Form **6044** (Rev. March 2006)	Department of the Treasury-Internal Revenue Service **Employee Plan Deficiency Checksheet** **Attachment #6** **Limitations on Contributions and Benefits**	Date

For IRS Use	Please furnish the amendment(s) requested in the section(s) checked below.
602 I.a.	Section _____ of the plan must define the term "limitation year." If not, the plan's limitation year is the calendar year. An employer may elect, by written resolution, to utilize another 12-consecutive month period as the limitation year. Regs. section 1.415-2(b).
603 I.b.	Section _____ of the plan should be amended to define the term "compensation" in accordance with IRC section 415(c)(3), section 1.415-2(d) of the regulations and, if applicable, section 1.415(c)-2(e) of the proposed regulations.
611 II.a.	Section _____ of the plan should be amended to define annual additions in accordance with the Code and regulations. IRC sections 415(c), 415(l), 419A(d)(2) and Regs. section 1.415-6.
612 II.b.	Section _____ of the plan must preclude the possibility that the annual additions to any participant's account for a limitation year will exceed the lesser of 100 percent of compensation or $40,000, as adjusted for cost-of-living increases pursuant to IRC sections 415(c)(1), 415(d)(1), 415(d)(3), and 415(d)(4).
613 II.c.	Section _____ of the plan must provide for the use of one of the methods set forth in section 1.415-6(b)(6) of the regulations only in situations where excess annual additions may result from contributions based on estimated annual compensation, the allocation of forfeitures, or a reasonable error in determining the amount of elective deferrals under section 402(g)(3). If the plan is a pension plan, then section 1.415-6(b)(6)(i) of the regulations may not be used as the plan would fail to provide definitely determinable benefits. Regs. sections 1.401(a)-2(b) and 1.415-6(b)(6).
614 II.d.	Where a defined contribution plan provides for an employer to continue to make contributions on behalf of an employee other than a highly compensated employee, who is permanently and totally disabled (as defined in section 22(e)(3) of the Code), then deemed compensation upon which contributions are made must be no greater than the rate at which the participant was paid immediately before becoming permanently and totally disabled. For years beginning after December 31, 1996, the above rule continues to apply. However, if a plan provides for the continuation of contributions on behalf of all such disabled participants for a fixed or determinable period, this rule also applies to highly compensated employees. Such contributions must be nonforfeitable when made. Section _____ of the plan should be amended accordingly. IRC section 415(c)(3)(C).
615,616 II.e.	Section _____ of the plan must provide that all defined contribution plans (including voluntary employee contribution accounts in a defined benefit plan and key employee accounts under a welfare benefit plan described in section 419, as well as employer contributions allocated to an IRA) of the employer, whether or not terminated, will be treated as one defined contribution plan for purposes of the limitations under section 415(c). Otherwise each of the defined contribution plans must contain provisions which limit each plan such that the possibility is precluded that the aggregated defined contribution plans may exceed the limitations of section 415(c). Where the employer is a member of a controlled group of corporations or commonly controlled trades or businesses, or a member of an affiliated service group, within the meaning of sections 414(b), (c) or (m) and 415(g) and (h), the plan must provide that all such employers are treated as a single employer for purposes of the plan's application of the section 415 limitations. IRC sections 419, 415(f)(1) and 414(m)(4); Regs. sections 1.415-8(a), 1.415-1(d)(1) and 1.401(a)-1(b)(1)(iii). ***Note: This attachment has only been updated with respect to defined contribution plans. Parts III to VI below have not been updated.***
621 III.a.	Section _____ of the plan must provide that the annual benefit to which any participant may be entitled, in the form of a straight life annuity, shall not exceed the lesser of $90,000 or 100 percent of the participant's high three year average compensation (or fewer, if the employee does not have three consecutive years). IRC sections 415(b)(1) and (2), 415(d); Regs. sections 1.415-3(a)(3) and (b).

651,652,653		Section _____ of the plan must provide that if a retirement benefit in any form other than a straight life annuity is offered, or if the employees contribute or make rollover contributions, then this benefit must be adjusted to a straight life annuity, beginning at the same age, which is the actuarial equivalent of such benefit. Prior to the first day of the first limitation year beginning in 1995, the plan should provide that in order to determine the actuarial equivalence of different forms of benefit payment, the interest rate assumptions may not be less than the greater of 5 percent or the rate specified in the plan for determining actuarial equivalence for the particular form of retirement benefit. For limitation years beginning on or after January 1, 1995 (and for employers who have elected to treat these rules as being effective on an earlier date that is on or after December 31, 1994), the actuarially equivalent straight life annuity for purposes of applying the limitations under section 415(b) to benefits that are not subject to section 417(e)(3) is equal to the greater of the equivalent annual benefit computed using the interest rate and mortality table, or tabular factor, specified in the plan for actuarial equivalence for the particular form of benefit payable, and the equivalent annual benefit computed using a 5 percent interest rate assumptions and the applicable mortality table. For plan benefits subject to section 417(e)(3), the equivalent annual straight life annuity is equal to the greater of the equivalent annual benefit computed using the interest rate and mortality table, or tabular factor, specified in the plan for actuarial equivalence for the particular form of benefit payable, and the equivalent annual benefit computed using the applicable interest rate and the applicable mortality table. The applicable interest rate used for determining actuarial equivalencies is the annual interest rate on 30-year Treasury securities as specified by the Commissioner. The applicable mortality table is the mortality table described in Rev. Rul. 95-6. IRC sections 415(b)(2)(B), 415(b)(2)(E) and 417(e)(3), Rev. Rul. 95-6, 1995-1 C.B. 80, Rev. Rul. 98-1, 1998-2 I.R.B. 5, Notice 83-10, 1983-1 C.B. 536, G-2.
III.b., c., d.		
656,657, 658,659		Where a retirement benefit is provided at or after age 62 but prior to the participant's social security retirement age (SSRA), then section _____ of the plan should provide that the benefit may not exceed an annual benefit of $90,000 reduced by: (i) in the case of a participant whose SSRA is 65, 5/9 of 1% for each month by which benefits commence before the month in which the participant attains age 65, or (ii) in the case of a participant whose SSRA is greater than 65, 5/9 of 1 % for each of the first 36 months and 5/12 of 1% for each of the additional months (up to 24) by which benefits commence before the month in which the participant attains SSRA. If the benefit begins before age 62, the benefit must be limited to the actuarial equivalent of the participant's limitation for benefits commencing at age 62, with the reduced dollar limitation for such benefits further reduced for each month by which benefits commence before the month in which the participant attains age 62. Prior to the first day of the first limitation year beginning in 1995, in order to determine actuarial equivalence for this purpose, the interest rate assumption used by the plan may not be less than the greater of 5 percent or the rate specified in the plan for determining actuarial equivalence for early retirement. SSRA is age 65 it the participant was born before 1/1/38, age 66 if born before 1/1/55, and age 67 if born after 12/31/54. For limitation years beginning on or after January 1, 1995 (and for employers who have elected to treat these rules as in effect on or after December 8, 1994), if the benefit begins before age 62, the benefit may not exceed the lesser of the equivalent amount computed using the interest rate and mortality table (or tabular factor) used in the plan for actuarial equivalence for early retirement benefits, and the amount computed using 5 percent interest and the applicable mortality table (to the extent that the mortality decrement is used prior to age 62), regardless of whether the benefit is or is not subject to section 417(e)(3). IRC sections 415(b)(2)(C) and 415(b)(2)(E)(i), Regs. sections 1.415-3(e) and 1.415-3(b)(1)(i), Notice 83-10, 1983-1 C.B. 536 and Notice 87-21, Q&A 5,1987-1 C.B. 458, and Rev. Ruls. 95-6 and 98-1.
III.e., f.		
660,661		If the benefit under the plan commences after social security retirement age (SSRA), the plan may provide for an increase in the maximum dollar limitation on such benefit to an amount that is actuarially equivalent to the maximum dollar limitation on a benefit commencing at SSRA. The increased maximum benefit, however, must not exceed 100 percent of the participant's high 3 year average compensation. The maximum dollar limitation on benefits is the lesser of the equivalent amount computed using the interest rate and mortality table (or tabular factor) used in the plan for actuarial equivalence for late retirement benefits, and the amount computed using 5 percent interest and the applicable mortality table, regardless of whether the benefit is or is not subject to section 417(e)(3). Section _____ of the plan should be amended accordingly. IRC sections 415(b)(2)(D) and 415(b)(2)(E)(ii), Notice 83-10, G-4, 1983-1 C.B. 536 and Notice 87-21, Q&As 4 and 5, 1987-1 C.B. 458, and Rev. Ruls. 95-6 and 98-1.
III.g.		
630		Section _____ of the plan must provide that the limitations on benefits of section 415(b) of the Code do not apply where the total annual benefits payable to a participant under this defined benefit plan and all other qualified defined benefit plans of the employer do not exceed $10,000 in the aggregate. Where a plan provides the $10,000 minimum limitation, the plan must provide that the minimum limitation is not applicable for a participant whose employer maintains or has maintained a defined contribution plan in which such employee participated. IRC 415(b)(4) and Regs. section 1.415-3(f).
III.h.		

631,632,633		Section _____ of the plan must provide that the compensation limitation and the $10,000 minimum limitation, if provided, must be reduced where a participant has less than 10 years of service with the employer at the time the participant begins to receive retirement benefits under the plan, and that the maximum dollar limitation must be reduced where a participant has less than 10 years of participation when retirement benefits under the plan commence. The plan should provide that these adjustments are made by multiplying the applicable limitations by the appropriate fraction: (i) For the compensation and $10,000 minimum limitations: Years of service with the employer as of, and including, the current limitation year, divided by 10 (ii) For the maximum dollar limitations: Years of participation with the employer as of, and including, the current limitation year, divided by 10 IRC section 415(b)(5), Regs. section 1.415-3(g), Notice 87-21, 1987-1 C.B. 458 Q&A 7, Notice 89-45, 1989-1 C.B. 684 and Rev. Proc. 92-42, 1992-1 C.B. 72.
III.i., j.		
634,635		Section _____ of the plan must provide that all defined benefit plans of the employer, whether or not terminated, will be treated as one defined benefit plan for purposes of the limitations under IRC section 415(b). Otherwise each of the defined benefit plans must contain provisions which limit each so that the possibility is precluded that the aggregate defined benefit plan may exceed the limitations of section 415(b). Where the employer is a member of a controlled group of corporations or commonly controlled trades or businesses, or a member of an affiliated service group within the meaning of sections 414(b), (c) or (m) and 415(g) and (h), the plan must provide that all such employers are treated as a single employer for purposes of the plan's application of the section 415 limitations. IRC sections 415(f)(1)(A) and 414(m)(4), and Regs. sections 1.415-8(a)(1) and 1.401(a)-1(b)(1)(iii).
III.k.		
636,637		Where the employer maintains or has maintained a defined contribution plan and maintains or has maintained a defined benefit plan, either of which has covered or may in the future cover the same participants, whether or not concurrently, the plans must preclude the possibility that the sum of the defined benefit plan fraction and the defined contribution plan fraction for all qualified plans maintained by the employer for each common participant will exceed 1.0. Otherwise each plan must preclude the possibility that the aggregate of the plan will exceed the limitations of section 415(e) of the Code. The part of a qualified defined benefit plan maintained by the employer to which employee contributions are made is considered a separate defined contribution plan for this purpose. Section _____ of the plan should be amended accordingly. IRC sections 415(e), 415(e)(6)(c) and 416(h)(4) and Notice 83-10, 1983-1 C. B. 536, G-8, G-9, and G-12.
IV.a.		
638		In the case of a top-heavy plan that does not meet the requirements of section 416(h)(2) of the Code, the denominators of the defined benefit and defined contribution plan fractions (as described in section 415(e)) are computed by substituting a factor of 1.0 for 1.25. Section _____ of the plan should be amended accordingly. IRC section 416(h) and Notice 83-10, G-12, 1983-1 C.B. 536.
IV.b.		
639		The amendment (proposed or adopted) to preclude benefit increases that would otherwise occur when the repeal of section 415(e) becomes effective for the plan is not acceptable and must be removed because: (1) it was not timely adopted and/or effective; or (2) it was not properly worded to be in accordance with Q&A-7 in Notice 99-44.
IV.c.		
640		In order to take the repeal of section 415(e) into account, the plan must be amended to eliminate all provisions relating to section 415(e). Such amendments must be effective no earlier than the first day of the first limitation year beginning in 2000.
IV.d.		
662		In order to provide benefit increases to reflect the repeal of section 415(e) for current or former employees, the current or former employees must be participants with an accrued benefit (other than an accrued benefit arising solely from the repeal of section 415(e)) under the plan on or after the plan's effective date of the section 415(e) repeal. The plan must be amended to reflect the requirement of the preceding sentence.
IV.e.		
641		A plan in existence on May 6,1986 (pre-TRA '86 plan), will not be disqualified for any limitation year beginning before January 1, 1987, merely because such plan provides for annual additions or annual benefits which exceed the limitations of IRC section 415 as amended by TRA '86. These pre-TRA '86 plans must, however, comply with section 415 as in effect before amendment by TRA '86 for all pre-1987 limitation years. Section _____ of the plan should be amended accordingly. Section 1106(i)(3) of Pub. L. 99-514 (TRA '86) and Notice 87-21, 1987-1 C.B. 458, Q&A 12.
V.a.		

642,643 V.b.		Section _____ of the plan should provide that, in the case of an individual who was a participant as of the beginning of the first limitation year beginning after December 31,1986 in a defined benefit plan which was in existence on May 6,1986, and whose current accrued benefit, as of the close of the 1986 limitation year, exceeds the dollar limitation of section 415(b) of the Code as amended by TRA '86, then, with respect to such participant, the applicable dollar limitation is the participant's current accrued benefit for purposes of applying the limitations of sections 415(b) and 415(e). The plan, however, must have satisfied the pre-TRA '86 requirements of section 415 for all pre-TRA '86 limitation years. Section 1106(i)(3) of Pub. L. 99-154 (TRA '86) and Notice 87-21, 1987-1 C.B. 458, Q&A 12.
644 V.c.		Section _____ of the pre-TRA '86 defined contribution plan should be amended to provide that where this plan and a pre-TRA '86 defined benefit plan are aggregated, a permanent adjustment will be made to the numerator of the defined contribution fraction to insure that the sum of the defined contribution fraction and defined benefit fraction does not exceed 1.0 as of the effective date of TRA '86. Section 1106(i)(4) of Pub. L. 99-514 (TRA '86) and Notice 87-21, 1987-1 C.B. 458, Q&A 14.
646 V.d.		Section _____ of the plan should be amended to provide that the accrued benefit of any participant which exceeds the benefit limitations under section 415 of the Code as amended by TRA '86 (including the protected current accrued benefit, as described in O&A 12 of Notice 87-21) is reduced, as of the first day of the first limitation year beginning after December 31,1986, to the level permitted under TRA '86. Section 1106(i)(3) of Pub. L. 99-514 and Notice 87-21, 1987-1 C.B. 458, Q&A 13.
647 VI.b.		To use the special transition rule under section 1449(a) of the Small Business Job Protection Act of 1996 (SBJPA '96), the plan must have been adopted and in effect before December 8, 1994. Section 1449(a) of SBJPA '96 and Rev. Rul. 98-1.
648 VI.b.		The plan must specify that the benefits to which the section 415(b)(2)(E) changes are not applied include each possible annuity starting date and optional form of benefit based on the participant's accrued benefits as of a specified date that is in accordance with Q&A-13 of Rev. Rul. 98-1, and which is determined after applying section 415 as in effect on December 7, 1994. Section _____ of the plan should be amended accordingly.
649 VI.e., f., g.		One of the methods described in Q&A-14 of Rev. Rul. 98-1 must be specified in the plan. Section _____ of the plan should be amended to describe in detail the method used.
650 VI.h.		Increases in frozen accrued benefits must be precluded. Section _____ of the plan should be amended accordingly.