

Internal Revenue Service, Treasury

§ 1.411(d)-5

to satisfy the conditions of paragraph (b) of this Q&A-10.

(e) *Effective date.* This Q&A-10 applies to amendments adopted and effective after June 5, 1998.

Q-11: To what extent may a plan amendment that is made pursuant to the Taxpayer Relief Act of 1997 (TRA '97) (Public Law 105-34, 111 Stat. 788), reduce or eliminate section 411(d)(6) protected benefits?

A-11: A plan amendment does not violate the requirements of section 411(d)(6) merely because the plan amendment reduces or eliminates section 411(d)(6) protected benefits as of the effective date of the plan amendment, provided that—

(a) The plan amendment is made pursuant to an amendment made by title XV, or subtitle H of title X, of TRA '97; and

(b) The plan amendment is adopted no later than the last day of any remedial amendment period that applies to the plan pursuant to §§1.401(b)-1 and 1.401(b)-1T for changes under TRA '97.

[53 FR 26058, July 11, 1988, as amended by T.D. 8360, 56 FR 47602, Sept. 19, 1991; T.D. 8357, 56 FR 40549, Aug. 15, 1991; T.D. 8360, 57 FR 4721, Feb. 7, 1992; T.D. 8485, 58 FR 46828, Sept. 3, 1993; T.D. 8581, 59 FR 66180, Dec. 23, 1994; T.D. 8769, 63 FR 30623, June 5, 1998; T.D. 8781, 63 FR 47173, Sept. 4, 1998; T.D. 8794, 63 FR 70338, Dec. 21, 1998; T.D. 8806, 64 FR 1126, Jan. 8, 1999; T.D. 8806, 64 FR 38826, July 20, 1999; T.D. 8891, 65 FR 44682, July 19, 2000; T.D. 8900, 65 FR 53906, Sept. 6, 2000]

§ 1.411(d)-5 Class year plans; plan years beginning after October 22, 1986.

(a) *Plan years beginning prior to 1989.*

(1) The requirements of section 411(a)(2) shall be treated as satisfied in the case of a class-year plan if such plan provides that 100 percent of each employee's right to or derived from the contributions of the employer on the employee's behalf with respect to any plan year is nonforfeitable not later than when such participant was performing services for the employer as of the close of each of 5 plan years (whether or not consecutive) after the plan year for which the contributions were made.

(2) For purposes of paragraph (a)(1) of this section if—

(i) Any contributions are made on behalf of a participant with respect to any plan year, and

(ii) Before such participant meets the requirements of paragraph (a)(1) of this section, such participant was not performing services for the employer as of the close of each of any 5 consecutive plan years after such plan year, then the plan may provide that the participant forfeits any right to or derived from the contributions made with respect to such plan year.

(3) This paragraph (a) applies to contributions made for plan years beginning after October 22, 1986.

(b) *Plan years beginning after 1988.* (1) The special class year vesting rule in section 411(d)(4) was repealed by section 1113(b) of the Tax Reform Act of 1986 (1986 Act). The repeal is generally effective for plan years beginning after December 31, 1988. See section 1111(e) of the 1986 Act for a special effective date rule applicable to certain plans maintained pursuant to collective bargaining agreements.

(2)(i) This subparagraph (2) provides a special rule for class year plans that were in compliance with section 411(d)(4) immediately before the first plan year beginning after section 411(d)(4) is repealed. These plans are not required to retroactively compute years of service under the general section 411(a)(2) rules. Instead, a participant must receive a year of service for each such prior plan year if the employee was performing services on the last day of such year. Similarly, if the participant was not performing services on the last day of such years, the participant will be treated as if a one-year break-in-service occurred for such plan year. This subdivision (i) applies to plan years to which this section applies.

(ii) In the case of a plan year to which § 1.411(d)-3 applied, a class year plan must compute years of service and breaks in service in a manner consistent with the rules in this paragraph (b)(2)(i), giving appropriate regard to the statutory changes made to section 411(d)(4).

[T.D. 8219, 53 FR 31854, Aug. 22, 1988; 53 FR 48534, Dec. 1, 1988]