

## REGULATIONS

Secretary of the Treasury or his delegate to issue before Feb. 1, 1988, final regulations to carry out amendments made by section 1114 of Pub. L. 99-514, see section 1141 of Pub. L. 99-514, set out as a note under section 401 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.

**[§ 405. Repealed. Pub. L. 98-369, div. A, title IV, § 491(a), July 18, 1984, 98 Stat. 848]**

Section, added Pub. L. 87-792, §5(a), Oct. 10, 1962, 76 Stat. 826; amended Pub. L. 89-97, title I, §106(d)(5), July 30, 1965, 79 Stat. 337; Pub. L. 91-172, title V, §515(c)(1), Dec. 30, 1969, 83 Stat. 645; Pub. L. 93-406, title II, §2004(c)(2), 2005(c)(11), Sept. 2, 1974, 88 Stat. 986, 992; Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 97-34, title III, §313(a), (b)(1), Aug. 13, 1981, 95 Stat. 285, 286; Pub. L. 97-452, §2(c)(1), Jan. 12, 1983, 96 Stat. 2478; Pub. L. 98-369, div. A, title I, §42(a)(6), July 18, 1984, 98 Stat. 557, related to qualified bond purchase plans.

**Statutory Notes and Related Subsidiaries**

EFFECTIVE DATE OF REPEAL

Repeal applicable to obligations issued after Dec. 31, 1983, see section 491(f)(1) of Pub. L. 98-369, set out as an Effective Date of 1984 Amendment note under section 62 of this title.

ROLLOVER OF EXISTING BONDS INTO QUALIFIED  
EMPLOYER PLANS

Pub. L. 98-369, div. A, title IV, §491(c)(1), (f)(2), July 18, 1984, 98 Stat. 848, 853, provided that, applicable to redemptions after July 18, 1984, in taxable years ending after such date, subsec. (d)(3)(A) of this section, as in effect before its repeal, is amended to read as follows:

“(A) IN GENERAL.—If—

“(i) any qualified bond is redeemed,

“(ii) any portion of the excess of the proceeds from such redemption over the basis of such bond is transferred to an individual retirement plan which is maintained for the benefit of the individual redeeming such bond, or to a qualified trust (as defined in section 402(a)(5)(D)(iii)) for the benefit of such individual, and

“(iii) such transfer is made on or before the 60th day after the individual received the proceeds of such redemption,

then gross income shall not include the proceeds to the extent so transferred and the transfer shall be treated as a rollover contribution described in section 408(d)(3).”

BONDS UNDER QUALIFIED BOND PURCHASE PLANS  
REDEEMABLE AT ANY TIME AFTER JULY 18, 1984

Pub. L. 98-369, div. A, title IV, §491(f)(4), July 18, 1984, 98 Stat. 853, provided that: “Notwithstanding—

“(A) subparagraph (D) of section 405(b)(1) of the Internal Revenue Code of 1954 (as in effect before its repeal by this section) [see above], and

“(B) the terms of any bond described in subsection (b) of such section 405,

such a bond may be redeemed at any time after the date of the enactment of this Act [July 18, 1984] in the same manner as if the individual redeeming the bond had attained age 59½.”

**§ 406. Employees of foreign affiliates covered by section 3121(l) agreements**

**(a) Treatment as employees of American employer**

For purposes of applying this part with respect to a pension, profit-sharing, or stock bonus plan described in section 401(a) or an annuity plan described in section 403(a), of an American employer (as defined in section 3121(h)), an individual who is a citizen or resident of the United States and who is an employee of a foreign affiliate (as defined in section 3121(l)(6)) of such American employer shall be treated as an employee of such American employer, if—

(1) such American employer has entered into an agreement under section 3121(l) which applies to the foreign affiliate of which such individual is an employee;

(2) the plan of such American employer expressly provides for contributions or benefits for individuals who are citizens or residents of the United States and who are employees of its foreign affiliates to which an agreement entered into by such American employer under section 3121(l) applies; and

(3) contributions under a funded plan of deferred compensation (whether or not a plan described in section 401(a) or 403(a)) are not provided by any other person with respect to the remuneration paid to such individual by the foreign affiliate.

**(b) Special rules for application of section 401(a)**

**(1) Nondiscrimination requirements**

For purposes of applying section 401(a)(4) and section 410(b) with respect to an individual who is treated as an employee of an American employer under subsection (a)—

(A) if such individual is a highly compensated employee (within the meaning of section 414(q)), he shall be treated as having such capacity with respect to such American employer; and

(B) the determination of whether such individual is a highly compensated employee (as so defined) shall be made by treating such individual's total compensation (determined with the application of paragraph (2) of this subsection) as compensation paid by such American employer and by determining such individual's status with regard to such American employer.

**(2) Determination of compensation**

For purposes of applying paragraph (5) of section 401(a) with respect to an individual who is treated as an employee of an American employer under subsection (a)—

(A) the total compensation of such individual shall be the remuneration paid to such individual by the foreign affiliate which would constitute his total compensation if his services had been performed for such American employer, and the basic or regular rate of compensation of such individual shall be determined under regulations prescribed by the Secretary; and

(B) such individual shall be treated as having paid the amount paid by such American employer which is equivalent to the tax imposed by section 3101.