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Internal Revenue Code Section 414A(b)(1)

Requirements related to automatic enrollment

(a) In general.

Except as otherwise provided in this section-

(1) an arrangement shall not be treated as a qualified cash or deferred arrangement described in section 401(k) unless such arrangement meets the automatic enrollment requirements of subsection (b), and

(2) an annuity contract otherwise described in section 403(b) which is purchased under a salary reduction agreement shall not be treated as described in such section unless such agreement meets the automatic enrollment requirements of subsection (b).

 (b) Automatic enrollment requirements.

(1) In general.

An arrangement or agreement meets the requirements of this subsection if such arrangement or agreement is an eligible automatic contribution arrangement (as defined in section 414(w)(3)) which meets the requirements of paragraphs (2) through (4).

(2) Allowance of permissible withdrawals.

An eligible automatic contribution arrangement meets the requirements of this paragraph if such arrangement allows employees to make permissible withdrawals (as defined in section 414(w)(2)).

(3) Minimum contribution percentage.

(A) In general. An eligible automatic contribution arrangement meets the requirements of this paragraph if-

(i) the uniform percentage of compensation contributed by the participant under such arrangement during the first year of participation is not less than 3 percent and not more than 10 percent (unless the participant specifically elects not to have such contributions made or to have such contributions made at a different percentage), and

(ii) effective for the first day of each plan year starting after each completed year of participation under such arrangement such uniform percentage is increased by 1 percentage point (to at least 10 percent, but not more than 15 percent) unless the participant specifically elects not to have such contributions made or to have such contributions made at a different percentage.

(B) Initial reduced ceiling for certain plans. In the case of any eligible automatic contribution arrangement (other than an arrangement that meets the requirements

of paragraph (12) or (13) of section 401(k)), for plan years ending before January 1, 2025, subparagraph (A)(ii) shall be applied by substituting "10 percent" for "15 percent".

(4) Investment requirements.

An eligible automatic contribution arrangement meets the requirements of this paragraph if amounts contributed pursuant to such arrangement, and for which no investment is elected by the participant, are invested in accordance with the requirements of section 2550.404c-5 of title 29, Code of Federal Regulations (or any successor regulations).

(c) Exceptions.

For purposes of this section-

(1) Simple plans.

Subsection (a) shall not apply to any simple plan (within the meaning of section 401(k)(11)).

(2) Exception for plans or arrangements established before enactment of section.

(A) In general. Subsection (a) shall not apply to-

(i) any qualified cash or deferred arrangement established before the date of the enactment of this section, or

(ii) any annuity contract purchased under a plan established before the date of the enactment of this section.

(B) Post-enactment adoption of multiple employer plan. Subparagraph (A) shall not apply in the case of an employer adopting after such date of enactment a plan maintained by more than one employer, and subsection (a) shall apply with respect to such employer as if such plan were a single plan.

(3) Exception for governmental and church plans.

Subsection (a) shall not apply to any governmental plan (within the meaning of section 414(d)) or any church plan (within the meaning of section 414(e)).

(4) Exception for new and small businesses.

(A) New business. Subsection (a) shall not apply to any qualified cash or deferred arrangement, or any annuity contract purchased under a plan, while the employer maintaining such plan (and any predecessor employer) has been in existence for less than 3 years.

(B) Small businesses. Subsection (a) shall not apply to any qualified cash or deferred arrangement, or any annuity contract purchased under a plan, earlier than the date that is 1 year after the close of the first taxable year with respect to which the employer maintaining the plan normally employed more than 10 employees.

(C) Treatment of multiple employer plans. In the case of a plan maintained by more than 1 employer, subparagraphs (A) and (B) shall be applied separately with respect to each such employer, and all such employers to which subsection (a) applies (after the application of this paragraph) shall be treated as maintaining a separate plan for purposes of this section.