

Part IV. Items of General Interest

Transition Relief for SIMPLES

Announcement 96-112

PURPOSE

Section 1421 of the Small Business Job Protection Act of 1996 (P.L. 104-188), signed into law on August 20, 1996, established a simplified tax-favored retirement plan for small employers (the "SIMPLE plan") under section 408(p) of the Internal Revenue Code. The purpose of this announcement is to provide transition relief from the 60-day election period and related notice requirements in the case of SIMPLE plans that begin January 1, 1997.

Under this transition relief, for a SIMPLE plan that allows employees to begin salary reduction contributions on January 1, 1997, the employees' salary reduction election period may begin as late as January 1, 1997. During this 60-day election period, employees must be permitted to prospectively make or modify any salary reduction election.

BACKGROUND

SIMPLE plans can be established for calendar years beginning after 1996. Generally, SIMPLE plans can be established by any employer that, for the prior year, had no more than 100 employees who received at least \$5,000 in compensation from the employer.

Under section 408(p), contributions to a SIMPLE plan are made to individual retirement accounts or annuities (SIMPLE IRAs) that are established under the SIMPLE plan adopted by the employer. The Code provides that, if an employer adopts a SIMPLE plan, all of the employer's eligible employees must be given the opportunity to make salary reduction contributions to their SIMPLE IRAs (up to a maximum of \$6,000 for 1997). The adopting employer is required to match 100 percent of employees' salary reduction contributions up to three percent of compensation. Alternatively, an employer may contribute two percent of compensation for all eligible employees or, for up to two out of five years, match a lower percentage (but not less than one percent of compensation.)

Section 408(p)(5)(C) provides that, for each calendar year, each eligible employee may elect, during the 60-day period before the beginning of the calendar year (and the 60-day period be-

fore the first day the employee is eligible to participate), to participate in the qualified salary reduction arrangement under the SIMPLE plan maintained by the employer, or to modify the amounts subject to the arrangement. The statute requires that the employer notify each eligible employee immediately before the election period of the employee's opportunity to make salary reduction contributions and provide certain other information.

TRANSITION RELIEF FOR PLANS THAT BEGIN JANUARY 1, 1997

The 60-day period during which eligible employees may elect to make salary reduction contributions under a SIMPLE plan, or to modify prior elections, will not be required (but will be permitted) to begin before January 1, 1997. For plans that begin January 1, 1997, the 60-day election period requirement can be satisfied by providing an election period, of at least 60 days, that includes either the date the employee becomes eligible to make salary reduction contributions or the day immediately before that date. Thus, in the case of a SIMPLE plan under which eligible employees may begin making salary reduction contributions on January 1, 1997, employees who are eligible employees as of that date must have an election period of at least 60 continuous days that begins between November 2, 1996, and January 1, 1997. This minimum 60-day election period could be November 2 through December 31, 1996; January 1 through March 2, 1997; or any continuous period of at least 60 days beginning between November 2, 1996, and January 1, 1997.

The election period cannot begin until notice is provided to all eligible employees of their opportunity to make salary reduction contributions, including the summary description required by the statute. An employer may permit an eligible employee to begin making salary reduction contributions less than 60 days after receiving notice of the opportunity to make these contributions, but in no event before January 1, 1997. The employee must be given the opportunity to prospectively modify the election during the remainder of the 60-day election period.

PLANS THAT BEGIN AFTER JANUARY 1, 1997

This announcement does not address the treatment of SIMPLE plans established for 1997 that are first effective after January 1, 1997. Further guidance will be provided regarding those plans.