

Department of the Treasury – Internal Revenue Service
Employee Plan Deficiency Checksheet
Attachment #3
Joint and Survivor

Date

<i>For IRS Use</i>	Please furnish the amendment(s) requested in the section(s) checked below.	
350		Section _____ of the plan should be amended to provide that the participant's nonforfeitable accrued benefit will be payable in full, upon the participant's death, to the surviving spouse. The plan may provide that this benefit will be paid instead to a designated beneficiary if the participant executes a written waiver of the spousal benefit, the spouse consents to the waiver, and both the waiver and the spouse's consent state the specific nonspouse beneficiary. IRC section 401(a)(11)(B) and Regs. section 1.401(a)-20 Q&As 3, 32 and 33.
I.a.		
351		Section _____ of the plan should be amended to provide that if a participant elects at any time to receive benefits in the form of a life annuity, the requirements described in sections 401(a)(11)(A) and 417 of the Code, and the regulations thereunder, will always thereafter apply to the participant's benefits under the plan. If the plan provides for a separate accounting of the account balance subject to the participant's life annuity election, these requirements need only apply to the separate account. IRC sections 401(a)(11) and 417(a) and Regs. section 1.401(a)-20 Q&A 4.
I.b.i.		
352		Section _____ of the plan should be amended to provide that the requirements described in sections 401(a)(11)(A) and 417 of the Code, and the regulations thereunder, will apply to a participant's benefits if, with respect to the participant, the plan is a direct or indirect transferee of benefits held on or after January 1, 1985 by a defined benefit plan or a defined contribution plan subject to the requirements of section 401(a)(11) and 417. If the plan provides for a separate accounting of the participant's benefits, these requirements need only apply to the separate account. IRC section 401(a)(11) and 417(a) and Regs. section 1.401(a)-20 Q&A 5.
I.b.ii.		
353		Section _____ of the plan should be amended to provide that the requirements described in sections 401(a)(11)(A) and 417 of the Code, and the regulations thereunder, apply with respect to those participants whose benefits under the plan are used to offset benefits under a defined benefit plan. IRC sections 401(a)(11) and 417(a) and Regs. section 1.401(a)-20 Q&A 5.
I.b.iii.		
354		Section _____ of the plan should be amended to provide that if a participant with vested benefits attributable to employer or employee contributions survives until the annuity starting date (that is, the first day of the first period for which an amount is paid as an annuity or any other form), the plan will provide for benefits in the form of a qualified joint and survivor annuity. For this purpose a qualified joint and survivor annuity for an unmarried participant is a single life annuity. IRC sections 401(a)(11) and 417(a) and Regs. section 1.401(a)-20 Q&As 8 and 25.
II.a.		
355		Section _____ of the plan should be amended to provide that for purposes of determining whether a participant's benefit is to be paid in the form of a qualified joint and survivor annuity, the first day of the first period for which the disability benefit described therein is to be paid will be treated as an annuity starting date. IRC section 417(f)(2)(B) and Regs. section 1.401(a)-20 Q&A 10.
II.b.		
356		Section _____ of the plan should be amended to provide that the payments under the qualified joint and survivor annuity will commence immediately. Regs. section 1.417(e)-1(b)(1).
II.c.		
357		The qualified joint and survivor annuity for a married participant must be at least as valuable as any other optional form of benefit payable under the plan at the same time. Section _____ of the plan should be amended accordingly. Regs. section 1.401(a)-20 Q&A 16.
II.d.		
358		Section _____ of the plan should be amended to designate which of the actuarially equivalent joint and survivor annuities under the plan is the automatic qualified joint and survivor annuity. Regs. section 1.401(a)-20 Q&A 16.
II.e.		

359		Section _____ of the plan should be amended to provide that a participant who elects to receive a distribution on or after attainment of earliest retirement age (that is, the earliest date on which the
II.f.		participant could elect to receive retirement benefits under the plan) will receive the distribution in the form of a qualified joint and survivor annuity unless the participant and spouse consent to payment in another form. IRC section 417(f)(3) and Regs. section 1.401(a)-20 Q&A 17.
360, 361		Section _____ of the plan should be amended to provide that during a period that begins on the first day of the 90 day period ending on the annuity starting date and ends on the later of the annuity starting
II.g.		date or the 30th day after the plan administrator provides the participant with a written explanation of the QJSA, a participant may waive the qualified joint and survivor annuity (QJSA) form of benefit if the following conditions are satisfied: (1) the participant's spouse consents in writing to the election and the spouse's consent is witnessed by a plan representative or notary public; (2) the participant's waiver and the spouse's consent state the specific nonspouse beneficiary (including any class of beneficiaries or contingent beneficiaries) and the particular optional form of benefit, neither of which may be further modified (except back to a QJSA) without subsequent spousal consent (unless expressly permitted by the spouse); and (3) the spouse's consent acknowledges the effect of the election. IRC sections 417(a) and Regs. sections 1.401(a)-20 Q&A 31, 1.417(e)-1(b) and 1.417(e)-1T.
362		Section _____ of the plan should be amended to provide that a participant who has elected to waive the qualified joint and survivor annuity with spousal consent may revoke the election at any time and any
II.h.		number of times during the 90 day period ending on the annuity starting date. IRC section 417(a)(1).
363, 364		Any marriage requirement for the participant and spouse must be limited to the one-year period ending on the earlier of the annuity starting date or the date of death. Nevertheless, the plan must treat a participant
II.i.		and spouse who are married on the annuity starting date as having been married during the one-year period ending on that date if they remain married for one year. Therefore, the plan must pay to such a participant the benefit that is to commence on the annuity starting date in the form of a qualified joint and survivor annuity. If the participant and spouse do not remain married for one year, the plan may provide that the spouse loses any survivor benefit rights and that any amount paid to the participant will not be retroactively corrected. Section _____ of the plan should be amended accordingly. IRC section 417(d) and Regs. section 1.401(a)-20 Q&A 25.

366		Section _____ of the plan should be amended to provide that if a married participant with vested benefits attributable to employer or employee contributions dies before the annuity starting date (that is, the
III.a.		first day of the first period for which an amount is paid as an annuity or any other form), the plan will provide the participant's spouse a qualified preretirement survivor annuity unless there has been a proper election to waive the QPSA and certain notice requirements have been met. IRC sections 401(a)(11) and 417(c) and Regs. section 1.401(a)-20 Q&A 8.
367, 368		Section _____ of the plan should be amended to provide that the benefit to be paid to the surviving spouse of a participant who dies before the annuity starting date will be determined as follows. If the
III.b.i.		participant dies after attaining earliest retirement age under the plan, the benefit may not be less than the benefit that would be payable to the survivor if the participant had retired with an immediate qualified joint and survivor annuity on the day before the participant's death. If the participant dies on or before earliest retirement age, the benefit may not be less than the benefit that would be payable to the survivor if the participant had separated from service at the earlier of actual separation or death, survived until the earliest retirement age, retired at that time with an immediate qualified joint and survivor annuity, and died on the day thereafter. IRC section 417(c)(1) and Regs. section 1.401(a)-20 Q&A 18.
369		Section _____ of the plan should be amended to provide that the annuity to be provided to the surviving spouse of a participant who dies before the annuity starting date will have a value that is not less
III.b.ii.		than 50 percent of the participant's nonforfeitable account balance, including the proceeds of insurance on the participant's life, as of the date of the participant's death. No more than a proportional share of those contributions that may not be forfeited at death (e.g., employee contributions) may be used to satisfy this requirement. IRC section 417(c)(2) and Regs. section 1.401(a)-20 Q&A 20.

370		Section _____ of the plan should be amended to provide that the surviving spouse may direct the commencement of payments under the qualified preretirement survivor annuity no later than the month in
III.c.i.		which the participant would have attained the earliest retirement age under the plan. IRC section 417(c) and Regs. section 1.401(a)-20 Q&A 22.
371		Section _____ of the plan should be amended to provide that the surviving spouse may direct the commencement of payments under the qualified preretirement survivor annuity within a reasonable time
III.c.ii.		after the participant's death. IRC section 417(c) and Regs. section 1.401(a)-20 Q&A 22.
372		When payments under a qualified preretirement survivor annuity begin earlier or later than the earliest retirement age, the plan must make reasonable actuarial adjustments to reflect the early or delayed
III.d.		payment. Section _____ of the plan should be amended accordingly. Regs. section 1.401(a)-20 Q&A 19.
373		A defined benefit plan may not charge a participant for the cost of a qualified preretirement survivor annuity (QPSA) (for example, by reducing the participant's benefit) prior to the later of the time the plan allows the
III.e.		participant to waive the QPSA and when the plan gives the participant notice of the right to waive the QPSA. Section _____ of the plan should be amended accordingly. Regs. section 1.401(a)-20 Q&A 21.
374, 375		Section _____ of the plan should be amended to provide that on or after the first day of the plan year
III.f.		in which the participant attains age 35 a participant may waive the qualified preretirement survivor annuity (QPSA) provided the following conditions are satisfied: (1) the participant's spouse consents in writing to the election and the spouse's consent is witnessed by a plan representative or notary public; (2) the participant's waiver and the spouse's consent state the specific nonspouse beneficiary (including any class of beneficiaries or contingent beneficiaries), which may not be modified (except back to a QPSA) without subsequent spousal consent (unless expressly permitted by the spouse); and (3) the spouse's consent acknowledges the effect of the election. If the participant separates from service before the plan year in which he or she attains age 35, the foregoing election may be made on or after the date of separation with respect to benefits accrued prior to separation. IRC section 417(c) and Regs. section 1.401(a)-20 Q&As 31 and 33.
376		Section _____ of the plan should be amended to provide that a participant who has elected to waive
III.g.		the qualified preretirement survivor annuity with spousal consent may revoke the election at any time and any number of times during the period between the first day of the plan year in which the participant attains age 35 and the date of the participant's death. IRC section 417(c) and Regs. section 1.401(a)-20 Q&A 30.
377		In the case of a qualified preretirement survivor annuity, any marriage requirement must be limited to no
III.h.		more than one year before the participant's death. Section _____ of the plan should be amended accordingly. IRC section 417(d) and Regs. section 1.401(a)-20 Q&A 25.
378		A plan may not distribute the participant's accrued benefit in any form other than a QJSA (or QPSA)
IV.a.		without the consent of the participant's spouse (or surviving spouse), except where the present value of the nonforfeitable benefit does not exceed \$5,000. Section _____ of the plan should be amended accordingly. IRC section 417(e) and Regs. section 1.417(e)-1(b).
379		A plan may not require a surviving spouse to begin receiving benefits under a QPSA prior to the time the
IV.b.		participant would have attained the later of age 62 or normal retirement age (as defined in section 411(a)(8) of the Code), except where the present value of the nonforfeitable benefit does not exceed \$5,000. Section _____ of the plan should be amended accordingly. IRC section 417(e) and Regs. sections 1.417(e)-1(b) and (c).
380		Section _____ of the plan should be amended to provide that written spousal consent to the use of a
IV.c.		participant's accrued benefit as security for a loan must be obtained within the 90-day period ending on the date on which the loan is to be secured. IRC section 417(a)(4) and Regs. section 1.401(a)-20 Q&A 24.