



2019

# PENSION ANALYST

Important information—Plan administration and operation



**Prudential**  
Bring Your Challenges™

## 2019 Year-End compliance reminders

### For defined contribution plans not subject to ERISA

This information applies to defined contribution plans, such as qualified governmental plans (including “grandfathered” 401(k) plans), qualified church plans that do not elect to be covered by ERISA (“non-electing church plans”), 403(b) plans, and section 457 plans that are not subject to Title I of ERISA.

Every year, defined contribution plan sponsors should make sure their plans meet certain compliance requirements, including those listed below. This publication identifies the materials you need to review and will help you prepare for year-end.

- **2019 Compensation limit is \$280,000.** In general, when determining 2019 contributions, plan sponsors may only take into account each participant’s compensation up to \$280,000. However, a special limit of \$415,000 applies to eligible participants in certain governmental plans that were in effect on July 1, 1993.
- **Annual deferral limit and correction deadline.** For the 2019 calendar year, a participant’s deferral contributions to a 401(k) plan, 403(b) plan or section 457 plan could generally not exceed \$19,000. A single \$19,000 limit applies to deferral contributions made to any combination of 401(k) plans and/or 403(b) plans. However, deferrals made to 401(k) plans and/or 403(b) plans do not reduce the limit on deferrals that may be made to a section 457 plan. As a result, an individual could contribute \$19,000 to a combination of 401(k) plans and/or 403(b) plans and contribute an additional \$19,000 to a section 457 plan.

Some 401(k), 403(b), and governmental 457 plans also may have allowed participants age 50 or older in 2019, to contribute an additional \$6,000 of “catch-up” deferrals during the 2019 calendar year. Additional catch-ups (i.e., 15-year catch-up, last three year catch-up) are available under some 403(b) plans and section 457 plans.

With the exception of governmental 457(b) plans, excess deferrals made in 2019 to a single plan, or to multiple plans sponsored by the same employer (determined on a controlled-group basis), must be distributed to the participant, with related earnings, by April 15, 2020. Failure to make these corrective distributions by April 15, 2020, may result in plan disqualification or loss of the tax deferred status of plan assets. In addition, the amount of excess elective deferral contributions must be included in the participant’s income in both the year contributed and in the year eventually distributed.

If your plan needs to distribute 2019 excess deferrals to any participants, please contact your Prudential Retirement representative for further information.

- **Annual additions limit.** In general, employer contributions, employee post-tax and pre-tax contributions, and forfeitures reallocated (if any) to a participant during the 2019 limitation year (collectively referred to as “annual additions”) are limited to the lesser of \$56,000 or 100% of the participant’s compensation. However, church employees may receive annual additions under a 403(b) plan of up to \$10,000 per year, even if this amount exceeds the standard 100% of compensation limit on annual additions. This special limit is limited to a \$40,000 lifetime maximum.

We have included an [Annual Additions Limit Worksheet](#) that you may use to calculate each participant’s limit, under the standard rules, and actual annual additions. If you have participants with excess annual additions, contact your Prudential Retirement representative for additional information about acceptable IRS correction methods.

©2019, The Prudential Insurance Company of America, all rights reserved.

Prudential, the Prudential logo, the Rock symbol and Bring Your Challenges are service marks of Prudential Financial, Inc. and its related entities, registered in many jurisdictions worldwide.

RSMH080

- **Ensure proper correction of contribution allocation errors.** Proper correction of plan errors is important for purposes of maintaining the qualified status of the plan. As noted above, some plan correction situations warrant the removal of money from a participant's account. It is important to note that plan correction guidance provided by the IRS does not currently prescribe the use of "negative contributions" to correct contribution allocation errors. This is the case even for corrections resulting from an operational error. For more information on correction methods available for operational errors, see our June 2019 *Pension Analyst* titled "[IRS expands correction programs.](#)"
- **2019 Forfeitures.** In general, qualified defined contribution plans may not carry unallocated suspense accounts from one year to the next. The IRS makes specific exceptions to this rule for suspense accounts arising from the correction of excess annual additions and assets transferred from a terminated defined benefit plan to be allocated over a seven-year period. Otherwise, the IRS expects all plan assets to be allocated among participant accounts at year-end. Plan documents may also contain language specifically addressing the timeframe by which forfeitures must be applied. Plan sponsors should review their plan document to determine if forfeitures need to be reallocated on an annual basis. Failure to timely reallocate unused amounts in the forfeiture account to plan participants may raise plan qualification concerns that should generally be corrected using the IRS Employee Plans Compliance Resolution System (EPCRS). For more information on this topic, see our June 2010 *Compliance Bulletin* titled, "[Forfeiture suspense accounts should have limited lifespans.](#)"
- **2020 Top-Heavy determination.** To determine if your plan is top-heavy for the 2020 plan year, you must first identify your "Key Employees." An employee is a Key Employee only if he or she is:
  - An officer of the organization who received more than \$180,000 compensation in 2019.

Employees who performed no services for your company during the one-year period ending on the last day of the 2019 plan year are disregarded in determining top-heavy status.

Also, the lookback period for adding back distributions to account balances depends on the type of distribution made. A five-year lookback applies to in-service withdrawals, including hardship withdrawals. However, other distributions (e.g., due to retirement, disability, death or termination of employment) are added back only if they were made during the one-year period ending on the last day of the 2019 plan year.

If Prudential Retirement does not provide top-heavy testing services for your plan, you may use the [Top-Heavy Test Worksheet](#) we have provided to perform this test or make other arrangements to do this testing.

- **2019 Top-Heavy contributions.** If your plan was top-heavy for 2019, based on 2018 plan year-end data, you generally must make a minimum contribution to satisfy the top-heavy requirements. This contribution is subject to the same timing requirements as any other 2019 employer contribution.
- **Plan amendments.** Plan sponsors that have decided to implement optional provisions or change plan provisions during the 2019 plan year must generally adopt the appropriate plan amendments by the last day of the 2019 plan year. Plans may also need to adopt amendments to certain disaster relief amendments for special hardship withdrawal and loan relief under the Internal Revenue Code by the last day of the 2019 plan year, if such relief was made available under the plan. Sponsors of plans that use Prudential Retirement's document services have already received information regarding such amendments, if applicable.

Sponsors of 403(b) plans should be aware of the end of the initial remedial amendment period and restatement deadline of March 31, 2020. Sponsors of 403(b) plans that use Prudential Retirement's document services will receive additional information regarding this restatement in the upcoming months. If Prudential Retirement does not provide document services for your plan, it is important that you send Prudential copies of all amendments that you've adopted, or plan to adopt during the 2019 plan year. Sponsors of individually designed plans should also ensure on an annual basis that the plan is amended for any required amendments on the IRS Required Amendments List. The IRS also issues an [Operational Compliance List](#) that identifies matters that may involve either mandatory or discretionary plan amendments depending on the plan. Providing timely copies of all amendments to Prudential

©2019, The Prudential Insurance Company of America, all rights reserved.

Prudential, the Prudential logo, the Rock symbol and Bring Your Challenges are service marks of Prudential Financial, Inc. and its related entities, registered in many jurisdictions worldwide.

Retirement ensures that our recordkeeping system accurately reflects the provisions of your plan and avoids operational errors that may otherwise arise.

Additionally, it is important for plans that are qualified by the Puerto Rico Treasury (“Hacienda”) to provide Prudential Retirement copies of any Hacienda determination letters following submission of qualification amendments.

If you have questions about these requirements, please contact your Prudential Retirement representative.

#### **Pension Analyst by Prudential Retirement**

The Pension Analyst is published by Prudential Retirement, a Prudential Financial business, to provide clients with information on current legislation and regulatory developments affecting qualified retirement plans. This publication is distributed with the understanding that Prudential Retirement is not rendering legal advice. Plan sponsors should consult their attorneys about the application of any law to their retirement plans.

Editor: Julie Koos

(563) 585-6811

©2019, The Prudential Insurance Company of America, all rights reserved.

Prudential, the Prudential logo, the Rock symbol and Bring Your Challenges are service marks of Prudential Financial, Inc. and its related entities, registered in many jurisdictions worldwide.