applicable to A for the plans maintained by the hospital for that limitation year.

Example (3). Assume the same facts as in example (1), except that A has elected to have the provisions of section 415(c)(4)(C) apply to the annuity contract for the current limitation year. Under the special rules contained in subparagraph (2) of this paragraph, the annuity contract is treated as a defined contribution plan maintained by the hospital as well as a defined contribution plan maintained by A. Accordingly, because the hospital is also maintaining a qualified defined benefit plan, the limitations of section 415(e) and this section are applicable to A for the annuity contract and the defined benefit plan maintained by the hospital in the current limitation year.

Example (4). J is employed by a hospital which is described in section 501(c)(3) and exempt from tax under section 501(a). The hospital purchases an annuity contract described in section 403(b) on J's behalf for the current limitation year. The hospital does not maintain any qualified plans during that limitation year. However, for the limitation year, J is in control (within the meaning of section 414 (b) or (c), as modified by section 415(h)) of employer M. M maintains a qualified defined benefit plan during that limitation year. Under the special rules contained in subparagraph (2) of this paragraph, the annuity contract is treated as a defined contribution plan maintained by M (the controlled employer) as well as a defined contribution plan maintained by J. Therefore, because M is also maintaining a qualified defined benefit plan, the limitations of section 415(e) and this section are applicable to J for the annuity contract and the defined benefit plan maintained by M in the current limitation year.

(i) *Special rules for individual retirement plans.* For purposes of section 415, an individual on whose behalf an individual retirement plan (as described in section 7701(a)(37)) is maintained is considered to have exclusive control of such plan. Therefore, the individual is treated as maintaining such plan. However, if that individual is in control of any employer within the meaning of section 414 (b) or (c), as modified by section 415(h), the individual retirement plan for the benefit of such individual is treated as a defined contribution plan maintained by both the controlled employer and such individual.

[T.D. 7748, 46 FR 1711, Jan. 7, 1981]

§ 1.415–8 Combining and aggregating plans.

(a) *In general.* Under section 415(f) and this section, for purposes of applying the limitations of section 415 (b), (c), and (e) applicable to a participant for a particular limitation year—

(1) All qualified defined benefit plans (without regard to whether a plan has been terminated) ever maintained by the employer will be treated as one defined benefit plan, and

(2) All qualified defined contribution plans (without regard to whether a plan has been terminated) ever maintained by the employer will be treated as one defined contribution plan.

(b) *Annual compensation taken into account where employer maintains more than one defined benefit plan.* If more than one qualified defined benefit plan is being aggregated under paragraph (a) of this section for a particular limitation year, in applying the defined benefit compensation limitation (as described in section 415(b)(1)(B)) to the annual benefit of a participant under each plan, the participant's high 3 years of compensation is determined in accordance with § 1.415–3(a)(3).

(c) *Affiliated employers.* Any qualified defined benefit plan or qualified defined contribution plan maintained by any member of a controlled group of corporations (within the meaning of section 414(b) as modified by section 415(h)) or by any trade or business (whether or not incorporated) under common control (within the meaning of section 414(c) as modified by section 415(h)) is deemed maintained by all such members or such trades or businesses.

(d) *Section 403(b) annuity contracts*—(1) *In general.* In the case of an annuity contract described in section 403(b), except as provided in subparagraph (2) of this paragraph, the participant on whose behalf the annuity contract is purchased is considered to have exclusive control of the annuity contract. Accordingly, the participant, and not the participant's employer who purchased the section 403(b) annuity contract, is deemed to maintain the annuity contract.

(2) *Special rules under which the employer is deemed to maintain the annuity*

contract. If a participant on whose behalf a section 403(b) annuity contract is purchased has elected to have the provisions of section 415(c)(4)(C) and §1.415–6(e)(5) apply for a taxable year, the annuity contract is treated as a defined contribution plan maintained by both the employer that purchased the annuity contract and the participant on whose behalf it was purchased for the limitation year which ends during such taxable year. Even if the election under section 415(c)(4)(C) is not made, where a participant, on whose behalf a section 403(b) annuity contract is purchased, is in control of any employer within the meaning of section 414 (b) or (c) as modified by section 415(h) for a limitation year, the annuity contract for the benefit of the participant is treated as a defined contribution plan maintained by both the controlled employer and the participant for that limitation year. Thus, for example, if a doctor is employed by an educational organization which provides him with a section 403(b) annunity contract and also maintains a private practice as a shareholder owning more than 50 percent of a professional corporation, any qualified defined contribution plan of the professional corporation must be combined with the section 403(b) annuity contract for purposes of applying the limitations of section 415(c) and §1.415–6. For purposes of this paragraph, it is immaterial whether the section 403(b) annuity contract is purchased as a result of a salary reduction agreement between the employer and the participant.

(e) *Multiemployer plans.* Multiemployer plans, as defined in section 414(f), shall not be aggregated with other multiemployer plans. However, where an employer maintains both a plan which is not a multiemployer plan and a multiemployer plan, the plan which is not a multiemployer plan shall be aggregated (based on its limitation year) with the multiemployer plan to the extent that benefits provided under the multiemployer plan are provided by such employer with respect to a common participant. See §1.415–1(e)(2) for a rule relating to the computation of the benefits provided by an employer under a section 414(f) multiemployer plan.

(f) *Special rules for combining certain plans, etc.* If a plan, annuity contract or arrangement is subject to a special limitation in addition to, or instead of, the regular limitations described in section 415 (b) or (c), and is combined under this section with a plan which is subject only to the regular section 415 (b) or (c) limitations, the following rules shall apply:

(1) Each plan, annuity contract or arrangement which is subject to a special limitation must meet its own applicable limitation and each plan subject to the regular limitations of section 415 must meet its applicable limitation.

(2) The combined limitations shall be the larger of the applicable limitations.

(g) *Special priority rule for TRASOP's.* For a special rule concerning allocations to a participant's account under an Employee Stock Ownership Plan under section 301(d) of the Tax Reduction Act of 1975, see §1.46–6(d)(6)(v).

(h) *Examples.* The provisions of this section may be illustrated by the following examples:

Example (1). M is an employee of ABC Corporation and XYZ Corporation. ABC maintains a qualified noncontributory defined benefit plan in which M participates and XYZ maintains a qualified defined contribution plan in which M participates. ABC Corporation and XYZ Corporation are members of a controlled group of corporations within the meaning of section 414(b) as modified by section 415(h). Because ABC Corporation and XYZ Corporation are members of a controlled group of corporations within the meaning of section 414(b) as modified by section 415(h), M is treated as being employed by a single employer. Thus, M's annual benefit under the defined benefit plan maintained by ABC may not exceed the limitations of section 415(b) and §1.415–3; the annual additions to M's account under the defined contribution plan maintained by XYZ may not exceed the limitations of section 415(c) and §1.415–6; and, in addition, the two plans may not exceed the limitations of section 415(e) and §1.415–7.

Example (2). Assume the same facts as in example (1), except that the qualified defined benefit plan maintained by ABC Corporation provides for employee contributions (whether mandatory or voluntary). Under §1.415–3(d), ABC Corporation will be considered to be maintaining a defined contribution plan consisting of M's contributions to the defined benefit plan. For purposes of applying the limitations of section 415(e) and §1.415–7, the qualified defined benefit plan maintained

by ABC must be combined with the defined contribution plan which ABC is considered to maintain. In addition, because corporations ABC and XYZ are members of a controlled group of corporations (within the meaning of section 414(b), as modified by section 415(h)), for purposes of applying the limitations of section 415(c) and §1.415–6, the qualified defined contribution plan maintained by XYZ must be combined with the define contribution plan which ABC is considered to be maintaining and the defined contribution plans (as combined) must be aggregated with the qualified defined benefit plan maintained by ABC for purposes of the limitations imposed by section 415(e) and §1.415–7.

[T.D. 7748, 46 FR 1715, Jan. 7, 1981]

§1.415–9 Disqualification of plans and trusts.

(a) *In general.* Under section 415(g) and this section, with respect to a particular limitation year, a plan (and the trust forming part of the plan) is disqualified in accordance with the rules provided in paragraph (b) of this section, if any of the following conditions exist:

(1) Annual additions (as defined in §1.415–6(b)) with respect to the account of any participant in a qualified defined contribution plan maintained by the employer exceed the limitations of section 415(c) and §1.415–6.

(2) The annual benefit (as defined in §1.415–3(b)(1)) of a participant in a qualifed defined benefit plan maintained by the employer exceeds the limitations of section 415(b) and §1.415–3.

(3) The combination of annual additions with respect to the account of any participant in a qualified defined contribution plan and the projected annual benefit payable with respect to such participant in a qualified defined benefit plan maintained by the employer exceeds the limitations of section 415(e) and §1.415–7.

For purposes of this paragraph, the determination of whether a plan or a combination of plans exceeds the limitations imposed by section 415 for a particular limitation year is, except as otherwise provided, made by taking into account the aggregation of plan rules provided in sections 415(f) and 414 (b) and (c) (as modified by section 415(h)).

(b) *Rules for disqualification of plans and trusts*—(1) *In general.* Any plan (including a trust which forms part of such plan) that is disqualified in a particular limitation year under the rules set forth in this paragraph, shall be disqualified as of the first day of the first plan year containing any portion of the particular limitation year.

(2) *Single plan.* In the case of a single qualified defined benefit plan maintained by the employer that provides an annual benefit (as defined in §1.415–3(b)(1)) in excess of the limitations of section 415(b) and §1.415–3 for any particular limitation year, such plan is disqualifed in that limitation year. Similarly, if the employer only maintains a single defined contribution plan under which annual additions (as defined in §1.415–6(b)) allocated to the account of any participant exceed the limitations of section 415(c) and §1.415–6 for any particular limitation year, such plan is also disqualifed in that limitation year.

(3) *More than one plan.* In the event that the limitations of section 415(b) and §1.415–3, or section 415(c) and §1.415–6 are exceeded for a particular limitation year with respect to any participant because of the application of the aggregation rules of section 415(f)(1) or section 414 (b) or (c), as modified by section 415(h), one or more of the plans shall be disqualifed in accordance with the rules set forth in this subparagraph. Similarly, if the limitations of section 415(e) and §1.415–7 are exceeded for a particular limitation year with respect to any participant because of the application of such aggregation rules (although if an individual participates in a defined contribution and defined benefit plan maintained by the same employer, these limitations may be exceeded even without the application of such aggregation rules), one or more of the plans shall be disqualified in accordance with the following rules:

(i) If there are two plans and one of the plans has been terminated at any time including the last day of the particular limitation year, the plan which has not been so terminated (whether or not that plan is a multiemployer plan described in section 414(f)) is disqualified in that limitation year.