

**DEPARTMENT OF THE TREASURY****Internal Revenue Service****26 CFR Part 1****[EE-35-95]****RIN 1545-AT82****Allocation of Accrued Benefits  
Between Employer and Employee  
Contributions****AGENCY:** Internal Revenue Service (IRS),  
Treasury.**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** This document contains proposed regulations that provide guidance on calculation of an employee's accrued benefit derived from the employee's contributions to a qualified defined benefit pension plan. These regulations are issued to reflect changes to the applicable law made by the Omnibus Budget Reconciliation Act of 1987 (OBRA '87) and the Omnibus Budget Reconciliation Act of 1989 (OBRA '89). OBRA '87 and OBRA '89 amended the law to change the accumulation of employee contributions and the conversion of those accumulated contributions to employee-derived accrued benefits.

**DATES:** Written comments and requests for a public hearing must be received by March 21, 1996.

**ADDRESSES:** Send submissions to: CC:DOM:CORP:R (EE-35-95), room 5228, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044. In the alternative, submissions may be hand delivered between the hours of 8 a.m. and 5 p.m. to: CC:DOM:CORP:R (EE-35-95), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC.

**FOR FURTHER INFORMATION CONTACT:** Concerning the regulations, Janet A. Laufer, (202) 622-4606, concerning submissions, Michael Slaughter, (202) 622-7190 (not toll-free numbers).

**SUPPLEMENTARY INFORMATION:****Background**

This document contains proposed amendments to regulations containing rules for computing an employee's accrued benefit derived from the employee's contributions to a qualified defined benefit pension plan. The proposed amendments reflect changes made to section 411(c)(2) by the Omnibus Budget Reconciliation Act of 1987, Public Law 100-203 (OBRA '87), and the Omnibus Budget Reconciliation Act of 1989, Public Law 101-239 (OBRA '89). OBRA '87 and OBRA '89 changed

the interest rates used to accumulate an employee's contributions to normal retirement age. OBRA '89 also changed the manner in which the accumulated contributions are converted to an annual benefit payable at normal retirement age, and removed a limitation on the employee-derived accrued benefit contained in prior law.

Section 411(c)(1) provides that an employee's accrued benefit derived from employer contributions as of any applicable date is the excess, if any, of the accrued benefit for the employee as of that date over the accrued benefit derived from contributions made by the employee as of that date. Section 411(c)(2)(B) provides that in the case of a defined benefit plan, the accrued benefit derived from contributions made by an employee as of any applicable date is the amount equal to the employee's contributions accumulated to normal retirement age using the interest rate(s) specified in section 411(c)(2)(C), expressed as an actuarially equivalent annual benefit commencing at normal retirement age using an interest rate which would be used by the plan under section 417(e)(3), as of the determination date. If the employee-derived accrued benefit is determined with respect to a benefit other than an annual benefit in the form of a single life annuity (without ancillary benefits) commencing at normal retirement age, section 411(c)(3) requires that the employee-derived accrued benefit be the actuarial equivalent of the benefit determined under section 411(c)(2).

Under section 411(c)(2)(C)(iii)(I), effective for plan years beginning after December 31, 1987, the interest rate used to accumulate an employee's contributions until the determination date is 120 percent of the Federal mid-term rate under section 1274 of the Internal Revenue Code (Code). For the period between the determination date and normal retirement age, section 411(c)(2)(C)(iii)(II) provides that the interest rate used to accumulate an employee's contributions is the interest rate which would be used under the plan under section 417(e)(3) as of the determination date. As noted above, section 411(c)(2)(B) provides that the interest rate which would be used under the plan under section 417(e)(3) as of the determination date also applies for purposes of converting the accumulated contributions to an annual benefit commencing at normal retirement age. The Retirement Protection Act of 1994, Public Law 103-465 (RPA '94) amended section 417(e) to change the applicable interest rate under section 417(e)(3) and to specify the applicable mortality table under that section. Examples contained

in § 1.411(c)-1(c)(6) of these proposed regulations reflect a plan that has been amended to comply with the interest rate and mortality table specifications enacted in RPA '94.

**Explanation of Provisions****1. Conversion Calculation**

Prior to OBRA '89, section 411(c)(2)(B) specified that the conversion factor to be used for purposes of computing the employee-derived accrued benefit was 10 percent for a straight life annuity commencing at normal retirement age of 65 (i.e., multiply the accumulated contributions by .10), and that for other normal retirement ages the conversion factor was to be determined in accordance with regulations prescribed by the Secretary. Section 1.411(c)-1(c)(2) of the existing regulations provides that for normal retirement ages other than age 65, the conversion factor shall be the factor as determined by the Commissioner.

Rev. Rul. 76-47 (1976-1 C.B. 109) sets forth in tabular form the conversion factors to be used for determining the accrued benefit derived from employee contributions when the normal retirement age under the plan is other than age 65 or when the normal form of benefit is other than a single life annuity (without ancillary benefits). Rev. Rul. 76-47 further provides that where no standard factor is available, a conversion factor must be determined using an interest rate of 5 percent and the UP-1984 mortality table (without age setback).

OBRA '89 deleted the ten percent conversion factor in section 411(c)(2)(B) and replaced it with the requirement that the accumulated contributions at normal retirement age be expressed as an annual benefit commencing at normal retirement age using an interest rate which would be used under the plan under section 417(e)(3) (as of the determination date). This change was effective retroactively to the effective date of the OBRA '87 provision relating to section 411(c)(2)(C) (the first day of the first plan year beginning after December 31, 1987).

To reflect the OBRA '89 amendments, these proposed regulations define appropriate conversion factor with respect to an accrued benefit expressed in the form of an annual benefit that is nondecreasing for the life of the participant as the present value of an annuity in the form of that annual benefit commencing at normal retirement age at a rate of \$1 per year. This amount is to be computed using the interest rate and mortality table