SECTION 417

Qualified Joint and Survivor benefits

§417 (a) Election to waive QJSA / QPSA
(b) QJSA definition
(c) QPSA definition
(d) Married < 1 year, no QJSA / QPSA
(e) Restrictions on cash-outs
(f) Definitions and special rules
(g) Qualified optional survivor annuity

RECENT LAW CHANGES – IRC §417

417(a)(6)(A) PPA 06
Applicable election period for QJSA increased from 90 days to 180 days

417(g) PPA 06
Added Qualified Optional Survivor Annuity effective for 2008 plan years

1.417(a)(3)-1 regulation
QPSA / QJSA explanation, show relative values of optional forms

§417(b) QJSA DEFINITION

QJSA is annuity for the life of the participant

- **with a survivor annuity for the life of the spouse**
- **which is between 50% and 100% of the amount payable during the joint lives of the participant and the spouse**
- **and is the actuarial equivalent of a single annuity for the life of the participant**

§417(c) QPSA DEFINITION

- Must cover employees with vested benefits
- QPSA percentage must be ≥ QJSA percentage
- Benefit amount – participant dies after reaching earliest retirement age
  - Participant retired 1 day before they died
  - Elected QJSA form, then died
  - QPSA benefit is continuation to spouse
- Benefit amount – participant dies before reaching earliest retirement age
  - Participant separated from service on date of death
  - Survived to earliest retirement age
  - Retired under QJSA form
  - Died 1 day after reaching earliest retirement age
  - QPSA benefit is continuation to spouse
- Earliest date spouse can receive payment can't be later than date participant would reach earliest retirement age

§417(g) Qualified Optional Survivor Annuity

Added by PPA 06, effective for 2008 plan year

QOSA is annuity for the life of the participant

- **with a survivor annuity for the life of the spouse**
- **equal to the "applicable percentage" of the amount payable during the joint lives of the participant and the spouse**
- **and is the actuarial equivalent of a single annuity for the life of the participant**

"Applicable percentage"

- **75% when the QJSA percentage < 75%**
- **50% when the QJSA percentage ≥ 75%**

§417(d) MARRIED LESS THAN 1 YEAR

Plan can deny QJSA / QPSA if participant and spouse not married throughout 1 year period ending on earlier of

- **Participant's annuity starting date**
- **Date of participant's death**

§417(e) CASH-OUT RESTRICTIONS

Covered under the EA-2A exam syllabus

Plan can charge participant for cost of QJSA via optional form reduction factor

Plan can charge participant for cost of QPSA coverage – some stated percent per year factor

§417(a) ELECTION TO WAIVE QJSA / QPSA

(1) In general

Participant may elect to waive QJSA / QPSA during the "applicable election period" (AEP) in 417(a)(6)

- **Upon waiver, can elect QOSA during AEP, without spousal consent**
- **Can revoke the waiver during AEP**

(2) Spousal consent

- **Spouse must consent to election in writing (unless elect QOSA)**
- **Election must designate beneficiary / benefit form that requires spousal consent for change**
- **Consent must note effect of election**
- **Consent must be witnessed by plan representative or notarized**
- **Exceptions – no spouse, or spouse can't be located**

(3) Written explanations

(i) QJSA

- **Provide explanation within reasonable time before annuity starting date:**
- **Terms and conditions**
- **Right to elect waiver**
- **Rights of spouse under 417(a)(2)**
- **Right to revoke waiver election**

(3) Written explanations

(ii) QPSA

- Provide explanation similar to QJSA within "applicable period"
- Applicable period is one of the following periods which ends last
  - (I) Period begins on first day of plan year participant attains age 32, ending with close of plan year participant attains age 35
  - (II) Reasonable period after ee becomes a participant
  - (III) Reasonable period ending after plan stops subsidizing cost of QPSA
  - (IV) Reasonable period ending after participant becomes eligible for QPSA
  - (V) A reasonable period after separation for participants who separate from service before age 35

(4) Spousal consent - plan assets as security for loans

(5) Fully subsidized cost
None of the 417(a) requirements apply to QJSA (or QPSA) if the plan fully subsidizes the cost of the QJSA (or QPSA), and it may not be waived

(6) Applicable election period

QJSA:
180 day period ending on annuity starting date

QPSA:

- **Period begins on earlier of**
  - **Date participant terminates from service**
  - **1st day of plan year the participant attains age 35**

- **Period ends on date of death**

§417(f) SPECIAL RULES

Plan can charge participant for cost of QPSA coverage – some stated percent per year factor

If no waiver of QPSA, coverage starts at <u>later of</u> these dates:

- **Participant is notified of the benefit**
- **Participant and spouse are married 1 year**
- **Participant becomes vested**
- **Earlier of**
  - **Date participant terminates from service**
  - **1st day of plan year the participant attains age 35**

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