the amendments made by this section shall not apply to years beginning before the date on which the last of the collective bargaining agreements relating to the plan terminates (determined without regard to any extension thereof agreed to after July 1, 1985).

''(3) SPECIAL RULE FOR PARAGRAPH (2).—For purposes of paragraph (2), any plan amendment made pursuant to a collective bargaining agreement relating to the plan which amends the plan solely to conform to any requirement added by this section shall not be treated as a termination of such collective bargaining agreement.

''(4) SPECIAL EFFECTIVE DATE FOR CONTRIBUTIONS OF FACILITIES.—Notwithstanding paragraphs (1) and (2), the amendments made by this section shall apply in the case of—

''(A) any contribution after June 22, 1984, of a facility to a welfare benefit fund, and

''(B) any other contribution after June 22, 1984, to a welfare benefit fund to be used to acquire or improve a facility.

''(5) BINDING CONTRACT EXCEPTIONS TO PARAGRAPH (4).—Paragraph (4) shall not apply to any facility placed in service before January 1, 1987—

''(A) which is acquired or improved by the fund (or contributed to the fund) pursuant to a binding contract in effect on June 22, 1984, and at all times thereafter, or

''(B) the construction of which by or for the fund began before June 22, 1984.

''(6) AMENDMENTS RELATED TO TAX ON UNRELATED BUSINESS INCOME.—The amendments made by subsection (b) [amending section 512 of this title] shall apply with respect to taxable years ending after December 31, 1985. For purposes of section 15 of the Internal Revenue Code of 1954 [now 1986], such amendments shall be treated as a change in the rate of a tax imposed by chapter 1 of such Code.

''(7) AMENDMENTS RELATED TO EXCISE TAXES ON CERTAIN WELFARE BENEFIT PLANS.—The amendments made by subsection (c) [enacting section 4976 of this title] shall apply to benefits provided after December 31, 1985.''

PLAN AMENDMENTS NOT REQUIRED UNTIL JANUARY 1, 1989

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

EFFECTIVE DATE OF REGULATIONS

Pub. L. 99–514, title XVIII, § 1851(a)(8)(B), Oct. 22, 1986, 100 Stat. 2860, provided that: ''Except in the case of a reserve for post-retirement medical or life insurance benefits and any other arrangement between an insurance company and an employer under which the employer has a contractual right to a refund or dividend based solely on the experience of such employer, any account held for an employer by any person and defined as a fund in regulations issued pursuant to section 419(e)(3)(C) of the Internal Revenue Code of 1954 [now 1986] shall be considered a 'fund' no earlier than 6 months following the date such regulations are published in final form.''

§ 419A. Qualified asset account; limitation on additions to account

(a) General rule

For purposes of this subpart and section 512, the term ''qualified asset account'' means any account consisting of assets set aside to provide for the payment of—

(1) disability benefits,

(2) medical benefits,

(3) SUB or severance pay benefits, or

(4) life insurance benefits.

(b) Limitation on additions to account

No addition to any qualified asset account may be taken into account under section 419(c)(1)(B) to the extent such addition results in the amount in such account exceeding the account limit.

(c) Account limit

For purposes of this section—

(1) In general

Except as otherwise provided in this subsection, the account limit for any qualified asset account for any taxable year is the amount reasonably and actuarially necessary to fund—

(A) claims incurred but unpaid (as of the close of such taxable year) for benefits referred to in subsection (a), and

(B) administrative costs with respect to such claims.

(2) Additional reserve for post-retirement medical and life insurance benefits

The account limit for any taxable year may include a reserve funded over the working lives of the covered employees and actuarially determined on a level basis (using assumptions that are reasonable in the aggregate) as necessary for—

(A) post-retirement medical benefits to be provided to covered employees (determined on the basis of current medical costs), or

(B) post-retirement life insurance benefits to be provided to covered employees.

(3) Amount taken into account for SUB or severance pay benefits

(A) In general

The account limit for any taxable year with respect to SUB or severance pay benefits is 75 percent of the average annual qualified direct costs for SUB or severance pay benefits for any 2 of the immediately preceding 7 taxable years (as selected by the fund).

(B) Special rule for certain new plans

In the case of any new plan for which SUB or severance pay benefits are not available to any key employee, the Secretary shall, by regulations, provide for an interim amount to be taken into account under paragraph (1).

(4) Limitation on amounts to be taken into account

(A) Disability benefits

For purposes of paragraph (1), disability benefits payable to any individual shall not be taken into account to the extent such benefits are payable at an annual rate in excess of the lower of—

(i) 75 percent of such individual's average compensation for his high 3 years (within the meaning of section 415(b)(3)), or

(ii) the limitation in effect under section 415(b)(1)(A).

(B) Limitation on SUB or severance pay benefits

For purposes of paragraph (3), any SUB or severance pay benefit payable to any indi-

vidual shall not be taken into account to the extent such benefit is payable at an annual rate in excess of 150 percent of the limitation in effect under section 415(c)(1)(A).

(5) Special limitation where no actuarial certification

(A) In general

Unless there is an actuarial certification of the account limit determined under this subsection for any taxable year, the account limit for such taxable year shall not exceed the sum of the safe harbor limits for such taxable year.

(B) Safe harbor limits

(i) Short-term disability benefits

In the case of short-term disability benefits, the safe harbor limit for any taxable year is 17.5 percent of the qualified direct costs (other than insurance premiums) for the immediately preceding taxable year with respect to such benefits.

(ii) Medical benefits

In the case of medical benefits, the safe harbor limit for any taxable year is 35 percent of the qualified direct costs (other than insurance premiums) for the immediately preceding taxable year with respect to medical benefits.

(iii) SUB or severance pay benefits

In the case of SUB or severance pay benefits, the safe harbor limit for any taxable year is the amount determined under paragraph (3).

(iv) Long-term disability or life insurance benefits

In the case of any long-term disability benefit or life insurance benefit, the safe harbor limit for any taxable year shall be the amount prescribed by regulations.

(6) Additional reserve for medical benefits of bona fide association plans

(A) In general

An applicable account limit for any taxable year may include a reserve in an amount not to exceed 35 percent of the sum of—

(i) the qualified direct costs, and

(ii) the change in claims incurred but unpaid,

for such taxable year with respect to medical benefits (other than post-retirement medical benefits).

(B) Applicable account limit

For purposes of this subsection, the term ''applicable account limit'' means an account limit for a qualified asset account with respect to medical benefits provided through a plan maintained by a bona fide association (as defined in section 2791(d)(3) of the Public Health Service Act (42 U.S.C. 300gg–91(d)(3)).[1]

[1] So in original. The period probably should be preceded by an additional closing parenthesis.

(d) Requirement of separate accounts for post-retirement medical or life insurance benefits provided to key employees

(1) In general

In the case of any employee who is a key employee—

(A) a separate account shall be established for any medical benefits or life insurance benefits provided with respect to such employee after retirement, and

(B) medical benefits and life insurance benefits provided with respect to such employee after retirement may only be paid from such separate account.

The requirements of this paragraph shall apply to the first taxable year for which a reserve is taken into account under subsection (c)(2) and to all subsequent taxable years.

(2) Coordination with section 415

For purposes of section 415, any amount attributable to medical benefits allocated to an account established under paragraph (1) shall be treated as an annual addition to a defined contribution plan for purposes of section 415(c). Subparagraph (B) of section 415(c)(1) shall not apply to any amount treated as an annual addition under the preceding sentence.

(3) Key employee

For purposes of this section, the term ''key employee'' means any employee who, at any time during the plan year or any preceding plan year, is or was a key employee as defined in section 416(i).

(e) Special limitations on reserves for medical benefits or life insurance benefits provided to retired employees

(1) Reserve must be nondiscriminatory

No reserve may be taken into account under subsection (c)(2) for post-retirement medical benefits or life insurance benefits to be provided to covered employees unless the plan meets the requirements of section 505(b) with respect to such benefits (whether or not such requirements apply to such plan). The preceding sentence shall not apply to any plan maintained pursuant to an agreement between employee representatives and 1 or more employers if the Secretary finds that such agreement is a collective bargaining agreement and that post-retirement medical benefits or life insurance benefits were the subject of good faith bargaining between such employee representatives and such employer or employers.

(2) Limitation on amount of life insurance benefits

Life insurance benefits shall not be taken into account under subsection (c)(2) to the extent the aggregate amount of such benefits to be provided with respect to the employee exceeds $50,000.

(f) Definitions and other special rules

For purposes of this section—

(1) SUB or severance pay benefit

The term ''SUB or severance pay benefit'' means—

(A) any supplemental unemployment compensation benefit (as defined in section 501(c)(17)(D)), and

(B) any severance pay benefit.

(2) Medical benefit

The term ''medical benefit'' means a benefit which consists of the providing (directly or through insurance) of medical care (as defined in section 213(d)).

(3) Life insurance benefit

The term ''life insurance benefit'' includes any other death benefit.

(4) Valuation

For purposes of this section, the amount of the qualified asset account shall be the value of the assets in such account (as determined under regulations).

(5) Special rule for collective bargained and employee pay-all plans

No account limits shall apply in the case of any qualified asset account under a separate welfare benefit fund—

(A) under a collective bargaining agreement, or

(B) an employee pay-all plan under section 501(c)(9) if—

(i) such plan has at least 50 employees (determined without regard to subsection (h)(1)), and

(ii) no employee is entitled to a refund with respect to amounts in the fund, other than a refund based on the experience of the entire fund.

(6) Exception for 10-or-more employer plans

(A) In general

This subpart shall not apply in the case of any welfare benefit fund which is part of a 10 or more employer plan. The preceding sentence shall not apply to any plan which maintains experience-rating arrangements with respect to individual employers.

(B) 10 or more employer plan

For purposes of subparagraph (A), the term ''10 or more employer plan'' means a plan—

(i) to which more than 1 employer contributes, and

(ii) to which no employer normally contributes more than 10 percent of the total contributions contributed under the plan by all employers.

(7) Adjustments for existing excess reserves

(A) Increase in account limit

The account limit for any of the first 4 taxable years to which this section applies shall be increased by the applicable percentage of any existing excess reserves.

(B) Applicable percentage

For purposes of subparagraph (A)—

In the case of:	The applicable percentage is:
The first taxable year to which this section applies	80
The second taxable year to which this section applies	60
The third taxable year to which this section applies	40
The fourth taxable year to which this section applies	20.

(C) Existing excess reserve

For purposes of computing the increase under subparagraph (A) for any taxable year, the term ''existing excess reserve'' means the excess (if any) of—

(i) the amount of assets set aside at the close of the first taxable year ending after July 18, 1984, for purposes described in subsection (a), over

(ii) the account limit determined under this section (without regard to this paragraph) for the taxable year for which such increase is being computed.

(D) Funds to which paragraph applies

This paragraph shall apply only to a welfare benefit fund which, as of July 18, 1984, had assets set aside for purposes described in subsection (a).

(g) Employer taxed on income of welfare benefit fund in certain cases

(1) In general

In the case of any welfare benefit fund which is not an organization described in paragraph (7), (9), (17), or (20)[2] of section 501(c), the employer shall include in gross income for any taxable year an amount equal to such fund's deemed unrelated income for the fund's taxable year ending within the employer's taxable year.

(2) Deemed unrelated income

For purposes of paragraph (1), the deemed unrelated income of any welfare benefit fund shall be the amount which would have been its unrelated business taxable income under section 512(a)(3) if such fund were an organization described in paragraph (7), (9), (17), or (20)[2] of section 501(c).

(3) Coordination with section 419

If any amount is included in the gross income of an employer for any taxable year under paragraph (1) with respect to any welfare benefit fund—

(A) the amount of the tax imposed by this chapter which is attributable to the amount so included shall be treated as a contribution paid to such welfare benefit fund on the last day of such taxable year, and

(B) the tax so attributable shall be treated as imposed on the fund for purposes of section 419(c)(4)(A).

(h) Aggregation rules

For purposes of this subpart—

(1) Aggregation of funds

(A) Mandatory aggregation

For purposes of subsections (c)(4), (d)(2), and (e)(2), all welfare benefit funds of an employer shall be treated as 1 fund.

(B) Permissive aggregation for purposes not specified in subparagraph (A)

For purposes of this section (other than the provisions specified in subparagraph (A)), at the election of the employer, 2 or more welfare benefit funds of such employer

[2] See References in Text note below.

may (to the extent not inconsistent with the purposes of this subpart and section 512) be treated as 1 fund.

(2) Treatment of related employers

Rules similar to the rules of subsections (b), (c), (m), and (n) of section 414 shall apply.

(i) Regulations

The Secretary shall prescribe such regulations as may be appropriate to carry out the purposes of this subpart. Such regulations may provide that the plan administrator of any welfare benefit fund which is part of a plan to which more than 1 employer contributes shall submit such information to the employers contributing to the fund as may be necessary to enable the employers to comply with the provisions of this section.

(Added Pub. L. 98–369, div. A, title V, § 511(a), July 18, 1984, 98 Stat. 856; amended Pub. L. 99–514, title XVIII, § 1851(a)(2), (3)(A), (4)–(7), (9), (13), Oct. 22, 1986, 100 Stat. 2858–2860, 2862; Pub. L. 100–647, title I, § 1018(t)(1)(C), (2)(A), (u)(12), Nov. 10, 1988, 102 Stat. 3587, 3590; Pub. L. 104–188, title I, § 1704(t)(60), Aug. 20, 1996, 110 Stat. 1890; Pub. L. 109–280, title VIII, § 843(a), Aug. 17, 2006, 120 Stat. 1010.)

REFERENCES IN TEXT

Section 501(c)(20), referred to in subsec. (g)(1), (2), was repealed by Pub. L. 113–295, div. A, title II, § 221(a)(19)(B)(iii), Dec. 19, 2014, 128 Stat. 4040.

AMENDMENTS

2006—Subsec. (c)(6). Pub. L. 109–280 added par. (6).

1996—Subsec. (c)(3). Pub. L. 104–188 substituted ''severance'' for ''severence'' in heading.

1988—Subsec. (a). Pub. L. 100–647, § 1018(u)(12), made technical amendment to directory language of Pub. L. 99–514, § 1851(a)(6)(B). See 1986 Amendment note below.

Subsec. (f)(5). Pub. L. 100–647, § 1018(t)(2)(A), repealed Pub. L. 99–514, § 1851(a)(4). See 1986 Amendment note below.

Pub. L. 100–647, § 1018(t)(1)(C), substituted ''account'' for ''accounts''.

1986—Subsec. (a). Pub. L. 99–514, § 1851(a)(6)(B), as amended by Pub. L. 100–647, § 1018(u)(12), inserted ''and section 512'' after ''this subpart''.

Subsec. (c)(5)(A). Pub. L. 99–514, § 1851(a)(5), substituted ''under this subsection'' for ''under paragraph (1)''.

Subsec. (d)(1). Pub. L. 99–514, § 1851(a)(2)(B), inserted ''The requirements of this paragraph shall apply to the first taxable year for which a reserve is taken into account under subsection (c)(2) and to all subsequent taxable years.''

Subsec. (d)(2). Pub. L. 99–514, § 1851(a)(2)(A), inserted ''Subparagraph (B) of section 415(c)(1) shall not apply to any amount treated as an annual addition under the preceding sentence.''

Subsec. (e). Pub. L. 99–514, § 1851(a)(3)(A), amended subsec. (e) generally. Prior to amendment, par. (1), benefits must be nondiscriminatory, read as follows: ''No reserve may be taken into account under subsection (c)(2) for post-retirement medical benefits or life insurance benefits to be provided to covered employees unless the plan meets the requirements of section 505(b)(1) with respect to such benefits.'', and par. (2), taxable life insurance benefits not taken into account, read as follows: ''No life insurance benefit may be taken into account under subsection (c)(2) to the extent—

''(A) such benefit is includible in gross income under section 79, or

''(B) such benefit would be includible in gross income under section 101(b) (determined by substituting '$50,000' for '$5,000').''

Subsec. (f)(5). Pub. L. 99–514, § 1851(a)(13), amended par. (5) generally. Prior to amendment, par. (5) read as follows: ''HIGHER LIMIT IN CASE OF COLLECTIVELY BARGAINED PLANS.—Not later than July 1, 1985, the Secretary shall by regulations provide for special account limits in the case of any qualified asset account under a welfare benefit fund established under a collective bargaining agreement.''

Pub. L. 99–514, § 1851(a)(4), which directed amendment of par. (5) by substituting ''welfare benefit fund maintained pursuant to'' for ''welfare benefit fund established under'', was repealed by Pub. L. 100–647, § 1018(t)(2)(A).

Subsec. (f)(7)(C), (D). Pub. L. 99–514, § 1851(a)(7), added subpars. (C) and (D) and struck out former subpar. (C) which read as follows: ''For purposes of this paragraph, the term 'existing excess reserve' means the excess (if any) of—

''(i) the amount of assets set aside for purposes described in subsection (a) as of the close of the first taxable year ending after the date of the enactment of the Tax Reform Act of 1984, over

''(ii) the account limit which would have applied under this section to such taxable year if this section had applied to such taxable year.''

Subsec. (g)(3). Pub. L. 99–514, § 1851(a)(9), added par. (3).

Subsec. (h)(1). Pub. L. 99–514, § 1851(a)(6)(A), amended par. (1) generally. Prior to amendment, par. (1) read as follows: ''At the election of the employer, 2 or more welfare benefit funds of such employer may be treated as 1 fund.''

EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109–280, title VIII, § 843(b), Aug. 17, 2006, 120 Stat. 1010, provided that: ''The amendment made by this section [amending this section] shall apply to taxable years beginning after December 31, 2006.''

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–647 effective, except as otherwise provided, as if included in the provision of the Tax Reform Act of 1986, Pub. L. 99–514, to which such amendment relates, see section 1019(a) of Pub. L. 100–647, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99–514 effective, except as otherwise provided, as if included in the provisions of the Tax Reform Act of 1984, Pub. L. 98–369, div. A, to which such amendment relates, see section 1881 of Pub. L. 99–514, set out as a note under section 48 of this title.

PLAN AMENDMENTS NOT REQUIRED UNTIL JANUARY 1, 1989

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

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

Pub. L. 99–514, title XVIII, § 1851(a)(3)(B), Oct. 22, 1986, 100 Stat. 2859, as amended by Pub. L. 100–647, title I, § 1018(t)(2)(D), Nov. 10, 1988, 102 Stat. 3587, provided that: ''Subsection (e) of section 419A, section 505, and section 4976(b)(1)(B) of the Internal Revenue Code of 1954 [now 1986] (as amended by subparagraph (A)) shall not apply to any group-term life insurance to the extent that the amendments made by section 223(a) of the Tax Reform Act of 1984 [section 223(a) of Pub. L. 98–369, amending section 79 of this title] do not apply to such insurance by reason of paragraph (2) of section 223(d) of such Act [set out as a note under section 79 of this title].''

SUBPART E—TREATMENT OF TRANSFERS TO RETIREE HEALTH ACCOUNTS

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

(a) General rule

If there is a qualified transfer of any excess pension assets of a defined benefit plan to a health benefits account, or an applicable life insurance account, which is part of such plan—

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

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

(3) such transfer shall not be treated—

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

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

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

(b) Qualified transfer

For purposes of this section—

(1) In general

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

(A) of excess pension assets of a defined benefit plan to a health benefits account, or an applicable life insurance account, which is part of such plan,

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

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

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

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

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

(2) Only 1 transfer per year

No more than 1 transfer with respect to any plan during a taxable year may be treated as a qualified transfer for purposes of this section. If there is a transfer from a defined benefit plan to both a health benefits account and an applicable life insurance account during any taxable year, such transfers shall be treated as 1 transfer for purposes of this paragraph.

(3) Limitation on amount transferred

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

(4) Expiration

No transfer made after December 31, 2025, shall be treated as a qualified transfer.

(c) Requirements of plans transferring assets

(1) Use of transferred assets

(A) In general

Any assets transferred to a health benefits account, or an applicable life insurance account, in a qualified transfer (and any income allocable thereto) shall be used only to pay qualified current retiree liabilities (other than liabilities of key employees not taken into account under subsection (e)(1)(D))[1] for the taxable year of the transfer (whether directly or through reimbursement). In the case of a qualified future transfer or collectively bargained transfer to which subsection (f) applies, any assets so transferred may also be used to pay liabilities described in subsection (f)(2)(C).

(B) Amounts not used to pay for health benefits or life insurance

(i) In general

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

(ii) Tax treatment of amounts

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

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

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

(C) Ordering rule

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

(2) Requirements relating to pension benefits accruing before transfer

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

(3) Minimum cost requirements

(A) In general

The requirements of this paragraph are met if each group health plan or arrangement under which applicable health benefits

[1] See References in Text note below.