

Section 393, act Aug. 16, 1954, ch. 736, 68A Stat. 132, related to effective date of section 351 et seq. of this title.

Section 394, act Aug. 16, 1954, ch. 736, 68A Stat. 133, related to effective date of section 381 et seq. of this title.

Section 395, act Aug. 16, 1954, ch. 736, 68A Stat. 133, related to special rules for application of this subchapter.

### Statutory Notes and Related Subsidiaries

#### EFFECTIVE DATE OF REPEAL

Repeal effective for taxable years beginning after Dec. 31, 1976, see section 1901(d) of Pub. L. 94-455, set out as an Effective Date of 1976 Amendment note under section 2 of this title.

### Subchapter D—Deferred Compensation, Etc.

#### Part

- I. Pension, profit-sharing, stock bonus plans, etc.
- II. Certain stock options.
- III.<sup>1</sup> Rules relating to minimum funding standards and benefit limitations.<sup>1</sup>

#### Editorial Notes

##### AMENDMENTS

2006—Pub. L. 109-280, title I, §113(a)(2), Aug. 17, 2006, 120 Stat. 852, added item for part III.

1964—Pub. L. 88-272, title II, §221(d)(1), Feb. 26, 1964, 78 Stat. 75, substituted “Certain stock options” for “Miscellaneous provisions” in heading to part II.

### PART I—PENSION, PROFIT-SHARING, STOCK BONUS PLANS, ETC.

#### Subpart

- A. General rule.
- B. Special rules.
- C. Insolvent plans.
- D. Treatment of welfare benefit funds.
- E. Treatment of transfers to retiree health accounts.<sup>1</sup>

#### Editorial Notes

##### AMENDMENTS

2018—Pub. L. 115-141, div. U, title IV, §401(a)(95), Mar. 23, 2018, 132 Stat. 1188, substituted “Insolvent plans” for “Special rules for multiemployer plans” in heading for subpart C.

2014—Pub. L. 113-235, div. O, title I, §108(b)(3)(D), Dec. 16, 2014, 128 Stat. 2789, which directed amendment of the table of subparts for part I of subchapter D of chapter 1 of the Internal Revenue Code of 1986 by striking the heading and inserting “INSOLVENT PLANS”, could not be executed as it did not specify the subpart to be amended.

1984—Pub. L. 98-369, div. A, title V, §511(d), July 18, 1984, 98 Stat. 862, added heading for subpart D.

1980—Pub. L. 96-364, title II, §202(b), Sept. 26, 1980, 94 Stat. 1285, added heading for subpart C.

#### SUBPART A—GENERAL RULE

#### Sec.

- 401. Qualified pension, profit-sharing, and stock bonus plans.
- 402. Taxability of beneficiary of employees’ trust.
- 402A. Optional treatment of elective deferrals as Roth contributions.
- 403. Taxation of employee annuities.
- 404. Deduction for contributions of an employer to an employees’ trust or annuity plan and compensation under a deferred-payment plan.

<sup>1</sup> Period editorially supplied.

<sup>1</sup> Editorially supplied. Subpart E of part I added by Pub. L. 101-508 without corresponding amendment of part analysis.

#### Sec.

- 404A. Deduction for certain foreign deferred compensation plans.
- [405. Repealed.]
- 406. Employees of foreign affiliates covered by section 3121(l) agreements.
- 407. Certain employees of domestic subsidiaries engaged in business outside the United States.
- 408. Individual retirement accounts.
- 408A. Roth IRAs.
- 409. Qualifications for tax credit employee stock ownership plans.
- 409A. Inclusion in gross income of deferred compensation under nonqualified deferred compensation plans.

#### Editorial Notes

##### AMENDMENTS

2004—Pub. L. 108-357, title VIII, §885(c), Oct. 22, 2004, 118 Stat. 1640, added item 409A.

2001—Pub. L. 107-16, title VI, §617(e)(2), June 7, 2001, 115 Stat. 106, added item 402A.

1997—Pub. L. 105-34, title III, §302(e), Aug. 5, 1997, 111 Stat. 829, added item 408A.

1986—Pub. L. 99-514, title XVIII, §1899A(70), Oct. 22, 1986, 100 Stat. 2963, substituted “Qualifications” for “Qualification” in item 409.

1984—Pub. L. 98-369, div. A, title IV, §491(d)(54), (e)(10), July 18, 1984, 98 Stat. 852, 853, struck out items 405 and 409, which read “Qualified bond purchase plans” and “Retirement bonds”, respectively, and redesignated item 409A as 409.

1983—Pub. L. 98-21, title III, §321(e)(2)(D)(ii), Apr. 20, 1983, 97 Stat. 120, substituted “Employees of foreign affiliates covered by section 3121(l) agreements” for “Certain employees of foreign subsidiaries” in item 406.

1980—Pub. L. 96-603, §2(d)(1), Dec. 28, 1980, 94 Stat. 3510, added item 404A.

Pub. L. 96-222, title I, §101(a)(7)(L)(v)(VIII), Apr. 1, 1980, 94 Stat. 200, substituted “tax credit employee stock ownership plans” for “ESOPS” in item 409A.

1978—Pub. L. 95-600, title I, §141(f)(8), Nov. 6, 1978, 92 Stat. 2795, added item 409A.

1974—Pub. L. 93-406, title II, §1016(b)(1), Sept. 2, 1974, 88 Stat. 932, inserted heading “Subpart A—General Rule” and added analysis of subparts.

Pub. L. 93-406, title II, §2002(h)(2), Sept. 2, 1974, 88 Stat. 970, added items 408 and 409.

1964—Pub. L. 88-272, title II, §220(c)(1), Feb. 26, 1964, 78 Stat. 62, added items 406 and 407.

1962—Pub. L. 87-792, §5(b), Oct. 10, 1962, 76 Stat. 827, added item 405.

### § 401. Qualified pension, profit-sharing, and stock bonus plans

#### (a) Requirements for qualification

A trust created or organized in the United States and forming part of a stock bonus, pension, or profit-sharing plan of an employer for the exclusive benefit of his employees or their beneficiaries shall constitute a qualified trust under this section—

- (1) if contributions are made to the trust by such employer, or employees, or both, or by another employer who is entitled to deduct his contributions under section 404(a)(3)(B) (relating to deduction for contributions to profit-sharing and stock bonus plans), or by a charitable remainder trust pursuant to a qualified gratuitous transfer (as defined in section 664(g)(1)), for the purpose of distributing to such employees or their beneficiaries the corpus and income of the fund accumulated by the trust in accordance with such plan;