ABA EMPLOYEE BENEFITS COMMITTEE
SUBCOMMITTEE ON SELF-CORRECTION, DETERMINATION LETTERS,
AND OTHER ADMINISTRATIVE PRACTICES

I. IRS OPERATIONAL COMPLIANCE LIST (2017 through 2019)

Effective in 2019:

- **Bipartisan Budget Act of 2018, Sections 41113 and 41114.** These sections of this act (a) provide that a distribution will not fail to be treated as made on account of hardship merely because the employee does not take any available loan from the plan, and (b) expand the types of contributions and earnings a plan may make available for hardship distributions. In addition, this legislation directs the IRS and Treasury to eliminate the safe harbor requirement to suspend participant contributions for six months in order for the distribution to be deemed necessary to satisfy an immediate and heavy financial need. These changes are effective for plan years beginning after December 31, 2018.

- **Proposed Regulations Regarding Hardship Withdrawals (83 F.R. 56763).** The proposed regulations would revise the 401(k) regulations to reflect legislation regarding hardship distributions. The proposed regulations would prohibit a plan from suspending a participant’s contributions as a condition of obtaining a hardship distribution. In addition, the proposed regulations would revise the safe harbor list of expenses deemed to constitute an immediate and heavy financial need, including modifications regarding casualty losses and disaster-related expenses. The proposed regulations are generally proposed to be effective for distributions made in plan years beginning after December 31, 2018, but would permit plans to (a) choose to cease suspension of contributions on the first day of the first plan year that begins after December 31, 2018, even for distributions made before that date, and (b) choose to apply the changes to the list of safe harbor expenses to any hardship distribution made after December 31, 2017. In addition, under the proposed regulations the requirement to obtain a representation that a distribution is necessary to satisfy a financial need would only apply for a distribution that is made after 2019, and the prohibition on a plan providing for a suspension of elective contributions or employee contributions as a condition of obtaining a hardship distribution would only apply for a distribution made after 2019.

*Note:* The proposed regulations provide that any plan amendments relating to the final regulations will be treated as integrally related to a disqualifying provision, and will thus have the same amendment deadline as a disqualifying provision, as set forth in Rev. Proc. 2016-37. For example, for an individually designed plan that is not a governmental plan, any plan amendments relating to the final regulations must be made by the end of the second calendar year that begins after the issuance of an annual Required Amendments List that includes the final regulations.

*Note:* Taxpayers may rely on the proposed regulations until the date of publication of final regulations in the Federal Register.

Last updated September 6, 2019
• Relief for Victims of Hurricanes Florence and Michael (83 F.R. 56766). The IRS and Treasury extended the retirement plan relief provided under Announcement 2017–15 to similarly situated victims of Hurricanes Florence and Michael, except that the “Incident Dates” (as defined in that announcement) are as specified by FEMA for these 2018 hurricanes, relief is provided through March 15, 2019, and any necessary amendments must be made no later than the deadline for amending a disqualifying provision, as set forth in Rev. Proc. 2016–37.

• Extension of temporary nondiscrimination relief for closed defined benefit pension plans (Notice 2018-69). This notice extends, to plan years beginning before 2020, the relief provided to closed defined benefit plans under Notice 2014-5, as extended under Notice 2015-28, Notice 2016-57, and Notice 2017-45.

Effective in 2018:

• Final Regulations regarding QNECs and QMACs in defined contribution plans (T.D. 8935). These proposed regulations provide that qualified matching contributions and qualified nonelective contributions must satisfy applicable nonforfeitability and distribution requirements at the time they are allocated to participants’ accounts but need not meet these requirements when they are contributed to the plan. These proposed regulations apply only to taxable years beginning on or after the publication of final regulations, but taxpayers may choose to rely on these proposed regulations currently and for prior periods.

• Relief for California Wildfires (Bipartisan Budget Act of 2018, Section 20102). A plan may offer participants affected by the California wildfires (a) new “qualified wildfire distributions,” subject to special tax treatment and recontribution options, and (b) plan loans of up to $100,000, subject to special repayment rules. To take advantage of the options provided under this legislation, the loans or distributions must be made within a specified time frame ending December 31, 2018. If the plan makes such loans or distributions, any necessary retroactive amendments must be adopted on or before the last day of the first plan year beginning on or after January 1, 2019 (or for IRC Section 414(d) governmental plans, the last day of the first plan year beginning on or after January 1, 2021). See, Pub. 976 for more information.

• Extension of temporary nondiscrimination relief for closed defined benefit pension plans (Notice 2017-45). This notice extends, to plan years beginning before 2018, the relief provided to closed defined benefit plans under Notice 2014-5, as extended under Notice 2015-28.

Note: Notice 2017-45 further extended this relief to plan years beginning before 2019. Subsequently, Notice 2018-69 further extended this relief to plan years beginning before 2020 (See above for entry in the 2019 operational compliance list).

• Extended rollover periods for certain amounts. Recent legislation extended the deadline for individuals to roll over certain distributions from qualified retirement plans. A plan that accepts
rollovers may choose to permit rollover contributions made within the new extended deadlines. The new rules extend the rollover deadline for:

- **Qualified plan loan offset amounts (Tax Cuts and Jobs Act of 2017, Section 13613).** Qualified plan loan offset amounts (as defined in IRC Section 402(c)(3)(C)(ii)) may be rolled over by the due date (including extensions) for filing the tax return for the taxable year in which such amount is treated as distributed from a qualified employer plan. (Qualified plan loan offsets include only certain offsets made upon separation of service or termination of the plan.) The extended due date applies to qualified plan loan offset amounts which are treated as distributed in taxable years beginning after December 31, 2017. See, IRC Section 402(c)(3)(C).

- **Refunds of improper tax levies (Bipartisan Budget Act of 2018, Section 41104).** A plan may choose to permit participants whose account or benefit under the plan had been subject to an improper federal tax levy to roll over to the plan any refund of such levy (including interest) that the participant subsequently receives from the IRS, no later than the due date (not including extensions) for filing the participant’s tax return for the taxable year in which the refund is received. These rules apply to levy refunds received in taxable years beginning after December 31, 2017. See, IRC Section 6343(f).

- **Modification of deduction for personal casualty losses (Tax Cuts and Jobs Act, Section 11044).** Under IRC Section 165(h)(5), for taxable years 2018 through 2025, the deduction for a personal casualty loss generally is available only to the extent the loss is attributable to a federally declared disaster (as defined in IRC Section 165(h)(5)). However, see proposed Treasury Regs. Section 1.401(k)-1(d)(3)(ii)(B)(6) (related to deemed immediate and heavy financial need), which provide, in part, that expenses for the repair of damage to an employee’s principal residence that would qualify for the IRC Section 165 casualty deduction is determined without regard to IRC Section 165(h). Thus, for example, a plan that made hardship distributions relating to casualty losses deductible under IRC Section 165 without regard to the changes made to IRC Section 165 by this legislation may be amended to apply the revised safe harbor expense relating to casualty losses to distributions made in 2018 so that plan provisions will conform to the plan’s operation. Taxpayers may rely on the proposed regulations until the date of publication of final regulations in the Federal Register.

### Effective in 2017:

- **Relief for 2016 Disaster Areas (Tax Cuts and Jobs Act of 2017, Section 11028).** Plans may offer participants affected by 2016 disasters “qualified 2016 disaster distributions,” subject to special tax treatment and recontribution options. Any qualified 2016 disaster distributions under this legislation must have been made on or after January 1, 2016, and before January 1, 2018. If the plan made such distributions, any necessary retroactive amendments must be adopted on or before the last day of the first plan year beginning on or after January 1, 2018 (or for IRC Section 13613).
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414(d) governmental plans, the last day of the first plan year beginning on or after January 1, 2020).

- **Relief for plans that make loans and hardship distributions to victims of Hurricanes Harvey, Irma, and Maria and of the California wildfires** ([Announcement 2017-11, Announcement 2017-13, Announcement 2017-15](#)). These announcements provide relief from certain requirements for loans and hardship distributions to victims of Hurricanes Harvey, Irma, and Maria, and to victims of the California wildfires, if certain conditions are met.

  *Note:* To make a loan or hardship distribution pursuant to the relief provided in these announcements, a plan that does not provide for them must be amended to provide for loans or hardship distributions no later than the end of the first plan year beginning after December 31, 2017, and other conditions must be met.

- **New “qualified hurricane distributions” and increased plan loan limits permitted for victims of Hurricanes Harvey, Irma, and Maria** ([Disaster Tax Relief and Airport and Airway Extension Act of 2017, Section 502, as amended by the Bipartisan Budget Act of 2018, Section 20201(a)](#)). A plan may offer participants affected by Hurricanes Harvey, Irma, and Maria (a) new “qualified hurricane distributions,” subject to special tax treatment and recontribution options, and (b) plan loans of up to $100,000, subject to special repayment rules. To take advantage of the options provided under this legislation, the loans or qualified hurricane distributions must be made within a specific time frame ending December 31, 2018.

  *Note:* Plans that choose to offer the expanded distributions and/or loans permitted by this legislation must be amended to include the relevant provisions by the last day of the first plan year beginning on or after January 1, 2019 (or for IRC Section 414(d) governmental plans the last day of the first plan year beginning on or after January 1, 2021), and other conditions must be met.

- **Proposed Regulations regarding QNECs and QMACs in defined contribution plans** ([REG-131643-15](#)). These proposed regulations provide that qualified matching contributions and qualified nonelective contributions must satisfy applicable nonforfeitability and distribution requirements at the time they are allocated to participants’ accounts but need not meet these requirements when they are contributed to the plan. These proposed regulations apply only to taxable years beginning on or after the publication of final regulations. Taxpayers were permitted to rely on these proposed regulations (including for periods prior to the issuance of the proposed regulations).

  *Note:* Regulations were finalized in 2018 (T.D. 8935)

- **Extension of temporary nondiscrimination relief for closed defined benefit pension plans** ([Notice 2016-57](#)). This notice extends, to plan years beginning before 2018, the relief provided to closed defined benefit plans under [Notice 2014-5](#), as extended under [Notice 2015-28](#). Also see, Notice 2018-69.
Note: Relief was subsequently extended to the plan year beginning before 2019 and again to the plan year beginning before 2020.

• **Final regulations regarding partial annuity distribution options for defined benefit pension plans (T.D. 9783)**. These regulations, which apply to defined benefit plans that permit partial annuity distributions, modify the minimum present value requirements under Internal Revenue Code (“IRC”) Section 417(e) for such distributions. These regulations apply to distributions with annuity starting dates in plan years beginning on or after January 1, 2017. A taxpayer can elect to apply these regulations with respect to any earlier period. *(Also appears on the 2017 Required Amendments List).*

  Note: The regulations provide relief from the anti-cutback rules of IRC Section 411(d)(6) for certain amendments adopted on or before December 31, 2017.

• **Final regulations regarding cash balance/hybrid plans (T.D. 9693 and T.D. 9743)**. These regulations, which apply to cash balance/hybrid plans (other than collectively bargained plans with a delayed effective date pursuant to Treas. Regs. Section 1.411(b)(5)-1(f)(2)(B)(3)), provide rules regarding market rate of return and other requirements for cash balance/hybrid plans. The regulations generally are first effective for plan years beginning on or after January 1, 2017. *(Also appears on the 2017 Required Amendments List).*

  Note: The relief from the anti-cutback requirements of IRC Section 411(d)(6) provided in Treas. Regs. Section 1.411(b)(5)-1(e)(3)(vi) applies only to plan amendments that are adopted before the effective date of these regulations.

  Also see Notice 2016-67. This notice addresses the applicability of the market rate of return rules to implicit interest pension equity plans.

• **Application of benefit restrictions for certain defined benefit plans** (eligible cooperative plans or eligible charity plans described in Section 104 of the Pension Protection Act of 2006, as amended (“PPA”)). An eligible cooperative plan or eligible charity plan that was not subject to the benefit restrictions of IRC Section 436 for the 2016 plan year under Section 104 of PPA ordinarily becomes subject to those restrictions for plan years beginning on or after January 1, 2017. However, this rule does not apply to a plan that fits within the definition of a Certain Cooperative and Small Employer Charity Pension Plan (“CSEC plan”) as defined in IRC Section 414(y), unless the plan sponsor has made an election for the plan not to be treated as a CSEC plan. *(Also appears on the 2017 Required Amendments List).*

- **Rev. Rul. 2019-19, 2019-36 I.R.B. 674.** Provides that an individual’s failure to cash a distribution check from a qualified plan does not permit the individual to exclude the amount of the designated distribution from gross income under IRC Section 402(a) and does not alter an employer’s withholding and reporting obligations under IRC Sections 3405 and 6047(d).

- **Recent Interest Rate Notices.** Updates for the corporate bond weighted average interest rates; the 24-month average segment rates; the funding transitional segment rates; and the minimum present value transitional rates. Link: [Recent Interest Rate Notices](https://www.irs.gov/retirement-plans/recent-ep-published-guidance)

- **Interest Rate Tables for retirement plans.** Link: [Interest rate tables](https://www.irs.gov/retirement-plans/recent-ep-published-guidance)

- **REG-121508, 2019-30 I.R.B. 456** Proposed regulations relating to the tax qualification of plans maintained by more than one employer. These plans are often referred to as multiple employer plans or MEPs. The proposed regulations would provide an exception, if certain requirements are met, to the application of the “unified plan rule” for a defined contribution MEP in the event of a failure by an employer participating in the plan to satisfy a qualification requirement or to provide information needed to determine compliance with a qualification requirement. These proposed regulations would affect MEPs, participants in MEPs (and their beneficiaries), employers participating in MEPs, and MEP plan administrators.

- **Rev Proc. 2019-20, 2019-20 I.R.B. 1182.** Provides for a limited expansion of the determination letter program with respect to individually designed plans. It also provides for a limited extension of the remedial amendment period under IRC Section 401(b) and Rev. Proc. 2016-37 under specified circumstances, and for special sanction structures that apply to certain plan document failures discovered by the IRS during the review of a plan submitted for a determination letter pursuant to this revenue procedure.

- **Rev. Proc. 2019-19, 2019-19 I.R.B. 1182.** Modifies and supersedes Rev. Proc. 2018-52, the most recent prior consolidated statement of the correction programs under EPCRS. This update is a limited update and is published primarily to expand SCP eligibility to permit correction of certain Plan Document Failures and certain plan loan failures, and to provide an additional method of correcting Operational Failures by plan amendment under SCP.


- **Notice 2019-18, 2019-13 I.R.B. 915.** Inform taxpayers that the Department of the Treasury and the Internal Revenue Service no longer intend to amend the required minimum distribution regulations under IRC Section 401(a)(9) to address the practice of offering retirees and beneficiaries who are currently receiving annuity payments under a defined benefit plan a temporary option to elect a lump-sum payment in lieu of future annuity payments.

*Last updated September 6, 2019*
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• **Notice 2018-95, 2019-52 I.R.R. 1058.** Provides transition relief from the “once-in-always-in” (OIAI) exclusion condition for excluding part-time employees under Treas. Regs. Section 1.403(b)–5(b)(4)(iii)(B). Under the OIAI exclusion condition, for a Section 403(b) plan that excludes part-time employees from making elective deferrals, once an employee is eligible to make elective deferrals, the employee may not be excluded from making elective deferrals in any later exclusion year on the basis that the employee is a part-time employee. In addition, in applying the OIAI exclusion condition for exclusion years after the transition relief ends, this notice provides a fresh-start opportunity for plans.

• **Notice 2018-91, 2018-50 I.R.B. 985.** Contains the 2018 Required Amendments List for individually designed qualified retirement plans. There are no entries listing changes in qualification requirements on the 2018 Required Amendments List.

• **REG-107813-18, 2018-49 I.R.B. 841.** These proposed regulations would amend the current regulations under Section 401(k) relating to hardship distributions. Section 41113 of the Bipartisan Budget Act of 2018 directs the Secretary to remove the requirement in the current regulations that an employee's plan contributions be suspended for at least 6 months following a hardship distribution from the plan.

• **Notice 2018-83, 2018-47 I.R.B. 774.** IRC Section 415 provides for dollar limitations on benefits and contributions under qualified retirement plans. Section 415(d) requires that the Secretary of the Treasury annually adjust these limits for cost of living increases. Other limitations applicable to deferred compensation plans are also affected by these adjustments under Section 415. Under Section 415(d), the adjustments are to be made under adjustment procedures similar to those used to adjust benefit amounts under Section 215(j)(2)(A) of the Social Security Act.

• **Rev. Proc. 2018-52, 2018-42 I.R.B. 611.** Modifies and supersedes Rev. Proc. 2016–51, 2016–42 I.R.B. 465, which sets forth the Employee Plans Compliance Resolution System for sponsors of retirement plans that have failed to satisfy certain requirements under IRC Section 401(a), 403(a), 403(b), 408(k), or 408(p). It sets forth new procedures for using the [www.pay.gov](http://www.pay.gov) website to file VCP submissions and pay user fees. Beginning on April 1, 2019, the IRS will no longer accept paper VCP submissions or process user fees paid with a paper check.

• **Notice 2018–74, 2018-40 I.R.B. 529.** Modifies the two safe harbor explanations in Notice 2014–74, that may be used to satisfy the requirement under IRC Section 402(f) that certain information be provided to recipients of eligible rollover distributions.

• **Notice 2018–69, 2018-37 I.R.B. 429.** Extends the temporary nondiscrimination relief for closed defined benefit plans that is provided in Notice 2014–5 by making that relief available for plan years beginning before 2020 if the conditions of Notice 2014–5 are satisfied.
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- **T.D. 9835, 2018-33 I.R.B. 288.** The regulations under sections 401(k) and 401(m) are amended to provide that an employer contribution to a plan may be a qualified matching contribution or qualified nonelective contribution if it satisfies applicable nonforfeitability requirements and distribution limitations at the time it is allocated to a participant’s account but need not meet these requirements or limitations when it is contributed to the plan.

- **Rev. Proc. 2018–21, 2018-14 I.R.B. 467.** Modifies the procedures of the IRS for issuing opinion and advisory letters for pre-approved master and prototype and volume submitter plans as provided in Rev. Proc. 2015–36. In particular, this revenue procedure modifies sections 6.03(7)(c) and 16.03(7)(c) of Rev. Proc. 2015–36 to allow pre-approved defined benefit plans containing a cash balance formula to provide for the actual rate of return on plan assets as the rate used to determine interest credits.

- **Announcement 2018–05, 2018-13 I.R.B. 461.** Provides that the IRS intends to issue opinion and advisory letters for master and prototype and volume submitter defined benefit plans (pre-approved) that were restated for changes in plan qualification requirements listed in Notice 2012–76 and that were filed with the IRS during the submission period for the second remedial amendment cycle. The IRS intends to issue the letters on March 30, 2018 or as soon as possible thereafter.


- **Notice 2018-24, 2018-17 I.R.B. 507.** Requests comments on potential expansion of the scope of the determination letter program for individually designed plans during the 2019 calendar year. Comments must be submitted to the IRS on or before June 4, 2018.

- **Revenue Ruling 2018–04, 2018-4 I.R.B. 304.** Provides tables of covered compensation under IRC Section 401(l)(5)(E) and the Income Tax Regulations thereunder, effective January 1, 2018. These tables of covered compensation reflect a revision to the taxable wage base for 2018 that was announced by the Social Security Administration on November 27, 2017 and apply in lieu of the tables that were provided in Revenue Ruling 2017–22, 2017–48 I.R.B. 536, 2017.

Revenue Procedure 2018-2, 2018-1 I.R.B. 106. Procedures explaining when and how an Associate office within the Office of Chief Counsel provides technical advice, conveyed in technical advice memoranda (TAMs). It also explains the rights that a taxpayer has when a field office requests a TAM regarding a tax matter. Rev. Proc. 2017–2 superseded.

Revenue Procedure 2018-1, 2018-1 I.R.B. 7. This procedure contains revised procedures for letter rulings and information letters issued by the Associate Chief Counsel (Corporate), Associate Chief Counsel (Financial Institutions and Products), Associate Chief Counsel (Income Tax and Accounting), Associate Chief Counsel (International), Associate Chief Counsel (Passthroughs and Special Industries), Associate Chief Counsel (Procedure and Administration), and Associate Chief Counsel (Tax Exempt and Government Entities). This procedure also contains revised procedures for determination letters issued by the Large Business and International Division, Small Business/Self Employed Division, Wage and Investment Division, and Tax Exempt and Government Entities Division. Rev. Proc. 2017–1 superseded.

Note: IRS Recent EP Published Guidance Webpage does not include a reference to Rev. Proc. 2018-1.

Notice 2018–02, 2018-2 I.R.B. 281. Sets forth the updated mortality improvement rates and static mortality tables that are used for purposes of determining minimum funding requirements under Section 430(h)(3) for 2019 and minimum present value under Section 417(e)(3) for distributions with annuity starting dates that occur during stability periods beginning in the 2019 calendar year.

Notice 2017–72, 2017-52 I.R.B. 601. Contains the 2017 Required Amendments List for individually designed qualified retirement plans. The list identifies certain changes in qualification requirements that became effective in 2017 that may require a retirement plan to be amended in order to remain qualified and establishes the date by which any necessary amendment must be made. (Details of Required Amendments List are discussed below.)


Announcement 2017–15, 2017-47 I.R.B. 534. Provides relief to victims of Hurricane Maria and the recent California wildfires. It permits easier access to funds held in workplace retirement plans and in IRAs, for periods beginning in September and October 2017 and ending March 15, 2018. The relief provided in the announcement is in addition to the relief already provided by the IRS pursuant to several recent news releases.
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• **Notice 2017-64, 2017-45 I.R.B. 486.** This notice contains the indexed limitations applicable to qualified plans for 2018, as well as certain limitations applicable for fringe benefit and IRAs. IRC Section 415 provides for dollar limitations on benefits and contributions under qualified retirement plans. Section 415(d) requires that the Secretary of the Treasury annually adjust these limits for cost of living increases. Other limitations applicable to deferred compensation plans are also affected by these adjustments under Section 415. Under Section 415(d), the adjustments are to be made under adjustment procedures similar to those used to adjust benefit amounts under Section 215(i)(2)(A) of the Social Security Act.

• **Rev. Proc. 2017–57, 2017-44 I.R.B. 474.** Updates Rev. Proc. 2000–41 to take into account the enactment of subsequent legislation. This revenue procedure sets forth the procedure for obtaining approval of the IRS for a change in the funding method used for a defined benefit plan, as provided by IRC Section 412(d)(1) and Section 302(d)(1) of ERISA. This revenue procedure also sets forth the procedure for obtaining approval of the IRS to revoke an election relating to interest rates pursuant to IRC Section 430(h)(2)(D)(ii) or Section 430(h)(2)(E) and the corresponding sections of ERISA.

• **Rev. Proc. 2017–56, 2017-44 I.R.B. 465.** Updates Rev. Proc. 2000–40 to take into account the provisions of IRC Section, which was enacted as part of the Pension Protection Act of 2006. This revenue procedure provides automatic approval for certain changes in funding method used for single-employer defined benefit plans for calculations described under Section 430.

• **Notice 2017-60, 2017 -43 I.R.B. 365.** This notice sets forth the mortality table that is used for purposes of determining minimum present value under IRC Section 417(e)(3) for 2018. This notice also sets forth static mortality tables for 2018 determined under the methodology of Section 1.430(h)(3)–1 prior to its amendment, which apply for certain plans.

• **Notice 2017-55, 2017-43 I.R.B. 373.** Procedure by which the sponsor of a defined benefit plan that is subject to the funding requirements of IRC Section 430 may request approval from the IRS for the use of plan-specific substitute mortality tables in accordance with Section 430(h)(3)(C) and Section 1.430(h)(3)–2 of the Treasury Regulations.

• **Rev. Proc. 2017–55, 2017-43 I.R.B. 373.** Sets forth the procedure by which the sponsor of a defined benefit plan that is subject to the funding requirements of IRC Section 430 may request approval from the IRS for the use of plan-specific substitute mortality tables in accordance with Section 430(h)(3)(C) and Section 1.430(h)(3)–2 of the Treasury Regulations.

• **Announcement 2017–13, 2017-40 I.R.B. 271.** Provides relief to victims of Hurricane Irma, which caused damage to Florida and other areas. It permits easier access to victims’ funds held in workplace retirement plans and in IRAs, for the period beginning September 4, 2017, (for Florida)
and ending January 31, 2018. The relief provided in the announcement is in addition to the relief already provided by the IRS pursuant to News Release IR–2017–150.

- **Announcement 2017–11, 2017-39 I.R.B. 255.** Provides relief to victims of Hurricane Harvey, which caused damage to Texas. It permits easier access to victims’ funds held in workplace retirement plans and in IRAs, for the period beginning August 23, 2017, and ending January 31, 2018. The relief provided in the announcement is in addition to the relief already provided by the IRS pursuant to News Release IR–2017–135.

- **Rev. Proc. 2017–43, 2017-31 I.R.B. 152.** Revises procedures for applying for Treasury Department approval of a suspension of benefits under a multiemployer defined benefit pension plan that is in critical and declining status under Section 432(e)(9).

- **Rev. Proc. 2017–41, 2017-29 I.R.B. 92.** Modifies and supersedes, in part, Rev. Proc. 2015–36, 2015–27 I.R.B. 20, which sets forth the procedures for issuing opinion and advisory letters on the form of qualified retirement plans submitted under the pre-approved plan program. The revenue procedure simplifies the current program by restructuring the current master and prototype and volume submitter pre-approved programs into a single program that increases the types of eligible plans and permits additional plan design options.

- **Notice 2017–37, 2017-29 I.R.B. 89.** Contains the Cumulative List of Changes in Plan Qualification Requirements for Pre-Approved Defined Contribution Plans for 2017 (2017 Cumulative List). The 2017 Cumulative List identifies changes in the qualification requirements of the Code that are required to be taken into account in a plan document submitted to the IRS under the pre-approved plan program for purposes of receiving an opinion letter.

- **Announcement 2017-4, 2017-16 I.R.B. 1106.** Provides relief from certain excise taxes under IRC Section 4975 and any related reporting requirements to conform to the temporary enforcement policy described by DOL in Field Assistance Bulletin (FAB) 2017–01 with respect to the final fiduciary duty rule.


- **T.D. 9811, 2017-7 I.R.B. 869.** Final regulations regarding the application of the modified carryover basis rules of Section 1022 of the Internal Revenue Code. Specifically, the final regulations modify provisions of the Treasury Regulations involving basis rules by including a reference to section 1022 where appropriate. The regulations will affect property transferred from certain decedents who died in 2010. The regulations reflect changes to the law made by the Economic Growth and Tax Relief Reconciliation Act of 2001 and the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010.

• **REG–112324–15, 2017-4 I.R.B. 547.** Proposed regulations prescribing mortality tables to be used by most defined benefit pension plans. The tables specify the probability of survival year-by-year for an individual based on age, gender, and other factors.

• **REG–131643–15, 2017-4 I.R.B. 865.** Proposed regulations which would amend the regulations under Section 401(k) to provide that amounts used to fund qualified matching contributions and qualified nonelective contributions must satisfy certain nonforfeitability and distribution requirements when they are allocated to participants’ accounts, and not when they are first contributed to the plan.

• **Notice 2017–01, 2017-2 I.R.B. 367.** This notice describes the circumstances under which, in light of changes to the remedial amendment period rules set forth in Rev. Proc. 2016–37, 2016–29 I.R.B. 136, the IRS will treat an application for a determination letter as being filed within a qualifying open remedial amendment period (one of the requirements for the user fee exemption). Specifically, this notice provides that the IRS will treat an application for a determination letter as being filed within a qualifying open remedial amendment period if the plan was first in existence no earlier than January 1 of the tenth calendar year preceding the year in which the application is filed (“the ten-year rule”).
III. IRS REQUIRED AMENDMENTS LIST


The Required Amendments List includes changes in qualification requirements that generally would require an amendment to most plans or to most plans of the type affected by the change. Under Section 5 of Rev. Proc. 2016-37, 2016-29 I.R.B. 136, the remedial amendment period is extended until the end of the second calendar year following publication of the Required Amendments List for the year.

Required Amendments List for 2019

• (Required Amendments List for 2019 has not been published as of September 6, 2019)


• There are no entries listing changes in qualification requirements on the 2018 Required Amendments List.

(Amendments are generally required by December 31, 2019)

• Final regulations regarding cash balance/hybrid plans (79 Fed. Reg. 56442, 80 Fed. Reg. 70680). Cash balance/hybrid plans must be amended to the extent necessary to comply with those portions of the regulations regarding market rate of return and other requirements that first become applicable to the plan for the plan year beginning in 2017. (This requirement does not apply to those collectively bargained plans that do not become subject to these portions of the regulations until 2018 or 2019 under the extended applicability dates provided in §1.411(b)(5)-1(f)(2)(B)(3).)

Note: The relief from the anti-cutback requirements of §411(d)(6) provided in §1.411(b)(5)-1(e)(3)(vi) applies only to plan amendments that are adopted before the effective date of these regulations.

Note: See also Notice 2016-67, 2016-47 I.R.B. 748, which addresses the applicability of the market rate of return rules to implicit interest pension equity plans.

• Benefit restrictions for certain defined benefit plans that are eligible cooperative plans or eligible charity plans described in section 104 of the Pension Protection Act of 2006, as amended (“PPA”). An eligible cooperative plan or eligible charity plan that was not subject to the benefit restrictions of § 436 for the 2016 plan year under § 104 of PPA ordinarily becomes subject to those restrictions for plan years beginning on or after January 1, 2017. However, a plan that fits within
the definition of a “CSEC plan” (as defined in § 414(y)) continues not to be subject to those rules unless the plan sponsor has made an election for the plan not to be treated as a CSEC plan.