREEZE DATE as well as any subsequent accruals, thus affecting **the total plan benefit**.

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*Continued on next page*



**Worksheet 6, Continued**

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Section VI. h.–  
Plans in  
Existence on  
December 7,  
1994.

- h. Does the plan preclude increases in the frozen accrued benefit described in VI.b., above? [0650]

Comment: The phrase “frozen accrued benefit” **does not appear** in Part VIb. The wording of the question alludes to the idea that the **OLD-LAW BENEFIT** will not increase since it is defined by a fixed time period and utilized actuarial assumptions existing as of the **FREEZE DATE**.

It is possible that the **OLD-LAW BENEFIT** could be reduced when the benefit is determined after the **FREEZE DATE** due to changes in plan terms occurring after December 7, 1994, or if the total plan benefit prior to applying the 415(b)(2)(E) changes made by RPA '94 and SBJPA '96 is smaller.

Sections 415(b)(2)(C) and (D) require that, if a benefit is payable beginning at an age other than the participant's social security retirement age (SSRA), the section 415(b) dollar limitation at that age equals the annual benefit that is actuarially equivalent to the section 415 dollar limitation at the participant's SSRA.

---

## Worksheet 2A, Cash outs and Immediate Distributions, Section V

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**Introduction-  
Correlation of  
415(b)(2)(E) &  
417(e)(3)**

Note, the following deals with IRC section 417(e)(3) requirements, since the terminology used under section 417(e)(3) applies to IRC section 415(b)(2)(E) and must be identical (i.e. same stability period, lookback month, etc.

Remember, when you review a plan for compliance under IRC section 415(b)(2)(E), you must look to the plan's definition of "actuarial equivalence" (which is where 417(e)(3) language is usually found) to verify the terms are the same.

---

**Section V. i.**

- i. If the plan uses an interest rate in addition to the section 417 rate, does it provide that the present value of vested accrued benefits and the amount of distributions will be determined using the rate which results in the greatest benefit? [2040]

Comment: The plan must provide that in determining the present value of accrued benefits and distributions, it will use the rate that will produce the greatest benefit. This may mean applying the section 417 interest rates to certain options for certain participants and applying another plan rate to those options for other participants.

---

**V. j.**

- j. Does the plan satisfy the section 417 interest and mortality table limitations as amended by section 767 of RPA '94? [2043, 2044]

The Instructions to Worksheet 2A document 6390) were last revised in December 1998

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*Continued on next page*

## Worksheet 2A, Cash outs and Immediate Distributions, Section V, Continued

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**Plan must specify interest and mortality**

The plan must specify the interest rate and mortality table used in determining the present value of accrued benefits and the amount of any distribution. The terms “**applicable interest rate**” and “**applicable mortality table**” were created by Section 767 of the Retirement Protection Act of 1994 (RPA '94).

Note- LRM for this language can be found earlier in this chapter.

---

**Applicable interest rate**

The **applicable interest rate** for a month is the annual interest rate on 30-year Treasury securities.

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**Applicable mortality table**

The **applicable mortality table** is set forth in Rev. Rul. 2001-62. This table is effective for distributions with annuity starting dates on or after December 31, 2002, except that a plan **may specify** any earlier date during calendar year 2002. The effective date for the required use is referred to as the plan's 94 GAR effective date. The last day by which a plan may be amended to comply with Rev. Rul. 2001-62 is the last day of the plan year that contains the plan's 94 GAR effective date.

---

**Whether plan amendment violates Section 411(d)(6)**

A plan amendment will not violate section 411(d)(6)(b) solely because of a reduction in any annuity distribution if the cause of such reduction is the substitution of the table in Rev. Rul 2001-62 for the table in Rev. Rul 95-6. Plans may **incorporate the mortality table by reference** to Rev. Rul 2001-62.

---

**Plan can use another interest and mortality factor**

If a plan uses an interest rate or a mortality table **other than** the **applicable interest rate** and the **applicable mortality table**, then, for purposes of determining the amount of a distribution in a form other than an annual benefit, actuarial equivalence must be determined on the basis of the **applicable mortality table** and **applicable interest rate** under section 417(e), **if it produces a greater benefit**.

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## Worksheet 2A, Cash outs and Immediate Distributions, Section V, Continued

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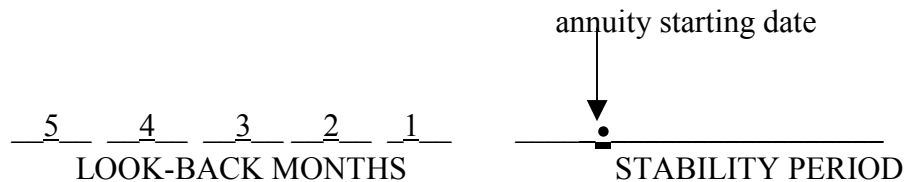
- Section V. k**      k. Does the plan define the stability period and look-back period used to determine the section 417 interest rate limitation? [2045]
- 

**Determining  
the applicable  
interest rate-  
THE IDEA:**

Whenever we seek to determine the applicable interest rate to be used to calculate the amount of a distribution, we must deal with the fact that interest rates change over periods of time. The applicable interest rate would be the one associated with the period containing the annuity starting date for the distribution. This interest rate may be the 30-year Treasury securities rate for any one of the five preceding calendar months.

The period for which the interest rate remains constant is known as the **STABILITY PERIOD**. This period may be a calendar month, a plan quarter, a calendar quarter, a plan year, or a calendar year. The relevant **STABILITY PERIOD** contains the annuity starting date.

The applicable interest rate for the **STABILITY PERIOD** may be the 30-year Treasury rate for any one of the five calendar months preceding the first day of the **STABILITY PERIOD**.



Alternatively, the plan may use an average of applicable interest rates based on two or more consecutive permitted **LOOK-BACK MONTHS**.

---

- Section V. l.**      l. If the plan uses an interest rate or mortality table in addition to the section 417 rate, does it provide that the present value of vested accrued benefits and the amount of distributions will be determined using the rate which results in the greater benefit? [2046]
-

## Q&A 14 – from Rev. Rul. 98-1

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### Q&A 14- Introduction

Q-14. How are the § 415(b) limitations applied to a benefit under a defined benefit plan if the § 415(b) (2) (E) changes are not applied to the old-law benefits?

A-14. If the § 415(b) (2) (E) changes are not applied to old-law benefits, the plan can apply the § 415(b) limitations using one of three methods as outlined below. The plan must specify which of the three methods is being used.

---

### Method 1

Under this method, the plan applies the § 415(b) limitations using the steps in Q&A-7, and, if applicable, Q&A-8, except that, if the benefit is not payable in the form of an annual benefit within the meaning of § 415(b) (2) (A), the equivalent annual benefit determined in Step 1 is computed separately with respect to the old-law benefit (not to exceed the total plan benefit) and the portion of the total plan benefit that exceeds the old-law benefit. The annual benefit that is equivalent to the old-law benefit is determined in accordance with § 415(b) (2) (E) as in effect on December 7, 1994. The determination of the annual benefit that is equivalent to the portion of the plan benefit that is in excess of the old-law benefit must reflect the § 415(b) (2) (E) changes. The results of these two separate computations are added together to determine the equivalent annual benefit, which is then used in the remaining steps in Q&A-7.

In accordance with § 767(d) (3) (A) as amended by SBJPA, if the determination is being made before the final implementation date, then the plan rate and plan mortality table used to determine the annual benefit that is equivalent to the old-law benefit are based on the plan provisions in effect on December 7, 1994. By contrast, if the determination is being made on or after the final implementation date, then the plan rate and plan mortality table used to determine the annual benefit that is equivalent to the old-law benefit are based on the plan provisions in effect on the date of determination.

In some cases, the use of the applicable mortality table in adjusting the § 415(b) dollar limitation under § 415(b) (2) (C) or (D) can result in an age-adjusted dollar limit lower than the age-adjusted dollar limit used in determining the old-law benefit. A plan using Method 1 may provide that in any event the participant will receive no less than the old-law benefit, limited to the extent required under Q&A-15.

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**Q&A 14 – from Rev. Rul. 98-1, Continued**

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**Method 2** Under this method, the plan applies the § 415(b) limitations, using the steps in Q&A-7 and, if applicable, Q&A-8, to the total plan benefit, but provides that in any event the participant will receive no less than the old-law benefit, limited to the extent required under Q&A-15.

---

**Method 3** Under this method, the plan applies the § 415(b) limitations by limiting a benefit only to the extent needed to satisfy either Method 1 or Method 2 described above.

---

**Examples** The following examples illustrate the application of Method 1, Method 2, and Method 3, respectively, of this Q&A-14.

---

**Example 1-facts** The facts with respect to Plan B and Participant N are as described in the example under Q&A-13. In addition, before applying § 415 under the plan, N's total single-sum benefit payable at age 60 under Plan B is \$ 950,000. This amount is the present value of N's straight life annuity benefit commencing under Plan B at age 60 and computed using the PBGC immediate rate of 6 percent and UP-1984 Mortality Table. The applicable interest rate under § 417(e) (3) and Plan B is 8 percent.

Plan B provides that the § 415(b) (2) (E) changes will not apply to benefits accrued through December 31, 1997, in accordance with Method 1. In addition, as allowed by Method 1, Plan B provides that in any event a participant will receive no less than the benefits accrued through December 31, 1997, limited to the extent required under Q&A-15.

Under Plan B's terms, the § 415(b) limitations are applied to N's benefit using the steps in Q&A-7 (as modified in accordance with Q&A-8 for distributions subject to § 417(e) (3)), except that the equivalent annual benefit determined in accordance with Step 1 of Q&A-7 is computed separately with respect to N's single-sum old-law benefit and the portion of N's total single-sum benefit that exceeds the single-sum old-law benefit, and these two amounts are added together to determine N's total equivalent annual benefit.

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**Q&A 14 – from Rev. Rul. 98-1, Continued**

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**Example 1  
Calculation-  
when  
415(b)(2)(E)  
changes apply**

First, the annual benefit payable at age 60 that is actuarially equivalent to N's single-sum old-law benefit of \$ 797,264 is determined on the basis of § 415(b) (2) (E) as in effect on December 7, 1994. If the determination were before the final implementation date, all plan terms in effect on December 7, 1994 that are relevant in determining actuarial equivalence under § 415(b) (2) (E) would be used.

In this case, the § 415(b) (2) (E) changes apply to benefits accruing for all participants under the plan on and after January 1, 1998. Consequently, the date the plan amendment applying § 415(b) (2) (E) changes is made effective (within the meaning of Q&A-12) is January 1, 1998, and the final implementation date (based on the later of the date the plan amendment is adopted or made effective) is December 1, 1998.

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**Example 1  
Determining  
Actuarial  
equivalence-  
determining the  
equivalent  
annual benefit**

Because the determination is being made in 1999, which is on or after the final implementation date, actuarial equivalence is determined taking into account any amendments that affect the plan rate and plan mortality table that are adopted or become effective after December 7, 1994. However, in this case there have been no amendments after December 7, 1994, and the interest rate used for purposes of this adjustment is the greater of the plan rate for determining single sums (6 percent) or 5 percent. The mortality table used is the plan mortality table for determining single sums (UP-1984 Mortality Table). The equivalent annual benefit is \$ 75,242.

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**Annual benefit  
is calculated—  
taking into  
account the  
415(b)(2)(E)  
changes**

Next, the annual benefit payable at age 60 that is actuarially equivalent to the portion of N's total single-sum benefit of \$ 950,000 that exceeds \$ 797,264, or \$ 152,736, is determined taking into account the § 415(b) (2) (E) changes.

For this purpose, \$ 152,736 is first converted to an equivalent annual benefit using the plan rate (6 percent) and the plan mortality table (UP-1984 Mortality Table). On this basis, the equivalent annual benefit is \$ 14,415. The additional \$ 152,736 is also converted to an equivalent annual benefit using the applicable interest rate (8 percent) and the applicable mortality table. On this basis, the equivalent annual benefit is \$ 15,125.

Under Plan B, the annual benefit that is equivalent to \$ 152,736 for purposes of § 415 is the greater of \$ 14,415 and \$ 15,125, or \$ 15,125. Thus, the annual benefit that is equivalent to the total single sum of \$ 950,000 for purposes of § 415 is \$ 15,125 plus \$ 75,242, or \$ 90,367.

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*Continued on next page*

**Q&A 14 – from Rev. Rul. 98-1, Continued**

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**Age adjusted dollar limit is determined**

Next, the age-adjusted dollar limit at age 60 is determined taking the § 415(b) (2) (E) changes into account. Assuming that the § 415(b) dollar limitation effective for the 1999 calendar year is \$ 130,000, the age-adjusted dollar limit at age 60 is the lesser of the benefit that is actuarially equivalent to the age-adjusted dollar limit at age 62 (\$ 104,000) computed using the plan rate and the plan mortality table for making early retirement adjustments (5 percent and UP-1984 Mortality Table, respectively), or \$ 89,588, and the benefit computed using 5 percent and the applicable mortality table, or \$ 90,127. Thus, N's age-adjusted dollar limit at age 60 under Plan B is the lesser of \$ 89,588 and \$ 90,127, or \$ 89,588.

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**Conclusion**

Because N's total single-sum benefit is greater than the single-sum old-law benefit and because the equivalent annual benefit (\$ 90,367) exceeds the age-adjusted dollar limit (\$ 89,588), N's single-sum benefit under Plan B must be limited to \$ 942,130 ( $\$ 797,264 + (\$ 89,588 - \$ 75,242) \times 10.098$ ) in order to satisfy the § 415(b) limitations.

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**Example 2- using method 2**

The facts are the same as in Example 1, except that the plan provides that the § 415(b) (2) (E) changes will apply to the total plan benefit, but that in any event the participant will receive no less than the old-law benefit, limited to the extent provided in Q&A-15, in accordance with Method 2.

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**Calculation**

Under Plan B's terms, the § 415(b) limitations are applied to N's benefit using the steps in Q&A-7 (as modified in accordance with Q&A-8 for distributions subject to § 417(e) (3)). Thus, the \$ 950,000 single-sum benefit is first converted to an equivalent annual benefit using the plan rate and plan mortality table for determining single sums (6 percent and UP-1984 Mortality Table, respectively).

On this basis, the equivalent annual benefit is \$ 89,656. The \$ 950,000 single-sum benefit is then converted to an equivalent annual benefit using the applicable interest rate (8 percent) and the applicable mortality table. On this basis, the equivalent annual benefit is \$ 94,078. Under Plan B, the annual benefit that is equivalent to \$ 950,000 for purposes of § 415 is the greater of these two amounts, or \$ 94,078.

As derived in Example 1 above, the age-adjusted dollar limit at age 60 is \$89,588.

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## Q&A 14 – from Rev. Rul. 98-1, Continued

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**Example 2-  
conclusion**

Because the equivalent annual annuity (\$ 94,078) exceeds this amount and because the total single-sum benefit exceeds the single-sum old-law benefit, the total single-sum benefit must be limited to \$ 904,660 (\$ 89,588 x 10.098) in order to satisfy the § 415(b) limitations.

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**Example 3-  
using method 3**

The facts are the same as in Example 1, except that the plan provides that, in accordance with Method 3, a benefit is limited only to the extent necessary to satisfy the § 415(b) limitations using either Method 1 or Method 2.

In the case of Participant N, the maximum benefit that satisfies the § 415(b) limitations using Method 1 is \$ 942,130, and the maximum benefit that satisfies the § 415(b) limitations using Method 2 is \$ 904,660. Thus, the maximum benefit that satisfies the § 415(b) limitations determined in accordance with Method 3 is \$ 942,130.

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## GATT and SBJPA changes — 415(b) Adjustments – Recap

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**Assumptions if  
plan was in  
existence on  
12-7-94 and  
chose not to use  
assumptions**

For plans in existence on 12-7-94 that elect to delay the use of the GATT assumptions, the pre-GATT 415(b) assumptions that the plan can use to reduce the dollar limit for commencement of benefits paid prior to age 62 are

- 1) an interest rate of no less than the greater of 5% or the rate, and
  - 2) the mortality table specified in the plan (as long as that mortality table is reasonable). (Note a plan could specify an interest rate greater than 5%, in this case, the 415(b) limit would be lower dollar limit.)
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## GATT and SBJPA changes — 415(b) Adjustments – Recap, Continued

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### For plans initially effective after 12-7-94

For DB plans initially effective after 12-7-94, if the annuity starting date for a participant commences before age 62, the 415(b) dollar limit is actuarially adjusted using the GATT assumptions.

Thus, for limitation years on or after January 1, 1995, the adjusted 415(b) dollar limit is **the lesser of the age adjusted limits** calculated using:

- the plan’s interest and the plan’s mortality table, or
- 5% and the “applicable mortality table”

If plan uses the “applicable mortality table”, the plan might simply provide that the limit at an age before age 62 is the age 62 limit reduced **using an interest rate that is the greater of** five percent or the rate specified by the plan. Using the greater of the two interest rates results in a **limit that is the lower** of the two calculations.

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### Recap of the adjustments

As discussed earlier in this chapter, the “B” adjustment refers to converting an optional form of benefit to an equivalent single life annuity. (“Form adjustments”)

With respect to the B adjustment, there are two types of optional forms of benefits:

- The optional forms that are ***subject to*** section 417(e)(3) (those benefits where payments could stop prior to the end of the participant’s life, such as lump sums
- The optional forms that are ***not subject to*** section 417(e)(3) (those benefits where payment stops only because of the death of the participant).

The “C” and “D” adjustment refers to adjusting the 415(b) dollar limitation for benefits that are not paid at social security retirement age. “C” is the adjustment for benefits paid before social security retirement age and “D” is the adjustment for benefits paid after social security retirement age. (“Age adjustments”)

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## GATT and SBJPA changes — 415(b) Adjustments – Recap, Continued

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**Section  
415(b)(2)(E)-  
under SBJPA**

Under SBJPA, Section 415(b)(2)(E) is as follows:

- (i) For purposes of adjusting any limitation under subparagraph (C) and, except as provided in clause (ii), for purposes of adjusting any benefit under subparagraph (B), the interest rate assumption shall not be less than the greater of 5 percent or the rate specified in the plan;
- (ii) For purposes of adjusting any benefit under subparagraph (B) for any form of benefit subject to 417(e)(3), the applicable interest rate (as defined in section 417(e)(3), shall be substituted for ‘5 percent’ in clause (i).
- (iii) For purposes of adjusting any limitation under subparagraph (D), the interest rate assumption shall not be greater than the lesser of 5 percent or the rate specified in the plan
- (iv) For purposes of this subsection, no adjustments under subsection (d)(1) shall be taken into account before the year for which such adjustment first takes effect.
- (v) For purposes of adjusting any benefit or limitation under subparagraph (B), (C), or (D), the mortality table used shall be the table prescribed by the secretary. Such table shall be based on the prevailing commissioner's standard table (described in section 807(d)(5)(A)) used to determine reserves for group annuity contracts issued on the date the adjustment is being made (without regard to any other subparagraph of section 807(d)(5)).

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**GATT effective  
date**

GATT changed the assumptions that plans are to use with respect to Sections 415(b) and 417(e). **These changes must be specified by the plan.**

For section 415 purposes, the effective date of the plan amendments must be January 1, 1995 (assuming the plan has a calendar year limitation year; otherwise it is the first limitation year beginning after 12/31/94). This effective date applies regardless of when the plan is amended to reflect the changes made to section 417(e)(3) by GATT. The plan sponsor has the option of delaying the changes for 417(e)(3) between 1995 and the end of 1999.

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## **GATT and SBJPA changes — 415(b) Adjustments – Recap,** Continued

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**SBJPA  
modified the  
GATT effective  
date**

SBJPA, which was enacted 8/20/96, modified the GATT changes as applied to 415(b).

If the plan was in existence at the time that GATT was enacted (12-7-94), such a plan had a choice as to when to implement the assumptions (as amended by SBJPA, GATT). For plans in existence on 12-7-94, the plan can delay the changes to the **earlier of**:

- Later of adoption or effective date of the amendment, or
- In all cases, the limitation year beginning after 12/31/99 (the 2000 limitation year).

Thus, the plan can be amended for the GATT assumptions prior to the 2000 limitation year. However, the GATT assumptions **must apply** by the first day of the 2000 limitation year.

If a plan had been amended for GATT prior to SBJPA enactment, the employer could repeal the amendment due to SBJPA changes. The employer had to do so within 1 year starting from the enactment of SBJPA (although some distributions might have to be recalculated). Note, Rev. Proc. 97-41 extended this one-year period to the end of the remedial amendment period for GATT.

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