

MEMO# 32080

December 5, 2019

IRS Publishes 2019 Required Amendments List for Individually-Designed Qualified Retirement Plans and 403(b) Plans

[32080]

December 5, 2019 TO: ICI Members

Pension Committee

Pension Operations Advisory Committee SUBJECTS: Pension RE: IRS Publishes 2019 Required Amendments List for Individually-Designed Qualified Retirement Plans and 403(b) Plans

The Internal Revenue Service (IRS) issued Notice 2019-64,[\[1\]](#) containing the 2019 Required Amendments (RA) List for certain individually-designed retirement plans. Beginning with the 2019 RA List, the annual RA List will apply to both individually-designed retirement plans qualified under Code section 401(a) and individually-designed Code section 403(b) retirement plans. As a reminder, in 2016, the IRS began issuing the annual RA List in place of the annual Cumulative List of Changes in Plan Qualification Requirements (last published in 2015).[\[2\]](#)

An RA List includes only those items for which an amendment must be adopted by the end of the second calendar year following the year in which the RA List is published—which, in this case, would be December 31, 2021. An RA List for a given year will include statutory and administrative changes in requirements that are first effective during the plan year in which the list is published, but will not include guidance issued or legislative changes enacted after the list is prepared. It also will not include legislative changes for which Treasury and/or IRS expect to issue future guidance (to be included on a future year RA List), changes in requirements that permit (but do not require) new optional plan provisions, or changes in tax laws that do not affect the rules under Code sections 401(a) or 403(b) (such as changes to the tax treatment of plan distributions or changes to funding requirements).

The RA List is divided into two parts. Part A covers changes in requirements that generally would require an amendment to most plans or to most plans of the type affected by the change. Part B covers changes in requirements that the Treasury Department and IRS anticipate will not require amendments to most plans, but might require an amendment in

a plan with an unusual plan provision (such as a provision relating to a requirement that most other plans incorporate by reference). The Notice specifies that annual, monthly, or other periodic changes to (1) the various dollar limits that are adjusted for cost of living increases as provided in Code section 415(d) or other Code provisions, (2) the spot segment rates used to determine the applicable interest rate under Code section 417(e)(3), and (3) the applicable mortality table under Code section 417(e)(3), are treated as included on the RA List for the year in which such changes are effective even though they are not directly referenced on that RA List.^[3]

The 2019 RA List includes in Part A:

- Final regulations relating to hardship distributions.^[4] Plans (including 403(b) individually-designed plans) that (1) provide for a suspension of an employee's elective deferrals or employee contributions as a condition for obtaining a hardship distribution of elective deferrals or (2) do not require a representation from an employee who requests a hardship distribution that he or she has insufficient cash or other liquid assets reasonably available to satisfy the need, must be amended as necessary to eliminate the suspension and provide for the representation, for hardship distributions made on or after January 1, 2020.
- Final regulations regarding cash balance/hybrid defined benefit plans.^[5]

Part B of the 2019 RA List contains no items.

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endnotes

^[1] IRS Notice 2019-64 is available at <https://www.irs.gov/pub/irs-drop/n-19-64.pdf>.

^[2] See ICI Memorandum No. 30015, dated July 6, 2016. Available at https://www.ici.org/my_ici/memorandum/memo30015. For a description of the 2018 RA List, see ICI Memorandum No. 31517, dated December 11, 2018. Available at https://www.ici.org/my_ici/memorandum/memo31517.

^[3] Treasury and IRS anticipate that few plans have language that will need to be amended on account of these changes.

^[4] See ICI Memorandum No. 31991, dated October 2, 2019. Available at https://www.ici.org/my_ici/memorandum/memo31991.

^[5] These regulations affect certain collectively bargained cash balance and hybrid defined benefit plans. 79 Fed. Reg. 56442 (September 19, 2014) and 80 Fed. Reg. 70680 (November 16, 2015).

should not be considered a substitute for, legal advice.