

Employee Stock Ownership Plans; Section 411(d)(6) Protected Benefits; Qualified Retirement Plan Benefits; Correction

Announcement 99-84

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correcting amendment.

SUMMARY: This document contains corrections to T.D. 8806, 1999-6 I.R.B. 4, final regulations which were published in the **Federal Register** on Friday, January 8, 1999, (64 F.R. 1125), relating to employee stock ownership plans and protected benefits under section 411(d)(6) and qualified retirement plan benefits.

DATES: This correction is effective January 8, 1999.

FOR FURTHER INFORMATION CONTACT: Linda S. F. Marshall, (202) 622-6030 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The final regulations that are subject to this correction are under section 411 of the Internal Revenue Code.

Need for Correction

On January 8, 1999, final regulations (T.D. 8806, 1999-6 I.R.B. 4) were published in the **Federal Register** (64 F.R. 1125). These regulations inadvertently amended §1.411(d)-4 Q&A-2(d)(2)(ii) instead of §1.411(d)-4 Q&A-2(d)(1)(ii). This document is correcting this amendment by providing the correct language for §1.411(d)-4 Q&A-2(d)(1)(ii) and restoring the language for §1.411(d)-4 Q&A-2(d)(2)(ii).

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and record-keeping requirements.

Correction of Publication

Accordingly, 26 CFR Part 1 is corrected by making the following correcting amendments:

PART 1 — INCOME TAXES

Paragraph 1. The authority citation for part 1 continues to read in part as follows:

Authority: 26 U.S.C. 7805***

§1.411(d)-4 [Corrected]

Par. 2. Section 1.411(d)-4 Q&A-2 is amended by:

1. Removing paragraph (d)(1)(ii).
2. Redesignating paragraph (d)(2)(ii) as paragraph (d)(1)(ii).
3. Adding paragraph (d)(2)(ii).

The addition reads as follows:

§1.411(d)-4 Section 411(d)(6) protected benefits.

* * * * *

- Q-2: ***
- A-2: ***
- (d) ***
- (2) ***

(ii) *ESOP investment requirement.* Except as provided in paragraph (d)(2)(iii) of this Q&A-2, benefits provided by employee stock ownership plans will not be eligible for the exceptions in paragraph (d)(1) of this Q&A-2 unless the benefits have been held in a tax credit employee stock ownership plan (as defined in section 409 (a)) or an employee stock ownership plan (as defined in section 4975 (e)(7)) subject to section 409 (h) for the five-year period prior to the exercise of employer discretion or any amendment affecting such benefits and permitted under paragraph (d)(1) of this Q&A-2. For purposes of the preceding sentence, if benefits held under an employee stock ownership plan are transferred to a plan that is an employee stock ownership plan at the time of transfer, then the consecutive periods under the transferor and transferee employee stock ownership plans may be aggregated for purposes of meeting the five-year requirement. If the benefits are held in an employee stock ownership plan throughout the entire period of their existence, and such total period of existence is less than five years, then such lesser period may be substituted for the five year requirement.

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Cynthia E. Grigsby,
Chief, Regulations Unit,
Assistant Chief Counsel (Corporate).

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