

Employee Benefit Plan
Section 401(h)
(Worksheet Number 13 – Determination of Qualification)

INSTRUCTIONS — All items must be completed. A “Yes” answer generally indicates a favorable conclusion is warranted while a “No” answer indicates a problem exists. Please use the space on the worksheet to explain any “No” answer. See Publication 11433, Explanation 13, for guidance in completing this form.

The technical principles in this worksheet may be changed by future regulations or guidelines.

Name of Plan

I. Benefits

| Plan Reference | Yes | No | N/A |
|----------------|-----|----|-----|
|----------------|-----|----|-----|

a. Has the applicant requested consideration under section 401(h) or 420? If “Yes,” see section 16 and appendix of Rev. Proc. 2006-6, 2006-1 I.R.B. 204, and complete the remainder of this worksheet. If “No,” do not complete the remainder of this worksheet. []

b. Does the plan contain a medical benefits account within the meaning of section 401(h)? If “Yes,” complete the remainder of this worksheet. If “No,” secure amendments to include the section 401(h) account provisions or request an explanation from the applicant. []

c. Is the section 401(h) account part of a pension or annuity plan (including a money purchase pension plan)? []

d. Does the plan specify the medical benefits that will be available and contain provisions for determining the amount that will be paid? []

e. Does the medical benefits account specify who will benefit and limit eligible persons to retired employees, their spouses and their dependents? []

f. Does the plan specify either that contributions to such account are provided entirely from employer contributions or that they will be paid from employer and employee contributions? []

II. Subordination

a. Does the plan provide that retiree medical benefits are subordinate to the retirement benefits such that the aggregate actual contributions for medical benefits, when added to actual contributions for life insurance protection under the plan, do not exceed 25 percent of the total actual contributions to the plan (other than contributions to fund past service credits) after the later of the adoption or effective date of the plan amendment establishing the section 401(h) account? []

III. Separate Accounts

a. Does the plan provide that the section 401(h) arrangement is a separate account established and maintained for such benefits? []

b. Does the plan provide that in the case of an employee who is a key employee, a separate account is established and maintained for benefits payable to such employee (and his spouse and dependents) and such benefits (to the extent attributable to plan years beginning after March 31, 1984, for which the employee is a key employee) are only payable to such employee (and his spouse and dependents) from such separate account? []

c. Does the plan provide that the term “key employee” means any employee, who at any time during the plan year or any preceding plan year during which contributions were made on behalf of such employee, is or was a key employee as defined in section 416(i)? []

IV. Reasonable and Ascertainable Provisions

a. Does the plan provide for employer contributions to the medical benefits account that are reasonable and ascertainable? []

| V. Miscellaneous | Plan Reference | Yes | No | N/A |
|---|----------------|-----|----|-----|
| a. Does the plan provide that it is impossible, at any time prior to the satisfaction of all liabilities under the plan to provide section 401(h) medical benefits, for any part of the corpus or income of such separate account to be (within the taxable year or thereafter) used for, or diverted to, any purpose other than the providing of such benefits? [] | | | | |
| b. Does the plan expressly provide that, notwithstanding the provisions of section 401(a)(2), upon the satisfaction of all liabilities under the plan to provide section 401(h) medical benefits, any amount remaining in such separate account must be returned to the employer? [] | | | | |
| c. Does the plan expressly provide that in the event an individual's interest in the medical benefits account is forfeited prior to termination of the plan an amount equal to the amount of the forfeiture must be applied as soon as possible to reduce employer contributions to fund the medical benefits? [] | | | | |

Comments