

**Massachusetts PERAC IRS Filing
Notice 2007-94
2007 Cumulative List of Changes and Plan Qualification Requirements**

NOTE: We have indicated on this chart any late amendments to ease your review.

Included (Check or N/A)	Guidance	Plan Reference
	<p>The following list consists of statutory provisions and associated guidance which reflect changes to plan qualification requirements. Miscellaneous guidance is also provided. The Service has identified below plan qualification requirements which were not on the 2006 Cumulative List as "(New)". Thus, the 2007 Cumulative List contains those plan qualification requirements first listed in the 2004, 2005, and 2006 Cumulative Lists as well as additional 2007 plan qualification requirements.</p>	
<p>N/A Since plan has no loans</p>	<p>1. <i>72(p)</i>: Section 1.72(p)-1 of the Income Tax Regulations relating to plan loans was published on December 3, 2002 (67 Fed. Reg. 71821).</p>	
<p style="text-align: center;">✓</p>	<p>2. <i>401(a)</i>: Final Regulations under § 401(a) of the Code regarding permissible normal retirement ages. (2006 C.L.)</p> <ul style="list-style-type: none"> • Notice 2007-69, 2007-35 I.R.B. 468, provides temporary relief, until the first day of the first plan year that begins after June 30, 2008, for certain pension plans under which the definition of normal retirement age may be required to be changed to comply with the regulations. Accordingly, the final regulations will not be taken into account in the Service's review of plans submitted for determination letters during the Cycle C submission period unless the plan, by its terms, is ineligible for the relief under Notice 2007-69 or the relief ends for the plan before December 31, 2008. (New). 	<p>Ch. 32 § 5, 10 Generally, Group 1 or 2 age 55 can retire (w/ 10 yos) Group 1 lower % salary from 64-55; Group 2 lower % salary age 59-55; Group 1 lower % salary age 54 to 45.</p> <p>Also can retire with 20 yos subject to age factor reductions.</p>
<p>N/A to governmental plan</p>	<p>3. <i>401(a)(4)</i>:</p> <ul style="list-style-type: none"> • Amendments to § 1.401(a)(4)-8 of the Regulations relating to new comparability plans were published on June 29, 2001 (66 Fed. Reg. 34535). (2004 C.L.) • Rev. Rul. 2001-30, 2001-2 C.B. 46. (2004 C.L.) • Amendments to § 1.401(a)(4)-9 of the Regulations relating to new comparability plans were published on June 29, 2001 (66 Fed. Reg. 34535). (2005 C.L.) • Rev. Rul. 2004-21, 2004-1 C.B. 544. (2005 C.L.) 	

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	<p>4. <i>401(a)(9)</i>:</p> <ul style="list-style-type: none"> • Sections 1.401(a)(9)-1 through -9 of the Regulations were published on April 17, 2002, and June 15, 2004 (67 Fed. Reg. 18834 and 69 Fed. Reg. 33288). (2004 C.L.) 	<p>Proposed Rule (d) <u>Note:</u> Late amendment.</p>
✓	<p>5. <i>401(a)(17)</i>: Section 401(a)(17) of the Code was amended by § 611(c) of EGTRRA to increase the compensation limit to \$200,000. (2004 C.L.)</p> <ul style="list-style-type: none"> • Notice 2001-56, 2001-2 C.B. 277. (2004 C.L.) 	<p>Ch. 32, § 1 (regular compensation) Proposed Rule (e)</p>
N/A since plan has no hardship distributions	<p>6. <i>401(a)(31)</i>:</p> <ul style="list-style-type: none"> • Section 401(a)(31) was amended by § 643(b) of EGTRRA to allow employees' after-tax contributions to be rolled over under certain circumstances. (2004 C.L.) • Section 401(a)(31)(B) was amended by § 657(a) of EGTRRA (as amended by § 411(t) of JCWAA) to provide for the automatic rollover of certain mandatory distributions. The effective date is March 28, 2005. (2004 C.L.) • Notice 2005-5, 2005-3 I.R.B. 337. (2004 C.L.) • Sections 641, 642 and 643 of EGTRRA (as amended by § 411(q) of JCWAA) amended the definition of eligible retirement plan in § 402 to include a § 403(b) annuity contract and eligible governmental § 457(b) plan. (2004 C.L.) • Section 636(b) of EGTRRA modified the definition of eligible rollover distribution to exclude hardship distributions. (2004 C.L.) 	<p>Proposed Rule (g) <u>Note:</u> Late amendment.</p> <p>No mandatory distributions.</p>

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N/A since plan is not a 401(k) plan	<p>7. <i>401(k) & 401(m)</i>:</p> <ul style="list-style-type: none"> • Section 401(k)(2) and § 401(k)(10) of the Code were amended by § 646(a)(1) of EGTRRA to permit distributions of elective deferrals from a § 401(k) plan upon severance from employment. (2004 C.L.) <ul style="list-style-type: none"> • Notice 2002-4, 2002-1 C.B. 298. (2004 C.L.) • Section 636(a) of EGTRRA directed the Secretary of the Treasury to revise the regulations relating to safe harbor hardship distributions of elective deferrals from § 401(k) plans so that the time the employee is prohibited from making elective and employee contributions is reduced from one year to six months after a hardship distribution. (2004 C.L.) <ul style="list-style-type: none"> • Notice 2001-56. (2004 C.L.) • Notice 2002-4. (2004 C.L.) • Section 401(k)(11) of the Code was amended by § 611(f) of EGTRRA to increase the maximum amount of qualified salary reduction contributions that can be made to SIMPLE 401(k) plans. (2004 C.L.) • Section 402(g) of the Code was amended by § 611(d) of EGTRRA to increase the applicable dollar amount. (2004 C.L.) • Section 401(m)(9) of the Code was amended by § 666 of EGTRRA to eliminate the multiple use test. (2004 C.L.) • Final regulations under § 401(k) and § 401(m) of the Code were published on December 29, 2004 (69 Fed. Reg. 78144). (2004 C.L.) • Announcement 2007-59, 2007-25 I.R.B. 1448, provides that a plan will not fail to satisfy the requirements of a § 401(k) safe harbor plan because of a mid-year change to implement a designated Roth contribution program. (New). 	

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N/A since plan is defined benefit plan	<p>8. <i>402A</i>: Section 402A of the Code was added by § 617 of EGTRRA to offer optional treatment of elective deferrals as designated Roth contributions to defined contribution plans, effective for taxable years beginning after December 31, 2005. (2004 C.L.)</p> <ul style="list-style-type: none"> • Final Regulations under § 401(k) and § 401(m) of the Code relating to designated Roth contributions were published on January 3, 2006 (71 Fed. Reg. 6). (2005 C.L.) • Notice 2006-44, 2006-20 I.R.B. 889 provides a sample amendment for Roth 401(k) plans. (2006 C.L.). • Final Regulations under § 402A were published on April 30, 2007 (72 Fed. Reg. 21103). (2006 C.L.). 	
N/A to governmental plans	<p>9. <i>404</i>:</p> <ul style="list-style-type: none"> • Section 404(k)(2)(A) of the Code was amended by § 662(a) of EGTRRA (as amended by § 411(w) of JCWAA) to allow ESOP dividends to be reinvested without the loss of dividend deductions. (2005 C.L.) • Notice 2002-2, 2002-1 C.B. 285 provides guidance with respect to the changes made to § 404(k) of the Code and on the effective date of § 409(p) of the Code. (2005 C.L.) 	
N/A since plan does not have deemed	<p>10. <i>408(q)</i>: Section 408(q) of the Code was added by § 602 of EGTRRA (as amended by § 411(i) of JCWAA) to allow for deemed individual retirement accounts (IRAs) in an eligible retirement plan. (2004 C.L.)</p> <ul style="list-style-type: none"> • Section 1.408(q)-(i) of the Regulations was published on July 22, 2004 (69 Fed. Reg. 43735). (2004 C.L.) 	
N/A since plan is not ESOP	<p>11. <i>409</i>: Section 409(p) of the Code was added by § 656 of EGTRRA relating to restrictions on the allocation of employer securities in an ESOP maintained by an S corporation. (2005 C.L.)</p> <ul style="list-style-type: none"> • Section 1.409(p)-1T of the Regulations was published on July 21, 2003 (68 Fed. Reg. 42970). (2005 C.L.) • Section 1.409(p)-1T of the Regulations was published on December 17, 2004 (69 Fed. Reg. 75455). (2005 C.L.) 	

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	<ul style="list-style-type: none"> • Rev. Proc. 2003-23, 2003-1 C.B. 599 as modified and superseded by Rev. Proc. 2004-14, 2004-1 C.B. 489 allows a direct rollover from an ESOP maintained by an S corporation to an individual retirement plan (IRA). (2005 C.L.) • Rev. Rul. 2003-6, 2003-1 C.B. 286 provides guidance with respect to whether an ESOP maintained by an S corporation is eligible for the delayed effective date of § 409(p) under § 656(d)(2) of EGTRRA. (2005 C.L.) • Rev. Rul. 2004-4, 2004-1 C.B. 414 provides guidance relating to synthetic equity owned by a disqualified person in a nonallocation year of an ESOP maintained by an S corporation. (2005 C.L.) • Final Regulations will be published soon that provide guidance concerning requirements under § 409(p) for ESOPs holding stock of S corporations. (New). 	
N/A since plan is not 401(k) plan	12. <i>410(b)</i> : Final Regulations were published on July 21, 2006 (71 Fed. Reg. 41357) permitting some employees of tax-exempt organizations to be excluded when determining whether a § 401(k) plan meets the § 410(b) minimum coverage requirements. (2006 C.L.).	
N/A to governmental plans	13. <i>411(a)</i> : <ul style="list-style-type: none"> • Section 411(a) of the Code was amended by § 633 of EGTRRA (as amended by § 411(o) of JCWAA) to provide for faster vesting of matching contributions. (2004 C.L.) • Rev. Rul. 2003-65, 2003-1 C.B. 1035. (2005 C.L.) • Amendments to § 1.411(d)-3 of the Final Regulations were published on August 9, 2006 (71 Fed. Reg. 45379) with respect to the interaction between the anti-cutback rules of § 411(d)(6) and the nonforfeitability requirements of § 411(a). (2006 C.L.). 	
N/A since no involuntary distributions in plan	14. <i>411(a)(11)</i> : Section 411(a)(11)(D) of the Code was added by § 648(a) of EGTRRA (as amended by § 411(r) of JCWAA) to allow amounts attributable to rollover contributions to be disregarded in determining the value of an account balance for involuntary distributions. (2004 C.L.)	No automatic distributions.

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N/A because not defined contribution plan	<p>15. <i>411(d)(3)</i>: Revenue</p> <ul style="list-style-type: none"> • Rev. Rul. 2007-43, 2007-28 I.R.B. 45, provides guidance regarding the partial termination of a defined contribution plan. (New). 	
N/A to governmental plans	<p>16. <i>411(d)(6)</i>:</p> <ul style="list-style-type: none"> • <i>Central Laborers' Pension Fund v. Heinz</i>, 124 S. Ct. 2230 (2004). (2005 C.L.) • Rev. Proc. 2005-23, 2005-18 I.R.B. 991 as modified by Rev. Proc. 2005-76, 2005-50 I.R.B. 1139. (2005 C.L.) • Amendments to § 1.411(d)-3 of the Final Regulations were published on August 9, 2006 (71 Fed. Reg. 45379) with respect to the interaction between the anti-cutback rules of § 411(d)(6) and the nonforfeitability requirements of § 411(a). (2006 C.L.) • Section 645(b)(3) of EGTRRA directed the Secretary of the Treasury to issue regulations under § 411(d)(6)(B). (2005 C.L.) • Section 1.411(d)-3 of the Regulations was published on August 12, 2005 (70 Fed. Reg. 47109). (2005 C.L.) • Amendments to § 1.411(d)-3 of the Final Regulations were published on August 9, 2006 (71 Fed. Reg. 45379) with respect to a utilization test. (2006 C.L.) • Section 411(d)(6)(D) and § 411(d)(6)(E) of the Code were added by § 645 of EGTRRA to permit the elimination of certain optional forms of benefit under certain conditions. (2005 C.L.) • Section 1.411(d)-4, Q&A-2(e) of the Regulations was published on January 25, 2005 (70 Fed. Reg. 3475) to implement § 411(d)(6)(E). (2005 C.L.) 	

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N/A to governmental plans	<p>17. 412:</p> <ul style="list-style-type: none"> • Rev. Rul. 2004-20, 2004-1 C.B. 546 provides guidance with respect to whether a qualified pension plan can be a § 412(i) plan if the plan holds life insurance contracts and annuity contract for benefits at normal retirement age in excess of a participant's benefits at normal retirement age under the plan. (2005 C.L.) • Notice 2004-59, 2004-2 C.B. 447 provides guidance with respect to restrictions placed on plan amendments following an employer's election of an alternative deficit reduction contribution. (2005 C.L.) 	
N/A since plan has no elective deferrals	<p>18. 414(v): Section 414(v) of the Code was added by § 631 of EGTRRA (as amended by § 411(o) of JCWAA) to allow for catch-up contributions for individuals age 50 or older. (2004 C.L.)</p> <ul style="list-style-type: none"> • Regulations under § 1.414(v) were published on July 8, 2003 (68 Fed. Reg. 40510). (2004 C.L.) <ul style="list-style-type: none"> • Notice 2002-4. (2004 C.L.) 	

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✓	<p>19. 415:</p> <ul style="list-style-type: none"> • Section 415(b) of the Code was amended by § 611 of EGTRRA to increase the dollar limit and change the age when the limit is reduced or increased. (2005 C.L.) <ul style="list-style-type: none"> • Rev. Rul. 2001-51, 2001-2 C.B. 427. (2004 C.L.) • Section 415(b)(2)(E)(ii) of the Code was amended by § 101(b)(4) of PFEA to fix the percentage at 5.5%. (2005 C.L.) <ul style="list-style-type: none"> • Notice 2004-78, 2004-2 C.B. 879 provides the actuarial assumptions that must be used for distributions with annuity starting dates occurring during the plans years beginning in 2004 and 2005. (2005 C.L.) • Section 415(c) of the Code was amended by § 611(b) and 632 of EGTRRA (as amended by § 411(p) of JCWAA) to increase the maximum annual additions permitted to the lesser of \$40,000 or 100% of compensation. (2004 C.L.) <ul style="list-style-type: none"> • Rev. Rul. 2001-51, 2001-2 C.B. 427. (2004 C.L.) • Rev. Rul. 2002-27, 2002-1 C.B. 925 provided that "compensation" within the meaning of § 415(c) could in certain situations include "deemed § 125 compensation." (2004 C.L.) • Final Regulations under § 415 with respect to pre-PPA '06 law were published April 5, 2007 (72 Fed. Reg. 16878). (2006 C.L.). 	<p>Ch. 32, § 5(3)(f); Proposed Rule (h)</p> <p><u>Note:</u> Late Amendment</p>

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N/A to governmental plans	<p>20. 416: Section 416 of the Code was amended by § 613 of EGTRRA (as amended by § 411(k) of JCWAA) to make several changes to the top-heavy rules. (2004 C.L.)</p> <ul style="list-style-type: none"> • Section 416(g)(4)(H) of the Code was added by § 613(d) of EGTRRA to provide certain safe harbor § 401(k) plans and § 401(m) plans an exemption from the top-heavy rules. (2004 C.L.) • Rev. Rul. 2004-13, 2004-1 I.R.B. 485. (2004 C.L.) • Section 416(c)(1)(C) of the Code was amended by § 613(e) of EGTRRA (as amended by § 411(k)(1) of JCWAA) to provide when a frozen defined benefit plan is exempt from the minimum benefit requirements. (2005 C.L.) 	
N/A to governmental plans	<p>21. 417:</p> <ul style="list-style-type: none"> • Section 1.417(e)-1 of the Regulations was published on July 16, 2003 (68 Fed. Reg. 41906) relating to retroactive annuity starting date. (2005 C.L.) • Final Regulations under § 417(a)(3) were published on March 24, 2006 (71 Fed. Reg. 14798) regarding the disclosure of the relative value of optional forms of benefit. (2006 C.L.). 	
N/A since plan is not S Corporation	<p>22. 4975:</p> <ul style="list-style-type: none"> • Section 4975 (f) of the Code was amended by 240 of AJCA to allow an S corporation distribution on allocated shares to pay off an exempt loan as long as equal amounts are allocated to participant accounts. (2005 C.L.) 	
	<p>23. <i>Hurricane Relief:</i></p> <ul style="list-style-type: none"> • Katrina Emergency Tax Relief Act of 2005, P.L. 109-73. (2005 C.L.) • Notice 2005-92, 2005-51 I.R.B. 1165. (2005 C.L.) • Announcement 2005-70, 2005-40 I.R.B. 682. (2005 C.L.) • Gulf Opportunity Zone Act of 2005, P.L. 109-135, added § 1400M and § 1400Q to the Code to provide certain tax benefits to those areas affected by Hurricanes Katrina, Wilma, and Rita. (2006 C.L.). 	

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<p>N/A since plan is not money purchase plan</p> <p>N/A since plan is defined benefit plan</p> <p>N/A since plan is defined benefit plan</p>	<p>24. <i>Miscellaneous</i></p> <ul style="list-style-type: none"> • Rev. Rul. 2001-62, 2001-2 C.B. 632 provides guidance with respect to the mortality table under § 415(b)(2)(E)(v) of the Code and the applicable mortality table under § 417(e)(3)(A)(ii)(I) of the Code. (2005 C.L.) <ul style="list-style-type: none"> • QAB 2005-5 provides mortality tables may be incorporated by reference to Rev. Rul. 2001-62. • Rev. Rul. 2002-42, 2002-1 C.B. 76, provides guidance with respect to a situation where a money purchase pension plan is merged or converted into a profit sharing plan. (2004 C.L.) • Rev. Proc. 2002-21, 2002-1 C.B. 911, provides guidance with respect to defined contribution retirement plans maintained by professional employer organizations. (2004 C.L.) • Rev. Proc. 2003-86, 2003-2 C.B. 1211, amplifies Rev. Proc. 2002-21 relating to relief provided for certain defined contribution plans maintained by professional employer organizations. (2004 C.L.) 	<p>Ch. 32 § 1, 5, 12 Proposed Rule (h)(6) <u>Note:</u> Late Amendment</p>
<p>N/A to governmental plans</p> <p>N/A to governmental plans</p> <p>N/A – no in-service rollover account distribution</p> <p>N/A since plan is not profit sharing plan</p>	<ul style="list-style-type: none"> • Rev. Rul. 2003-11, 2003-1 C.B. 285 provides guidance with respect to satisfying the nondiscrimination rules under § 401(a)(4) of the Code and the minimum coverage requirements under § 410(b) of the Code when applying the increased compensation limit to former employees. (2005 C.L.) • Rev. Rul. 2004-10, 2004-1 I.R.B. 484, provides guidance with respect to charging administrative expenses to former and current employees. (2004 C.L.) • Rev. Rul. 2004-12, 2004-1 C.B. 478 provides guidance with respect to the distribution restrictions applicable to rollover contributions. (2004 C.L.) • Rev. Rul. 2005-55, 2005-34 I.R.B. 284 provides guidance with respect to medical reimbursement accounts under a profit sharing plan. (2005 C.L.) 	

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N/A because of operating system	<ul style="list-style-type: none"> • Section 1.401(a)-21 of the Final Regulations were published on October 20, 2006 (71 Fed. Reg. 61877) setting forth standards for the use of an electronic medium to applicable notices to recipients or to make participant elections. (2006 C.L.). 	
N/A since plan is not defined contribution plan	<p style="text-align: center;">PENSION PROTECTION ACT OF 2006 PROVISIONS</p> <p>Plans submitting in Cycle C may be amended for PPA '06, but the Service will not consider PPA '06 in issuing determination letters. The following list includes PPA '06 provisions effective in 2008 or earlier and guidance relating to those PPA '06 provisions (other than proposed guidance and guidance issued after October 1, 2007)</p> <p>25. <i>401(a)(35)</i>: PPA '06 § 901(a)(1) added § 401(a)(35) requiring that defined contribution plans provide employees with the freedom to divest publicly traded securities. (2006 C.L.).</p> <ul style="list-style-type: none"> • Notice 2006-107, 2006-51 I.R.B. (December 18, 2006). (2006 C.L.) 	
N/A – no in-service distributions	<p>26. <i>401(a)(36)</i>: PPA '06 § 905(b) added § 401(a)(36) regarding distributions to a participant who has attained age 62 and who has not separated from employment at the time of the distribution. (New).</p>	
N/A since plan is not 401(k) plan	<p>27. <i>401(k)</i>: PPA '06 § 826 modified the rules relating to distributions from a § 401(k) plan on account of a participant's hardship to permit the plan to treat a participant's beneficiary under the plan the same as the participant's spouse or dependent. (2006 C.L.).</p> <ul style="list-style-type: none"> • Notice 2007-7, 2007-5 I.R.B. 395, provides guidance regarding PPA '06 § 826. (2006 C.L.). • Announcement 2007-59, 2007 I.R.B. 1448, provides that a plan will not fail to satisfy the requirements of a § 401(k) safe harbor plan because of mid-year change to implement the PPA '06 § 826 hardship withdrawals. (New). 	
N/A since plan is not 401(k) plan	<p>28. <i>401(k)(2)(B)(i)(V)</i>: PPA '06 § 827 permits reservists called to active duty after September 11, 2001 and before 2008 to take in-service distributions from a § 401(k) plan. (2006 C.L.).</p>	

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N/A because not 401(k) plan	29. <i>401(k)(8)(A)(i)</i> : PPA '06 § 902(e)(3) eliminates the gap period income rule for excess contributions. (New).	
N/A because not 401(k) plan	30. <i>401(k)(13)</i> : PPA '06 § 902 added § 401(k)(13) with respect to automatic contribution arrangements. (New).	
N/A because not 401(k) plan	31. <i>401(m)(6)(A)</i> : PPA '06 § 902(e)(3) eliminates the gap period income rule for excess aggregate contributions. (New).	
N/A because not 401(k) plan	32. <i>401(m)(12)</i> : PPA '06 § 902 added § 401(m)(12) with respect to automatic contribution arrangements. (New).	
✓	33. <i>402(c)(2)(A)</i> : PPA '06 § 822(a) amended § 402(c)(2)(A) to permit nontaxable distributions from a qualified plan to be directly rolled over tax-free to either another qualified plan or a § 403(b) plan if the separate accounting requirements are met. (2006 C.L.).	Proposed Rule (g)
✓	34. <i>402(c)(11)</i> : PPA '06 § 829(a)(1) added § 402(c)(11) to allow nonspouse beneficiaries to roll over distributions from a qualified plan to an individual retirement plan. (2006 C.L.). <ul style="list-style-type: none">• Notice 2007-7, 2007-5 I.R.B. 395, provides guidance regarding § 402(c)(11). (2006 C.L.)	Proposed Rule (g)
✓	35. <i>402(f)</i> : PPA '06 § 1102(a) provides that notice required to be provided under § 402(f) may be provided as much as 180 days before the annuity starting date. (2006 C.L.) <ul style="list-style-type: none">• Notice 2007-7, 2007-5 I.R.B. 395, provides guidance regarding PPA '06 § 1102. (2006 C.L.)	No plan language needed.
✓	36. <i>408A(e)</i> : PPA § 824 added § 408A(e) which permits rollovers to Roth IRAs from qualified plans, § 403(b) plans, and § 457 plans. (New).	Proposed Rule (g)
N/A	37. <i>411</i> : PPA '06 § 701 provides rules for cash balance plans and other hybrid defined benefit plans. (2006 C.L.). <ul style="list-style-type: none">• Notice 2007-6, 2007-3 I.R.B. 272, provides guidance regarding cash balance plans and other hybrid defined benefit plans. (2006 C.L.)	

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✓	<p>39. <i>411(a)(11)</i>: PPA '06 § 1102(a) provides that notice be required to be provided under § 411(a)(11) may be provided as much as 180 days before the annuity starting date. Section 1102(b) of PPA '06 provides that the notice under § 411(a)(11) also include a description of the consequences of failing to defer receipt of a distribution. (2006 C.L.)</p> <ul style="list-style-type: none"> • Notice 2007-7, 2007-5 I.R.B. 395, provides guidance regarding PPA '06 § 1102. (2006 C.L.) 	Done operationally.
N/A (No Indian tribal governments)	<p>40. <i>414(d)</i>: PPA '06 § 906(a)(1) added language to the definition of government plan in § 414(d) with respect to Indian tribal governments. (New).</p> <ul style="list-style-type: none"> • Notice 2006-89, 2006-43 I.R.B. 772, provides transition relief for plans subject to PPA § 906. (New). • Notice 2007-67, 2007-35 I.R.B. 467, extends the transition relief provided in Notice 2006-89 (New). 	Ch. 32 § 1 (definition of government unit and political subdivision)
N/A because not multi-employer plan	<p>41. <i>414(f)(6)</i>: PPA '06 § 1106(b) added § 414(f)(6) with respect to a multiemployer status election. Section 6611(a)(2) and (b)(2) of the U.S. Troop Readiness, Veterans' Care, Katrina Recovery, and Iraq Accountability Appropriations Act, 2007 amends § 414(f)(6). (New).</p>	
N/A because no auto contribution arrangement	<p>42. <i>414(w)</i>: PPA '06 § 902(d)(1) added § 414(w) with respect to automatic contribution arrangements. (New).</p>	
√	<p>43. <i>415(b)(2)(E)(ii)</i>: Section 415(b)(2)(E)(ii) of the Code was amended by § 303 of PPA '06 regarding the interest rate assumption for applying benefit limitations to lump sum distributions. (2006 C.L.).</p> <ul style="list-style-type: none"> • Final Regulations under § 415 were published April 5, 2007 (72 Fed. Reg. 16878), which provide guidance regarding § 415(b)(11), as added by PPA '06. (2006 C.L.) 	Proposed Rule (h)(6), (12) Ch. 32 § 10(4), 11

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N/A to governmental plans	<p>44. <i>415(b)(11)</i>: PPA '06 § 867(a) removed the 100% of compensation limitation for a church plan participant if the participant has never been a highly compensated employee of the church. (2006 C.L.).</p> <ul style="list-style-type: none"> • Final Regulations under § 415 were published April 5, 2007 (72 Fed. Reg. 16878), which provide guidance regarding § 415(b)(11), as added by PPA '06. (2006 C.L.). 	
√	45. <i>415(n)</i> : PPA '06 § 821 retroactively clarified the rules in § 415(n) relating to the purchase of permissive service credit under defined benefit governmental plans. (New).	Proposed Rule (h)(14)
N/A to governmental plans	<p>46. <i>417</i>: PPA '06 § 1102(a) provides that notice required to be provided under § 402(f), 411(a)(11), or 417 may be provided as much as 180 days before the annuity starting date. Section 1102(b) of PPA '06 provides that the notice under § 411(a)(11) also include a description of the consequences of failing to defer receipt of a distribution. (2006 C.L.).</p> <ul style="list-style-type: none"> • Notice 2007-7, 2007-5 I.R.B. 395, provides guidance regarding PPA'06 § 1102. (2006 C.L.) 	
√	47. <i>417(e)(3)</i> : PPA '06 § 302(b) amended the applicable interest rate and mortality table to be used for determining the present value of lump sum distributions. (New).	Proposed Rule (h)(6)
N/A to governmental plans	48. <i>417(g)</i> : PPA '06 § 1004(a)(2) added § 417(g), the qualified optional survivor annuity benefit. (New).	
N/A to governmental plans	49. <i>420(e)(2)</i> : PPA'06 § 114(d)(1) modified the definition of the term "excess pension assets." Section 6612(b) of the U.S. Troop Readiness, Veterans' Care, Katrina Recovery, and Iraq Accountability Appropriations Act, 2007 amends § 420(e)(2)(B). (New).	
N/A to governmental plans	50. <i>432(c)</i> : PPA '06 § 212(a) added § 432(c) which requires that a funding improvement plan be adopted for multiemployer plans in endangered status. (New).	
N/A to governmental plans	51. <i>432(e)</i> : PPA '06 § 212(a) added § 432(e) which requires that a rehabilitation plan be adopted for multiemployer plans in critical status. (New).	

**Massachusetts PERAC IRS Filing
Notice 2007-94
2007 Cumulative List of Changes and Plan Qualification Requirements**

Included (Check or N/A)	Guidance	Plan Reference
N/A to governmental plans	<p>52. 436: PPA '06 § 113(a)(1)(B) added §436 with respect to funding-based limits on benefits and benefit accruals under defined benefit single employer plans. (New).</p> <ul style="list-style-type: none"> • Guidance regarding PPA '06 § 1102 will be issued soon. (New). 	

**Massachusetts PERAC IRS Filing
Additional Governmental Plan Qualification Requirements**

Prior Compliance	Code Requirement	Plan Reference
	<p>The following list consists of statutory provisions and associated guidance which reflect additional plan qualification requirements for governmental plans. These items are not specifically identified on the Cumulative Lists, as they do not constitute "new" requirements or changes in the law since the issuance of GUST II letters. However, the Service will still require these elements to be included in a plan in order to issue a favorable qualification letter. Generally, plans that received a GUST II determination letter should already comply with these requirements.</p>	
	<p><u>DEFINITION OF INTERNAL REVENUE CODE</u></p> <p>The Internal Revenue Code should be defined in the Plan as the "Internal Revenue Code of 1986" as set forth in the Tax Reform Act of 1986.</p>	

**Massachusetts PERAC IRS Filing
Additional Governmental Plan Qualification Requirements**

Prior Compliance	Code Requirement	Plan Reference
✓	<p><u>CODE SECTION 401(a)(1)</u></p> <p><u>Formal Plan Required.</u> A qualified plan that allows contributions to a trust for the sole purpose of distributing benefits to employees and beneficiaries with favorable tax treatment must be <u>written</u>. Contributions may be made only by (i) the employer, (ii) the employees, or (iii) both the employer and the employees.</p> <p><u>"Pension Plan"</u>: a pension plan is a plan established and maintained by an employer primarily to provide systematically for the payment of definitely determinable benefits to employees over a period of years, usually for life, after retirement. Treas. Reg. § 1.401-1(b)(1)(i).</p> <p><u>Definitely Determinable Benefit</u>: for a defined benefit plan, requirement is satisfied where the benefit (including disability, death and early retirement) for each participant can be computed in accordance with an express formula contained in the plan. Rev. Rul. 74-385; Treas. Reg. § 1.401-1(b)(1)(i). <u>See also</u> Code § 401(a)(25) (if benefit is determined on the basis of actuarial assumptions, such assumptions must be specified in plan so as to preclude employer discretion).</p> <p><u>Mortality Tables.</u> In recent discussions, the IRS has been requiring specific provisions setting forth the actuarial assumptions to be used in determining actuarial equivalence.</p> <p><u>Incidental Benefit rules</u> (non-retirement benefits, <u>e.g.</u>, disability and death benefits). Treas. Reg. § 1.401-1(b)(1).</p>	<p><u>Employer contributions:</u> Ch. 32, § 1</p> <p><u>Benefit:</u> Ch. 32 §5, 10-13 (superannuation); §28N (county DOC); §42-43 (municipal pension teachers); §44-44B, 45A-45C (municipal pension school janitors); §44C (municipal pension dental assistant); §71 et seq (metro police); §75-76A (probation officer); §77-79 (laborers); §80-82 (city firemen); §83-84 (city police); §85-85D (town police/fire); §95-95B (city/town grant annuity if not otherwise entitled)</p> <p><u>Mortality:</u> Proposed Rule (f) Note: Late Amendment</p> <p>Ch. 32, §6-9, 12A, 12B, 12C; § 71 (metro police LOD death/dependents); §85E (town police/fire disability); §85H (town reserve police/volunteer fire disability); §85H^{1/2} (non-perm. police/fire disability); §89 (town/city police/fire survivors); §89A (public ee LOD death annuity); §89B (LOD death annuity for dependent city/town police/fire); §89C-89D (widow annuity ee city/town LOD death); § 100 - § 101 (death benefits)</p>

**Massachusetts PERAC IRS Filing
Additional Governmental Plan Qualification Requirements**

Prior Compliance	Code Requirement	Plan Reference
✓	<p><u>CODE SECTION 401(a)(2)</u></p> <p><u>Exclusive Benefit to Employees.</u> All qualified plan assets must be used exclusively for the benefit of employees or their beneficiaries. This rule involves a review of both form and operation.</p> <p>In order to comply with this “exclusive benefit” rule, it must also be shown that not only are payments made solely to members and their beneficiaries, but also that payments made to beneficiaries are <u>incidental</u> to those payments made to the member.</p> <p><u>Nondiversion of Trust Funds:</u> Plan must make it impossible prior to satisfaction of all liabilities for funds to be diverted for purposes other than exclusive benefit of employees or beneficiaries. Treas. Reg. § 1.401-2(a)(2).</p> <p><u>No In-Service Distributions:</u> Generally, a member may not receive distributions from a qualified plan prior to death, disability, separation from service, termination of plan, or attainment of normal retirement age.</p> <ul style="list-style-type: none"> • <u>Note</u> Code Section 401(a)(36) and IRS Final Regulations on Normal Retirement Age. 	<p>Ch. 32 § 22(8)(C^{1/2}) (PRIM holds PRIT assets in trust); § 23(3) (fiduciary acts for exclusive benefit)</p> <p>840 CMR 1.01 (Board duties) Proposed Rule (b)</p> <p>Proposed Rule (b) Note: Late amendment.</p> <p>No in-service distributions.</p>
✓	<p><u>CODE SECTION 401(a)(7)</u></p> <p><u>Vesting Requirements.</u> Pre-ERISA minimum vesting standards, requiring 100% vesting upon retirement and upon plan termination or discontinuance of employer contributions, must be met.</p> <ul style="list-style-type: none"> • <u>Rev. Rul. 66-11:</u> Requires full vesting at normal retirement age and completion of required years of service. 	<p>Proposed Rule (k) Note: Late amendment.</p> <p>Ch. 32 § 6-7 (lose disability benefit upon incarceration for felony)</p> <p>Ch. 32 § 15 (forfeiture for dereliction of duty)</p>
✓	<p><u>CODE SECTION 401(a)(8)</u></p> <p><u>Forfeitures.</u> Forfeitures may not be used to increase plan benefits in a defined benefit plan.</p>	<p>Proposed Rule(c) Note: Late amendment.</p> <p>Ch. 32 § 6-7 (lose disability benefit upon incarceration for felony)</p> <p>Ch. 32 § 15 (forfeiture for dereliction of duty)</p>

**Massachusetts PERAC IRS Filing
Additional Governmental Plan Qualification Requirements**

Prior Compliance	Code Requirement	Plan Reference
✓	<p><u>CODE SECTION 401(a)(9)</u></p> <p><u>Required Distributions.</u> Governmental plans must make distributions to an employee no later than April 1 of the calendar year in which he or she attains age 70 ½ or in which he or she retires, if later. The basic rule is that such distributions must be over the life of the employee or over the lives of the employee and a designated beneficiary or over a period not extending beyond the life expectancy of such employee or the life expectancy of such employee and a designated beneficiary. If an employee dies before his/her entire interest is distributed, the remaining portion must be distributed at least as rapidly as under the method of distribution being used at the date of death. If an employee dies before distribution of his/her interest has begun, the entire interest must be distributed over the beneficiaries lifetime or within 5 years after the employee's death. There are limited exceptions to the 5-year rule, and special rules if the surviving spouse is the designated beneficiary.</p> <p><u>Note: Final Regulations provide for transitional period and grandfathering of certain benefits.</u></p> <ul style="list-style-type: none"> ➤ <u>PPA:</u> Good faith compliance standard ➤ <u>GUST:</u> Provide for required beginning date and required actuarial adjustment for all benefits. Deadline for adoption was latest of (1) 02/28/2002, (2) the last day of the 2001 plan year, or (3) the last day of the first plan year beginning on or after the "2000 legislative date". ➤ <u>TRA'86:</u> Minimum required distributions at age 70½. Deadline for adoption for government plans extended to end of GUST RAP. <p><u>Incorporation by reference:</u> QAB 2004-5 permits requirements of 401(a)(9) to generally be incorporated by reference, subject to Treas. Reg. 1.401(a)(9)-1, which requires plan to include following:</p> <ul style="list-style-type: none"> ➤ Statutory rules of 401(a)(9), including 401(a)(9)(G). ➤ Provide distributions be made in accordance with 401(a)(9) and Treas. Reg. Section 401(a)(9)-1 through 1.401(a)(9)-9; <u>however</u>, under PPA governmental plans have good faith compliance with <u>statute</u> standard. ➤ 401(a)(9) provisions override any inconsistent plan distribution options. ➤ Any other provisions prescribed by IRS. 	<p>Proposed Rule (d) <u>Note: Late amendment.</u></p>

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Additional Governmental Plan Qualification Requirements**

Prior Compliance	Code Requirement	Plan Reference
✓	<p><u>CODE SECTION 401(a)(16)</u></p> <p>Benefits or contributions may not exceed 415 limits. <u>See</u> discussion below.</p>	<p>Ch. 32, Section 5(3)(f). Proposed Rule (h) (additional language) <u>Note: Late Amendment</u></p>
✓	<p><u>CODE SECTION 401(a)(17)</u></p> <p><u>Maximum Compensation.</u> For years beginning after December 31, 2001, the compensation limit will be increased to \$200,000 and indexed thereafter in \$5,000 increments. Certain governmental employees who qualify as eligible participants are grandfathered to limit in effect under plan on 7/1/93.</p> <ul style="list-style-type: none"> ➤ <u>EGTRRA:</u> Increased limit to \$200,000. Deadline good-faith amendment under Notice 2001-42 later of (1) end of plan year in which EGTRRA change is required or optionally put into effect, or (2) end of plan's GUST RAP. ➤ <u>GUST:</u> Repealed family aggregation rules. Deadline for adoption was latest of (1) 02/28/2002, (2) the last day of the 2001 plan year, or (3) the last day of the first plan year beginning on or after the "2000 legislative date". ➤ <u>OBRA '93:</u> Decreased limit to \$150,000. Grandfathering for eligible participants in governmental plans that timely adopted. Effective governmental plans on or after 01/01/1996. Deadline for adoption was latest of (1) 02/28/2002, (2) the last day of the 2001 plan year, or (3) the last day of the first plan year beginning on or after the "2000 legislative date". ➤ <u>TRA '86:</u> Limited compensation to \$200,000. Deadline for adoption for government plans extended to end of GUST RAP. <p><u>Incorporation by reference:</u> 401(a)(17) limit may be incorporated by reference by governmental plan. However, note grandfathering language for eligible participants.</p>	<p>Ch. 32, Section 1 (regular compensation) Proposed Rule (e)</p>
N/A	<p><u>CODE SECTION 401(a)(24)</u></p> <p><u>Participation in Group Trusts.</u> A group trust can remain tax-exempt while accepting funds from a governmental plan or government maintained 457 plan or accepting funds intended to satisfy governmental obligations with respect to such plans.</p>	N/A
✓	<p><u>CODE SECTION 401(a)(25)</u></p> <p><u>Stated Actuarial Assumptions.</u> Whenever the amount of any benefit is determined on the basis of actuarial assumptions, a defined benefit plan must specify actuarial assumptions in a manner that precludes employer discretion in order to provide definitely determinable benefits.</p>	<p>Proposed Rule(f), PERAC memorandums #37/2004; #48/2004; #2/2005. <u>Note: Late Amendment</u></p>

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Additional Governmental Plan Qualification Requirements**

Prior Compliance	Code Requirement	Plan Reference
✓	<p><u>CODE SECTION 401(a)(31)</u> (Note that Code Section 402(c) provides total and partial rollover and distribution rules, and general tax rules.)</p> <p><u>Eligible Rollover Distribution.</u> This section requires a plan to permit distributees to elect to have an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee in a direct rollover. For distributions made after December 31, 2001, plans may permit participants to rollover account balances among 401(a) plans, 403(b) tax-sheltered annuities, and 457 governmental deferred compensation plans. In addition, rollovers may be allowed from IRAs to these employer retirement plans. After-tax contributions in qualified plans may be rolled over to defined contributions plans that will account for them separately or to IRAs. Surviving spouses may be permitted to rollover distributions to a qualified plan, 403(b) plan, or 457 plan. Also, the law provides a hardship exception to the requirement that rollovers be made within 60 days of distribution, permitting the IRS to waive the 60 day requirement if the failure to do so would be against equity or good conscience.</p> <ul style="list-style-type: none"> ➤ <u>EGTRRA:</u> Expanded rollovers. Deadline good-faith amendment under Notice 2001-42 later of (1) end of plan year in which EGTRRA change is required or optionally put into effect, or (2) end of plan's GUST RAP. ➤ <u>UCA '92:</u> Added provisions for direct rollover effective distributions after 12/31/1992. For governmental plans adoption deadline is end of GUST RAP, which was latest of (1) 02/28/2002, (2) the last day of the 2001 plan year, or (3) the last day of the first plan year beginning on or after the "2000 legislative date". 	<p>Proposed Rule (g) <u>Note:</u> Late amendment.</p>
N/A	<p><u>CODE SECTION 401(h)</u></p> <p><u>Retiree Medical Benefits.</u> Pension or annuity plan may provide limited sickness, accident, hospitalization and medical benefits for retirees, their spouses and their dependents.</p>	N/A
Not a 401(k) plan.	<p><u>CODE SECTION 401(k)</u></p> <p><u>Cash or Deferred Arrangements.</u> Governmental organizations generally cannot maintain a qualified cash or deferred arrangement.</p>	

**Massachusetts PERAC IRS Filing
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Prior Compliance	Code Requirement	Plan Reference
✓	<p><u>CODE SECTION 414(d)</u></p> <p><u>Governmental Plan</u>. Defined as "a plan established and maintained by its employees by ... the government of any State or political subdivision thereof, or by any agency or instrumentality of any of the foregoing." The inclusion of non-governmental or quasi-governmental employers/employees can cause loss of governmental plan status.</p> <p>Five Factors Considered:</p> <ul style="list-style-type: none"> ➤ degree of control of govt. over organization's every day operations ➤ whether there is special legislation creating the organization ➤ source of funds for organization ➤ manner in which organization's trustees/operating board are selected ➤ whether applicable governmental unit considers employees of organization to be employees of governmental unit. <p>Rev. Rul. 89-49.</p>	<p>Ch. 32 § 1</p> <p>Ch. 32 § 90G^{3/4} (age 70 election to contribute/accrue benefits)</p> <p>840 CMR 11.02 (age 70 election)</p>
✓	<p><u>CODE SECTION 414(h)</u></p> <p><u>Government "Pick-ups"</u>. Allows a government entity to treat certain employee contributions as employer contributions. Revenue rulings have established the following requirements for an effective pick-up:</p> <ul style="list-style-type: none"> ➤ The employer must take formal action, evidenced by a contemporaneous written document, specifying that the contributions, although designated as employee contributions, are being paid by the employer in lieu of contributions by the employee. A person duly authorized to take such action with respect to the employer must do so. The action must apply prospectively only. ➤ The employee must not be given the option, from and after the date of the pick-up, to have a cash or deferred election right (within the meaning of § 1.401(k)-1(a)(3)) with respect to the designated employee contributions. Thus, the employees must not be able to opt out of the pick-up or be able to receive the contributed amounts directly instead of having them paid by the employer to the pension plan. <p>Rev. Rul. 2006-43; <u>see also</u> Rev. Rul. 81-35; Rev. Rul. 81-36; and Rev. Rul. 87-10.</p> <p>Note: IRS approval obtained through PLR.</p>	<p>Ch. 32 § 22(10). PLR received by PERAC March 16, 1988.</p>

**Massachusetts PERAC IRS Filing
Additional Governmental Plan Qualification Requirements**

Prior Compliance	Code Requirement	Plan Reference
✓	<p><u>CODE SECTION 414(j)</u></p> <p><u>Definition of Defined Benefit Plan.</u> A defined benefit plan means any plan that is not a defined contribution plan, <u>i.e.</u>, "a plan that provides for an individual account for each participant and for benefits based solely on the amount contributed to the participant's account, and any income, expenses, gains and losses, and forfeitures of accounts of other participants which may be allocated to such participant's account." Code § 414(i).</p>	Covered by benefit provisions.
No leased employees	<p><u>CODE SECTION 414(n)</u></p> <p><u>Leased Employees.</u> Definitions for leased employees.</p> <ul style="list-style-type: none"> ➤ <u>GUST:</u> leased employee primary direction and control test. Deadline for adoption was latest of (1) 02/28/2002, (2) the last day of the 2001 plan year, or (3) the last day of the first plan year beginning on or after the "2000 legislative date". ➤ <u>TRA '86:</u> Defined employee to include leased employees. 	
✓	<p><u>CODE SECTION 414(p)</u></p> <p><u>Definition of Qualified Domestic Relations Order.</u> A distribution from a governmental plan, which is not subject to Code § 401(a)(13), made pursuant to a domestic relations order will be treated as a QDRO if that order creates or recognizes the existence of an alternate payee's right to, or assigns to an alternate payee the right to, receive all or a portion of the benefits payable with respect to a participant under a plan. Code § 414(p)(1)(A)(i) and (ii).</p> <ul style="list-style-type: none"> ➤ <u>TRA '86:</u> DRO restrictions. Deadline for adoption for governmental plans extended to end of GUST RAP, which was latest of (1) 02/28/2002, (2) the last day of the 2001 plan year, or (3) the last day of the first plan year beginning on or after the "2000 legislative date". <p>Note: Governmental plans are not required to accept QDROs. However, if plan does make distributions under DROs that meet these definition, the appropriate tax consequences are determined by federal law.</p> <p><u>Incorporation by reference:</u> QDRO rules may be incorporated by reference.</p>	Ch. 32 § 19 (generally recognize); § 19A and 19C (child support recognized); § 92A (if reside outside U.S., recognize)

**Massachusetts PERAC IRS Filing
Additional Governmental Plan Qualification Requirements**

Prior Compliance	Code Requirement	Plan Reference
✓	<p><u>CODE SECTION 414(s)</u></p> <p><u>Definition of Compensation.</u> Code § 414(s) defines compensation by reference to Code § 415(c). However, Code § 415(c) permits compensation to include any elective deferrals under Code § 402(g)(3) (including 403(b) deferrals) and any amount deferred by employer at the election of the employee which is not includible in gross income under 125 or 457. However, picked-up contributions are <u>not</u> includible under the Code § 415(c) definition.</p> <ul style="list-style-type: none"> ➤ <u>CRTRA 2000:</u> Must include transportation fringe benefits in compensation under 414(s)(2). Deadline for adoption latest of (1) end of 2002 plan year, (2) end of GUST RAP, or (3) June 30, 2003. 	<p>Ch. 32 § 1 (regular compensation)</p> <p>840 CMR 15.03</p> <p><u>Note:</u> Late Amendment</p>
✓	<p><u>CODE SECTION 414(u) (USERRA)</u></p> <p><u>Reemployed Veterans.</u> The Uniformed Services Employment and Reemployment Rights Act of 1994 expanded veterans rights and included various retirement plan provisions in the Internal Revenue Code. Generally, make- up employee contributions required under DB plan not subject to 415 limits for year make-up contributions made, but subject to applicable limits for year to which the contributions relate.</p> <ul style="list-style-type: none"> ➤ <u>GUST:</u> USERRA effective 12/12/1994. Deadline for adoption was latest of (1) 02/28/2002, (2) the last day of the 2001 plan year, or (3) the last day of the first plan year beginning on or after the "2000 legislative date". <p>Note: Final DOL Rules</p> <p><u>Incorporation by reference:</u> USERRA rules may be incorporated by reference.</p>	<p>Proposed Rule (j)</p> <p><u>Note:</u> Late amendment.</p> <p>Ch. 32 § 4(1)(h) (military service purchase provision)</p>

**Massachusetts PERAC IRS Filing
Additional Governmental Plan Qualification Requirements**

Prior Compliance	Code Requirement	Plan Reference
✓	<p><u>CODE SECTION 415(b)</u></p> <p><u>Limitations on Benefits.</u> Effective for years ending after December 31, 2001, the benefit limit will increase to \$160,000, with future indexing in \$5,000 increments. Special rules regarding benefit reductions apply to governmental plans and particularly plans maintained for certain police and fire plans. Governmental plans are not subject to the benefit limitation based upon 100% of salary.</p> <ul style="list-style-type: none"> ➤ <u>EGTRRA:</u> Increased limit. Deadline good-faith amendment under Notice 2001-42 later of (1) end of plan year in which EGTRRA change is required or optionally put into effect, or (2) end of plan's GUST RAP. ➤ <u>Rev. Rul. 2001-62:</u> use '94 GAR Mortality Table to calculate maximum allowable benefit. Deadline was end of the plan year that included the '94 GAR effective date (distributions on or after 12/31/02, or any earlier date in 2002 if specified by the plan). ➤ <u>GUST:</u> Repealed 415(e) DB/DC aggregation rules. Deadline for adoption was latest of (1) 02/28/2002, (2) the last day of the 2001 plan year, or (3) the last day of the first plan year beginning on or after the "2000 legislative date". ➤ <u>GUST:</u> Requirement for actuarial adjustments and exemption for survivor and disability benefits under 415(b)(2) and compliance with Rev. Rul. 98-1. Deadline for adoption was latest of (1) 02/28/2002, (2) the last day of the 2001 plan year, or (3) the last day of the first plan year beginning on or after the "2000 legislative date". ➤ <u>TRA '86:</u> Phase-in of dollar limit, maximum dollar amount before SSRA. Deadline for adoption for government plans extended to end of GUST RAP. <p>Note: Final IRS Rules were issued in April 2007.</p> <p><u>Incorporation by reference:</u> The 415 limits may be incorporated by reference, but plan must preclude possibility that 415 limit will be exceeded. Also plan must include following:</p> <ul style="list-style-type: none"> ➤ How adjustments are made if two or more defined benefit plans. ➤ Optional provisions under Final Regulations may require additional plan language. 	<p>Ch. 32 § 5(3)(f) Proposed Rule (h) <u>Note: Late Amendment</u></p>

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Prior Compliance	Code Requirement	Plan Reference
✓	<p><u>CODE SECTION 415(c)</u></p> <p><u>Limitations on Contributions.</u> For years beginning after December 31, 2001, the annual additions limit is increased to the lesser of \$40,000 or 100% of compensation, with future indexing of the dollar limit in \$1,000 increments. The 415(c) limit is not applicable to picked-up contributions or the receipt of roll-over distributions. Note: 1997 legislation also establishes a transitional rule for eligible participants to grandfather purchases of service allowable as of 8/5/97.</p> <ul style="list-style-type: none"> ➤ EGTRRA: Deadline good-faith amendment under Notice 2001-42 later of (1) end of plan year in which EGTRRA change is required or optionally put into effect, or (2) end of plan's GUST RAP. ➤ GUST: Repealed 415(e) DB/DC aggregation rules. Deadline for adoption was latest of (1) 02/28/2002, (2) the last day of the 2001 plan year, or (3) the last day of the first plan year beginning on or after the "2000 legislative date". <p>Note: Final IRS Rules were issued in April 2007. Among the most significant changes were revisions to the definition of “compensation.”</p> <p><u>Incorporation by reference:</u> The 415 limits may be incorporated by reference, but plan must preclude possibility that 415 limit will be exceeded. Also, plan must include following:</p> <ul style="list-style-type: none"> ➤ How adjustments are made if two or more defined contribution plans. ➤ 415(c)(3) – must specify exactly what compensation is being used, as long as provide elective amounts included after December 31, 1997. ➤ Method used to establish suspense account for excess annual additions. ➤ Optional provisions under Final Regulations may require additional plan language. 	<p>Ch. 32 § 5(3)(f) Proposed Rule (h) <u>Note: Late Amendment</u></p>
✓	<p><u>CODE SECTION 415(k)(3)</u></p> <p><u>Repayments.</u> In case of repayment (including interest) to plan with respect to an amount previously refunded upon a forfeiture of service credit under the plan or under another governmental plan maintained by a State or local government employer within the same State, any such repayment shall not be taken into account for purposes of Code § 415. After December 31, 2001, a governmental defined benefit plan may permit a trustee-to-trustee transfer from a 403(b) plan or a 457 plan to purchase permissive service credit (see Code § 415(n)) or to repay previously refunded contributions.</p>	

**Massachusetts PERAC IRS Filing
Additional Governmental Plan Qualification Requirements**

Prior Compliance	Code Requirement	Plan Reference
✓	<p><u>CODE SECTION 415(m)</u></p> <p><u>Excess Benefits.</u> The 1996 federal legislation authorizes the establishment of Qualified Excess Benefit Arrangements to deal with benefits and contributions in excess of 415 limits. Note: IRS approval obtained through PLR.</p>	<p>Ch. 32 § 104; pending PLR for MTRS and SERS.</p>
✓	<p><u>CODE SECTION 415(n)</u></p> <p><u>Service Purchases.</u> Effective for 1998, there are modified 415(c) and 415(b) limits that apply to voluntary employee contributions for purchases of permissive service credit. After December 31, 2001, a governmental defined benefit plan may permit a trustee-to-trustee transfer from a 403(b) plan or a 457 plan to purchase permissive service credit or to repay contributions previously refunded under forfeiture of service credit (see Code § 415(k)(3)).</p> <ul style="list-style-type: none"> ➤ PPA expanded rules. <p>Note: IRS approval obtained through PLR.</p>	<p>Ch. 32 § 4(1)(h) (veteran can purchase up to 4 years prior military service)</p> <p>§ 4 (additional prior service provisions)</p> <p>Proposed Rule (h)(14)</p>
✓	<p><u>CODE SECTION 503(b)</u></p> <p><u>Prohibited Transactions.</u> While governmental plan is not subject to excise tax of Code § 4975, engaging in prohibited transaction could result in loss of plan's tax-exempt status.</p>	<p>Proposed Rule (i)</p>