

## Part I

### Section 417. -- Definitions and Special Rules For Purposes of Minimum Survivor Annuity Requirements

26 CFR 1.417(e)-1: Restrictions and valuations of distributions from plans subject to sections 401(a)(11) and 417.

(Also, § 415.)

Rev. Rul. 2001-62

## ISSUE

What mortality table is the prescribed table under § 415(b)(2)(E)(v) of the Internal Revenue Code (the "Code") and the applicable mortality table under § 417(e)(3)(A)(ii)(I)?

## LAW AND ANALYSIS

Section 415(b) provides for limitations on benefits payable under qualified defined benefit plans. Section 415(b)(1) provides, for limitation years ending on or before December 31, 2001, that the limitation on benefits, when expressed as an annual benefit (i.e., a benefit payable annually in the form of a straight life annuity with no ancillary benefits) is the lesser of (a) \$90,000 (as adjusted for increases in the cost of living) or (b) 100 percent of the participant's average compensation for the high 3 years. Section 415(b)(2)(B) provides that, if the benefit under the plan is payable in any form other than a straight life annuity, the determination of whether the limitation of § 415(b)(1) has been satisfied is made by adjusting such benefit so that it is equivalent to a straight life annuity. Sections 415(b)(2)(C) and (D) provide, for limitation years ending on or before December 31, 2001, for adjustments to the \$90,000 (as adjusted for increases in the cost of living) limit when benefits begin at an age other than at social security retirement age.

For limitation years ending after December 31, 2001, section 611(a) of the Economic Growth and Tax Relief Reconciliation Act of 2001, Public Law 107-16 (EGTRRA), made a number of changes to the limitations under § 415 of the Code. For limitation years ending after December 31, 2001, the adjustments under § 415(b)(2)(C) apply to benefits that commence before age 62 and the adjustments under § 415(b)(2)(D) apply to benefits that begin after age 65.

Section 415(b)(2)(E)(v) provides that, for purposes of adjusting any benefit or limitation under § 415(b)(2)(B), (C), or (D), the mortality table used is the table prescribed by the Secretary. The statute further provides that the table is based on the prevailing commissioners' standard table (described in § 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 § 807(d)(5)).

Section 417(e)(3) provides rules for the determination of the present value of plan benefits for purposes of § 417(e). Section 417(e)(3)(A)(i) generally provides that, for purposes of

§ 417(e)(1) and (e)(2), the present value is not less than the present value calculated by using the applicable mortality table and the applicable interest rate. In addition, § 411(a)(11)(B) provides that, the determination of present value for purposes of § 411(a)(11)(A) is calculated in accordance with § 417(e)(3). Sections 203(e)(1), 203(e)(2), and 205(g)(3) of the Employee Retirement Income Security Act of 1974 (ERISA) provide corresponding provisions to §§ 411(a)(11)(A), 411(a)(11)(B), and 417(e)(3) of the Code.

Section 417(e)(3)(A)(ii)(I) defines the term "applicable mortality table" as the mortality table prescribed by the Secretary. The statute further provides that the table is based on the prevailing commissioners' standard table (described in § 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 § 807(d)(5)).

Section 1.417(e)-1(d)(1) of the Income Tax Regulations provides that a defined benefit plan must provide that the present value of any accrued benefit and the amount (subject to §§ 411(c)(3) and 415) of any distribution, including a single sum, must not be less than the amount calculated using the applicable interest rate described in § 1.417(e)-1(d)(3) (determined for the month described in § 1.417(e)-1(d)(4)) and the applicable mortality table described in § 1.417(e)-1(d)(2). The present value of any optional form of benefit cannot be less than the present value of the normal retirement benefit determined in accordance with the preceding sentence. Under § 1.417(e)-1(d)(1), these rules must also be used to compute the present value of the benefit for purposes of determining whether consent for a distribution is required.

Section 1.417(e)-1(d)(2) provides that the applicable mortality table is the mortality table based on the prevailing commissioners' standard table (described in § 807(d)(5)(A)) used to determine reserves for group annuity contracts issued on the date as of which present value is being determined (without regard to any other subparagraph of § 807(d)(5)), that is prescribed by the Commissioner in revenue rulings, notices, or other guidance published in the Internal Revenue Bulletin. The Commissioner may also prescribe rules that apply in the case of a change to the prevailing commissioners' standard table.

For purposes of § 807(d)(5) of the Code, Rev. Rul. 92-19, 1992-1 C.B. 227, sets forth the prevailing commissioners' standard table for group annuities as the 1983 Group Annuity Mortality Table (83 GAM) for contracts issued after January 1, 1985.

The U.S. Supreme Court, in Arizona v. Norris, 463 U.S. 1073, 1084-1086 (1983), held that the application of sex-distinct actuarial tables to employees based upon their gender in calculating the amount of retirement benefits violates Title VII of the Civil Rights Act of 1964.

Rev. Rul. 95-6, 1995-1 C.B. 80, provided a mortality table, based upon a fixed blend of 50 percent of the male mortality rates and 50 percent of the female mortality rates from the 83 GAM, as the applicable mortality table for purposes of adjusting benefits or limitations under § 415(b)(2) of the Code and determining the present value of plan benefits under § 417(e)(3). Rev. Rul. 98-1, 1998-1 C.B. 249, Q & A-6, provides that Rev. Rul. 95-6, provides the mortality table which generally must be used for the purposes of adjusting any benefit or limitation under §§ 415(b)(2)(B), (C), or (D).

For purposes of § 807(d)(5) of the Code, Rev. Rul. 2001-38, 2001-33 I.R.B 124, supplements Rev. Rul. 92-19 by setting forth, for certain insurance products issued on or after January 1, 1999, the prevailing commissioners' standard table for group annuities as the 1994 Group Annuity Reserving Table (94 GAR).

Section 411(d)(6) of the Code generally prohibits a plan amendment that decreases a participant's accrued benefit. Section 411(d)(6)(B) provides that an amendment that eliminates an optional form of benefit is treated as reducing a participant's accrued benefit, but permits the Secretary of Treasury to provide for the elimination of certain optional forms of benefits under regulations. Section 1.411(d)-4, Q & A-2(b) provides that the Commissioner may, through the publication of revenue rulings, notices and other items of general applicability, provide for the elimination or reduction of certain § 411(d)(6) protected benefits that have already accrued.

Section 401(b) and the regulations thereunder provide a remedial amendment period during which an amendment to a disqualifying provision may be made retroactively effective, under certain circumstances, to comply with the requirements of § 401(a). In Notice 2001-42, 2001-30 I.R.B. 70, the Service provided that the remedial amendment period for changes in the plan qualification requirements made by EGTRRA would end no earlier than the end of the first plan year beginning on or after January 1, 2005. This "EGTRRA remedial amendment period" is available only if good faith EGTRRA plan amendments have been adopted by, generally, the end of the first plan year beginning on or after January 1, 2002.

## HOLDING

The following mortality table, based upon a fixed blend of 50 percent of the unloaded male mortality rates and 50 percent of the unloaded female mortality rates underlying the mortality rates in the 94 GAR, projected to 2002, is the applicable mortality table for purposes of adjusting benefits or limitations under § 415(b)(2) of the Code and for determining the present value of plan benefits under § 417(e)(3) and the corresponding provisions of ERISA. The table shows, for each age, the number living based upon a starting population of one million lives at age 1 ( $l_x$ ), and the annual rate of mortality ( $q_x$ ).

Plans may incorporate this table by reference to this revenue ruling. A plan amendment will not violate section § 411(d)(6)(B) of the Code and the corresponding provision of ERISA solely because of a reduction in any annuity distribution with an annuity starting date on or after the later of the adoption date or the effective date of this amendment if the cause of such reduction is the substitution of the table in this revenue ruling for the table in Rev. Rul. 95-6. If the effective date is earlier than the adoption date of this plan amendment, § 415(b)(2)(B) of the Code will not be violated if such amendment provides that any payments made after the adoption date will be reduced actuarially by the value of the excess, if any, of annuity distributions paid before the adoption date of this amendment over annuity distributions that would have been permissible under section § 415(b)(2)(B) if the amendment had been adopted as of such effective date.

Mortality Table  
for sections 415 and 417(e)

Age	$l_x$	$q_x$
1	1000000.0	0.000514
2	999486.00	0.000341
3	999145.18	0.000270
4	998875.41	0.000207
5	998668.64	0.000188
6	998480.89	0.000179
7	998302.16	0.000170
8	998132.45	0.000154

9	997978.74	0.000148
10	997831.04	0.000150
11	997681.37	0.000158
12	997523.74	0.000171
13	997353.16	0.000192
14	997161.67	0.000225
15	996937.31	0.000262
16	996676.11	0.000296
17	996381.09	0.000324
18	996058.26	0.000343
19	995716.61	0.000357
20	995361.14	0.000368
21	994994.85	0.000381
22	994615.76	0.000396
23	994221.89	0.000418
24	993806.31	0.000441
25	993368.04	0.000468
26	992903.14	0.000500
27	992406.69	0.000523
28	991887.66	0.000543
29	991349.07	0.000564
30	990789.95	0.000588
31	990207.37	0.000612
32	989601.36	0.000633
33	988974.94	0.000649
34	988333.10	0.000661
35	987679.81	0.000675
36	987013.13	0.000695
37	986327.16	0.000727
38	985610.10	0.000768
39	984853.15	0.000819
40	984046.56	0.000879
41	983181.58	0.000944
42	982253.46	0.001014
43	981257.45	0.001083
44	980194.75	0.001151
45	979066.55	0.001224
46	977868.17	0.001312
47	976585.21	0.001422
48	975196.51	0.001554
49	973681.05	0.001699
50	972026.77	0.001869
51	970210.05	0.002065
52	968206.57	0.002302
53	965977.76	0.002571
54	963494.23	0.002854
55	960744.42	0.003197
56	957672.92	0.003614
57	954211.89	0.004124
58	950276.72	0.004712
59	945799.02	0.005345

60	940743.72	0.006062
61	935040.93	0.006912
62	928577.93	0.007846
63	921292.31	0.008958
64	913039.37	0.010151
65	903771.11	0.011441
66	893431.06	0.012870
67	881932.60	0.014291
68	869328.90	0.015614
69	855755.20	0.017000
70	841207.36	0.018396
71	825732.51	0.020025
72	809197.22	0.022026
73	791373.84	0.024187
74	772232.88	0.026581
75	751706.16	0.029310
76	729673.65	0.032392
77	706038.06	0.036288
78	680417.35	0.040636
79	652767.91	0.045463
80	623091.12	0.050795
81	591441.21	0.056655
82	557933.11	0.063064
83	522747.62	0.069481
84	486426.59	0.076539
85	449195.99	0.084129
86	411405.58	0.092686
87	373274.04	0.103014
88	334821.59	0.114434
89	296506.62	0.126925
90	258872.52	0.140650
91	222462.10	0.154664
92	188055.22	0.170190
93	156050.10	0.186631
94	126926.31	0.203518
95	101094.52	0.222123
96	78639.10	0.240233
97	59747.39	0.259380
98	44250.11	0.278936
99	31907.16	0.297614
100	22411.14	0.316630
101	15315.10	0.338758
102	10126.99	0.358830
103	6493.12	0.380735
104	4020.96	0.404426
105	2394.78	0.427883
106	1370.09	0.449085
107	754.80	0.466012
108	403.05	0.478582
109	210.16	0.488140
110	107.57	0.494813

111	54.34	0.498724
112	27.24	0.500000
113	13.62	0.500000
114	6.81	0.500000
115	3.41	0.500000
116	1.71	0.500000
117	0.86	0.500000
118	0.43	0.500000
119	0.22	0.500000
120	0.11	1.000000

## **EFFECTIVE DATE**

The required use of the mortality table in this revenue ruling 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 as the effective date for the required use of the mortality table in this revenue ruling under the plan. The effective date for the required use of the mortality table set forth in this revenue ruling for a plan is referred to as the plan's 94 GAR effective date. A plan's 94 GAR effective date must apply uniformly for purposes of §§ 415 and 417(e) of the Code and § 205(g)(3) of ERISA.

## **PLAN AMENDMENT**

The latest date by which a plan may be amended to comply with this revenue ruling is the last day of the plan year that contains the plan's 94 GAR effective date. Thus, a plan with a July 1 to June 30 fiscal plan year ending June 30, 2002, must be amended no later than June 30, 2002, if the effective date is between January 1, 2002, and June 30, 2002. If such a plan is amended during its July 1, 2002, to June 30, 2003, plan year, the plan's 94 GAR effective date may be no earlier than July 1, 2002.

For a plan amendment adopted to comply with this revenue ruling no later than the last day of the plan year that contains the plan's 94 GAR effective date, the remedial amendment period under § 401(b) will end at the end of the EGTRRA remedial amendment period.

## **DETERMINATION LETTERS**

Determination letter applications filed on or after the last day of the plan year that contains the plan's 94 GAR effective date will be reviewed with respect to whether the form of the plan satisfies the requirements of this revenue ruling. Determination letter applications filed before the last day of the plan year that contains the plan's 94 GAR effective date will be reviewed with respect to whether the form of the plan satisfies the requirements of this revenue ruling if an amendment to comply with the ruling is submitted with the request for the determination letter. In either case, determination letters issued with respect to such applications may be relied on with respect to the requirements of this revenue ruling.

## **MODEL PLAN AMENDMENTS**

The Appendix provides two alternative model plan amendments that a plan sponsor, or a sponsor of a pre-approved plan, may adopt to comply with this revenue ruling. The first model amendment is intended to have the effect of adopting the mortality table set forth in this revenue

ruling for purposes of adjusting any benefit or limitation under § 415(b)(2)(B), (C), or (D) and the applicable mortality table used for purposes of satisfying the requirements of § 417(e). The second model amendment is intended to have the effect of substituting the mortality table set forth in this revenue ruling for the mortality table set forth in Rev. Rul. 95-6 for all purposes under the plan for which the use of the mortality table set forth in Rev. Rul. 95-6 is specified. A plan sponsor should consider which of these two approaches is appropriate for the particular plan, or whether some other approach should be chosen for the plan.

A pre-approved plan (that is, a master or prototype or volume submitter plan) may be amended by the document's sponsor to comply with this revenue ruling to the extent authorized. Alternatively, adopting employers may adopt a plan amendment as an addendum to the plan or adoption agreement. The inclusion of either of the model plan amendments below in an addendum to a plan adopted to comply with EGTRRA will not cause a pre-approved plan to be treated as an individually designed plan,

A plan sponsor that adopts either of the model amendments verbatim (or with only minor changes) will have reliance that the form of its plan satisfies the requirements of this revenue ruling, and the adoption of such an amendment will not adversely affect the plan sponsor's reliance on a favorable determination, opinion or advisory letter.

#### **EFFECT ON OTHER DOCUMENTS**

Rev. Rul. 95-6 is superseded for distributions with annuity starting dates on or after the earlier of December 31, 2002, or the date specified in the plan for which the use of the mortality table set forth in this revenue ruling is specified (which may be no earlier than January 1, 2002).

Rev. Rul. 98-1 is modified.

#### **COMMENTS REQUESTED**

The 94 GAR is designed as a generational table that incorporates mortality improvements on an annual basis. The table in this revenue ruling is based on the 94 GAR projected, using Scale AA, to 2002. Comments are requested in regard to how often the mortality table for §§ 415 and 417(e) of the Code should be updated. Comments should be sent to Commissioner of Internal Revenue Service, Attention T:EP:RA:T:A1, Washington D.C. 20224.

#### **DRAFTING INFORMATION**

The principal author of this revenue ruling is Lawrence Isaacs of Employee Plans, Tax Exempt and Government Entities Division. For further information regarding this revenue ruling, please contact the Employee Plans' taxpayer assistance telephone service at 1-877-829-5500 between the hours of 8:00 a.m. and 9:30 p.m. Eastern time, Monday through Friday (a toll-free number). Mr. Isaacs may be reached at 1-202-283-9710 (not a toll free number).

## Appendix – MODEL AMENDMENTS

The following are amendments that sponsors of qualified defined benefit plans may adopt to comply with §§ 415 and 417(e), as required under Rev. Rul. 2001-62.

### MODEL PLAN AMENDMENT 1

1. Effective date. This section shall apply to distributions with annuity starting dates on or after \_\_\_\_\_.
2. Notwithstanding any other plan provisions to the contrary, the applicable mortality table used for purposes of adjusting any benefit or limitation under § 415(b)(2)(B), (C), or (D) of the Internal Revenue Code as set forth in section \_\_\_\_\_ of the plan and the applicable mortality table used for purposes of satisfying the requirements of § 417(e) of the Internal Revenue Code as set forth in section \_\_\_\_\_ of the plan is the table prescribed in Rev. Rul. 2001-62.
3. For any distribution with an annuity starting date on or after the effective date of this section and before the adoption date of this section, if application of the amendment as of the annuity starting date would have caused a reduction in the amount of any distribution, such reduction is not reflected in any payment made before the adoption date of this section. However, the amount of any such reduction that is required under § 415(b)(2)(B) must be reflected actuarially over any remaining payments to the participant.

Note: This amendment should be used for plans that reference the applicable mortality table only for the purposes of adjusting any benefit or limitation under § 415(b)(2)(B), (C), or (D) of the Internal Revenue Code and satisfying the requirements of § 417(e) of the Internal Revenue Code. Paragraph 3 of this amendment should be used only if the effective date of the amendment is earlier than the adoption date of the amendment.

### MODEL PLAN AMENDMENT 2

1. Effective date. This section shall apply to distributions with annuity starting dates on or after \_\_\_\_\_.
2. Notwithstanding any other plan provisions to the contrary, any reference in the plan to the mortality table prescribed in Rev. Rul. 95-6 shall be construed as a reference to the mortality table prescribed in Rev. Rul. 2001-62 for all purposes under the plan.
3. For any distribution with an annuity starting date on or after the effective date of this section and before the adoption date of this section, if application of the amendment as of the annuity starting date would have caused a reduction in the amount of any distribution, such reduction is not reflected in any payment made before the adoption date of this section. However, the amount of any such reduction that is required under § 415(b)(2)(B) must be reflected actuarially over any remaining payments to the participant.



Note: This amendment should be used for plans that specifically reference the mortality table provided in Rev. Rul. 95-6 and apply that table for other purposes as well as for purposes of adjusting any benefit or limitation under § 415(b)(2)(B), (C), or (D) and satisfying the requirements of § 417(e), where the plan sponsor wishes to replace the mortality table provided in Rev. Rul. 95-6 with the mortality table provided in Rev. Rul. 2001-62 for all purposes. If the plan references the mortality table prescribed in Rev. Rul. 95-6 using some other label (such as, for example, the GAM 83 blended mortality table), the plan's term should be used in place of the reference to the mortality table prescribed in Rev. Rul. 95-6. Paragraph 3 of this amendment should be used only if the effective date of the amendment is earlier than the adoption date of the amendment.