

## APPENDIX

### CHECKLIST OF REQUIRED AND OPTIONAL EGTRRA/JCWAA AMENDMENTS AND OTHER RECENT GUIDANCE APPLICABLE TO CODE SECTION 457(b) PLANS

#### CONTRIBUTIONS

Description	Required or Optional	Effective Date and Applicability	Comments
Automatic enrollment. (Rev. Rul. 2000-33). Sponsors may automatically enroll employees in a Code § 457(b) plan with a specified deferral percentage unless the employees opt-out of the automatic enrollment.	Optional	N/A  <u>Applies to both governmental and tax-exempt Code § 457(b) plans.</u>	Sponsors may wish to implement automatic enrollments in their Code § 457(b) plans to increase participation levels.
Increased deferral dollar limit under Code. § 457(b)(2)(A).  Tax Years      Applicable <u>Beginning in:</u> <u>Limit:</u> 2002            \$11,000 2003            \$12,000 2004            \$13,000 2005            \$14,000 2006            \$15,000 (Code § 457(e)(15))  After 2006, the limit will be indexed for inflation in \$500 increments	Optional	January 1, 2002.  <u>Applies to both governmental and tax-exempt Code § 457(b) plans.</u>	Sponsors should determine whether they want to implement the higher dollar limits. A factor to consider is whether the sponsor will have an increased contribution obligation on account of the increased dollar limits.  These limits may be incorporated into a plan document by reference, Plan documents that incorporate the pre-EGTRRA \$7,500 limit would need to be amended to reflect the increased dollar limits.
Increased limit of percentage of includible compensation that can be deferred.  Pre-2002 limit:    33 1/3%  Post-2001 limit:  100% (Code § 457(b)(2)(B))	Optional	January 1, 2002.  <u>Applies to both governmental and tax-exempt Code § 457(b) plans.</u>	Sponsors should determine whether they want to implement the higher percentage of includible compensation limit. <u>See comment below regarding the revision of the definition of "includible compensation".</u>
Revision of definition of "includible compensation". (Code § 457(e)(5))  Pre-2002 definition:  "Includible compensation" means compensation for service performed for the employer which (taking into account the provisions of Code § 401, et. seq. (qualified plans, Code § 403(b) plans, and Code § 457(b) plans) is currently includible in gross income.  Post-2001 definition: "Includible compensation" has the meaning given to the term "participant's	Required	January 1, 2002.  <u>Applies to both governmental and tax-exempt Code § 457(b) plans.</u>	JCWAA retroactively amended EGTRRA to conform the Code § 457 definition of the "includible compensation" to the definition applicable to qualified plans under Code § 415(c)(3). This change eliminates the need for plan sponsors to apply the complex rules previously governing the determination of "includible compensation" in applying the pre-2002 33 1/3% limit (or by applying the substitute limit of 25% of "normal" compensation).  The IRS has not specifically

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compensation" by Code § 415(c)(3) (which include certain participant deferrals).			required that a sponsor identify in the plan document which version of Code § 415(c)(3) compensation is being applied under the plan and no formal position on this issue has been adopted. Sponsors should coordinate with their administrators and service providers to ensure that a consistent definition of Code § 415(c)(3) compensation is applied. <u>See</u> Treas. Reg. § 1.415-2(d).
Code § 415(c)(3) compensation may include "deemed 125 compensation".  "Deemed 125 compensation" occurs when an employee cannot elect out of group health insurance coverage, paid for on a pre-tax basis, unless he or she certifies that he or she has other health coverage. Because such an individual may not elect cash, there is no cash-or-deferred election as described in Code § 125. Rev. Rul. 2002-27 provides that plans may treat the cost of the health coverage as compensation under Code § 415(c)(3) even though it is not described in Code § 125.	Optional	January 1, 2002.  <u>Applies to both governmental and tax-exempt Code § 457(b) plans.</u>	Revenue Ruling 2002-27 contains a model amendment that expands "compensation" to include "deemed 125 compensation."  In Revenue Ruling 2002-27, the employee certified that he or she had no other coverage; the employer did not request additional information about other coverage. In order to comply with the guidance, sponsors may wish to adopt this approach.
Increased maximum dollar limit for catch-up contributions during the last three (3) taxable years ending before the participant attains the plan's normal retirement age (twice the applicable dollar limit under Code § 457(e)(15)). (Code § 457(b)(3)(A))  Pre-2002 limit: \$15,000  Post-2001 limit:  Tax Years      Applicable <u>Beginning in:</u> <u>Limit:</u> 2002            \$22,000 2003            \$24,000 2004            \$26,000 2005            \$28,000 2006            \$30,000  After 2006 this dollar limit will increased based on the inflationary adjustment to the underlying Code § 457(e)(15) limit.	Optional	January 1, 2002.  (Proposed regulations addressing this requirement are intended to apply generally for taxable years beginning after December 31, 2001. Sponsors may rely on the 2002 proposed regulations for taxable years beginning after August 20, 1996.)  <u>Applies to both governmental and tax-exempt Code § 457(b) plans.</u>	Sponsors should determine whether they wish to implement the increased last three (3) taxable years catch-up contribution limitation. <u>See</u> comment below discussing the delinking of the Code § 457(b) dollar limits from the Code § 403(b) and 401(k) limits.  The proposed regulations provide guidance on the implementing of the catch-up rules where a participant participates in multiple Code § 457(b) plans sponsored by multiple employers. <u>See</u> Prop. Treas. Reg. §§ 1.457-4(c), 1.457-4(d), Example 2, 1.457-5.
Definition of "normal retirement age" for last three years catch-up contributions.  Current regulations:  Normal retirement age may be specified in the Code § 457(b) plan document. The age	Proposed Requirement	Proposed to apply generally for taxable years beginning after December 31, 2001. Sponsors may rely on the 2002 proposed	The proposed regulations would raise several potential issues for Code § 457(b) plan sponsors.  First, Code § 457(b) plans that do not currently specify a normal

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<p>specified in the plan document may not be before the age at which a participant may receive his or her pension benefit under the sponsor's basic pension plan (without any early retirement reduction – actuarial or otherwise) and no later than age 70 1/2.</p> <p>If normal retirement age is not specified in the plan document, the normal retirement age is normal retirement age under the sponsor's basic pension plan, or, if none, age 65.</p> <p>If a participant works beyond normal retirement age a Code § 457(b) plan may provide that normal retirement age shall be a date specified by the participant that (1) is no later than the sponsor's mandatory retirement age or (2) the date on which the participant separates from service.</p> <p>(Treas. Reg. § 1.457-2(f)(4))</p> <p>Proposed regulations:</p> <p>Normal retirement age must be specified in the Code § 457(b) plan document. The age specified in the plan document may not be before the age at which a participant may receive his or her pension benefit under the sponsor's basic pension plan (without any early retirement reduction – actuarial or otherwise) or later than age 70 1/2. In the alternative, a plan may permit a participant to designate a normal retirement age within these age ranges.</p> <p>Only one normal retirement age is permitted under all of the Code § 457(b) plans sponsored by the sponsor.</p> <p>Code § 457(b) plans for qualified police or firefighters (as described in Code § 415(b)(2)(H)(ii)(I)) may designate a special normal retirement age for police and firefighters than is earlier than the age permitted under the standard rules, but no earlier than age 40. In the alternative, a plan may permit a police / firefighter participant to designate a normal retirement age between age 40 and 70 1/2.</p> <p>(Prop. Treas. Reg. § 1.457-4(c)(3)(v))</p>		<p>regulations for taxable years beginning after August 20, 1996.</p> <p><u>Applies to both governmental and tax-exempt Code § 457(b) plans.</u></p>	<p>retirement age will need to be amended to specify a normal retirement age.</p> <p>Second, sponsors with multiple Code § 457(b) plans will have to review their plans to ensure that the same normal retirement age is used under each plan (subject to the police / firefighters exception).</p> <p>Third, sponsors who sponsor Code § 457(b) plans for police or firefighters will want to consider whether to add a special normal retirement age for these covered groups.</p> <p>It has been informally indicated that some of the changes incorporated in the proposed regulations were drafted with an eye toward preventing abuse of the definition of "normal retirement age".</p>
<p>Elimination of the coordination of the Code § 457(b) dollar limits with the Code § 401(k) and 403(b) limits. (Code § 457(c))</p> <p>Pre-2002 requirements:</p> <p>An individual may not defer more than</p>	Optional	<p>January 1, 2002.</p> <p><u>Applies to both governmental and tax-exempt Code § 457(b) plans.</u></p>	<p>Sponsors should determine whether they wish to decouple their Code § 457(b) dollar limits from their Code § 401(k), SIMPLE and/or 403(b) plans.</p> <p>Sponsors that elect to decouple</p>

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<p>\$7,500 per year (as adjusted for inflation) into an eligible Code § 457(b) plan. This limit applies to all eligible Code § 457(b) plans in which the individual participates. This \$7,500 limit is also reduced by Code § 403(b) contributions, 401(k) contributions, and contributions to a SIMPLE in the same taxable year. Additional rules involving trusts described in Code § 501(c)(18) and rural cooperative plans described in Code § 401(k)(7) also applied.</p> <p>Post 2001 requirements:</p> <p>An individual may not defer more than \$11,000 per year (as adjusted for inflation or by statute) into an eligible Code § 457(b) plan. This limit applies to all eligible Code § 457(b) plans in which the individual participates.</p>			<p>their Code § 457(b) dollar limits from their Code § 401(k), SIMPLE and/or 403(b) plans who also provide for the last three (3) taxable years catch-up limitation should amend their plans to indicate that the alternative limitation on the last three (3) taxable years catch-up limitation based on unused deferrals from prior years should still take into account contributions to the sponsors' Code § 401(k), SIMPLE, and 403(b) for years prior to January 1, 2002. The IRS has specifically requested this change in a recently issued private letter ruling and is reflected in Prop. Treas. Reg. § 1.457-4(c)(3)(ii)(C).</p>														
<p>Catch-up contributions under Code § 414(v) permitted for employees age 50 or older, provided certain requirements are met. (Code §§ 414(v) and 457(e)(18))</p> <table border="0" data-bbox="110 972 397 1182"> <tr> <td>Tax Years</td> <td>Applicable</td> </tr> <tr> <td><u>Beginning in:</u></td> <td><u>Limit:</u></td> </tr> <tr> <td>2002</td> <td>\$1,000</td> </tr> <tr> <td>2003</td> <td>\$2,000</td> </tr> <tr> <td>2004</td> <td>\$3,000</td> </tr> <tr> <td>2005</td> <td>\$4,000</td> </tr> <tr> <td>2006</td> <td>\$5,000</td> </tr> </table> <p>After 2006, the limit will be indexed for inflation in \$500 increments.</p>	Tax Years	Applicable	<u>Beginning in:</u>	<u>Limit:</u>	2002	\$1,000	2003	\$2,000	2004	\$3,000	2005	\$4,000	2006	\$5,000	Optional	<p>January 1, 2002.</p> <p><u>Only applicable to governmental Code § 457(b) plans.</u></p>	<p>Notice 2001-57 contains sample amendments applicable to Code § 401(k) plans. Sponsors can look to these sample amendments for plan language to incorporate in their Code § 457(b) plans. Prop. Treas. Reg. § 1.414(v)-1 and Notice 2002-4 provide additional guidance.</p> <p>JCWAA clarified the interaction of the Code § 457(b)(3) last three (3) taxable year catch-up contribution and the Code § 414(v) catch-up contributions rules by providing that, in the plan that permits both types of catch-up contributions, a participant may make the greater of the catch-up contribution permitted under the Code § 457(b)(3) catch-up rules and the catch-up contribution permitted under the Code § 414(v) rules. (Code § 457(e)(18)).</p> <p>Plans should report catch-up contributions on Form W-2. Ann. 2001-93. <u>See</u> below for a discussion of the general reporting and withholding rules applicable to governmental Code § 457(b) plans.</p>
Tax Years	Applicable																
<u>Beginning in:</u>	<u>Limit:</u>																
2002	\$1,000																
2003	\$2,000																
2004	\$3,000																
2005	\$4,000																
2006	\$5,000																
<p>Inclusion of vested amounts in compensation. (Prop. Treas. Reg. § 1.457-2(b)(1))</p> <p>Current regulations:</p> <p>Indicate that employer contributions apply</p>	Proposed Requirement	<p>Proposed to apply generally for taxable years beginning after December 31, 2001. Sponsors may rely on</p>	<p>The effect of this provision is that it may be difficult for sponsors to make contributions subject to a vesting schedule without the potential for causing participants to</p>														

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<p>against the dollar limits in the year in which such amounts become vested, however, they are silent on the treatment of earnings the unvested contributions accrued prior to vesting.</p> <p>(Treas. Reg. § 1.457-2(e)(3))</p> <p>Proposed regulations:</p> <p>Amounts that are no longer subject to a substantial risk of forfeiture (<u>and earnings prior to that date</u>) must be taken into account in applying the Code § 457(b) dollar limitations.</p> <p>(Prop. Treas. Reg. § 1.457-2(b)(1))</p>		<p>the 2002 proposed regulations for taxable years beginning after August 20, 1996.</p> <p><u>Applies to both governmental and tax-exempt Code § 457(b) plans.</u></p>	<p>exceed the deferral limits in the year in which vesting occurs.</p>
<p>Deferral of sick, vacation, and back pay. (Prop. Treas. Reg. § 1.457-4(d))</p> <p>Accumulated sick pay, accumulated vacation pay, and back pay may be deferred under a Code § 457(b) plan if (1) the election to defer these amounts is made prior to the month in which these amount would be paid or made available to a participant and (2) the employee is an employee in the month in which the deferral election takes effect. These amounts are taken into account for purposes of all applicable contribution limits.</p>	<p>Proposed Requirement</p>	<p>Proposed to apply generally for taxable years beginning after December 31, 2001. Sponsors may rely on the 2002 proposed regulations for taxable years beginning after August 20, 1996.</p> <p><u>Applies to both governmental and tax-exempt Code § 457(b) plans.</u></p>	<p>The proposed regulations confirm that accumulated sick, vacation, and back pay may be contributed to a Code § 457(b) plan.</p> <p>Sponsors may wish to add a provision addressing accumulated sick, vacation, and back pay to their Code § 457(b) plans. However, sponsors should ensure that their Code § 457(b) plans comply with the requirements applicable to such deferrals.</p> <p>In addition, sponsors should note that, as drafted, the proposed regulations would not permit an employee who terminates on December 31 of a calendar year to elect to defer his or her accumulated sick, vacation, and back pay in January of the next year.</p>
<p>Rollover contributions permitted. ((Code §§ 457(b)(2) and 72(t))</p> <p>A Code § 457(b) plan may accept a rollover contribution of eligible rollover distribution from an IRA, Code § 401(a) plan, a Code § 403(a) annuity, a Code § 403(a) plan, or a governmental Code § 457(b) plan, if the plan permits rollover contributions and the plan agrees to separately account for these rollover contributions. These amounts are subject to a 10% pre-59 1/2 early withdrawal excise tax under Code § 72(t).</p> <p>After-tax rollover contributions are not permitted to Code § 457(b) plans</p>	<p>Optional</p>	<p>January 1, 2002.</p> <p><u>Only applicable to governmental Code § 457(b) plans.</u></p>	<p>Sponsors may want to add provisions allowing their employees to make rollover contributions to their Code § 457(b) plans. These contributions may be limited to eligible rollover distributions from other Code § 457(b) plans, if a sponsor does not want to handle the EGTRRA separate recordkeeping requirements for rollover contributions and earnings thereon from qualified plans, Code § 403(a) annuities, Code § 403(b) plans, and IRAs.</p> <p>Rollover contributions do not count against the Code § 457(b) limits.</p>

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			Sponsors should note that Code § 457(b) plans that permit rollover contributions from these plans may not allow distributions of these rolled-over amounts prior to the distribution dates permitted under Code § 457. This treatment of rollover amounts is different than the rules applicable to rollover contributions to qualified plans.
<p>Correction of excess contributions.</p> <p>Current statutory interpretation (governmental sponsors only):</p> <p>As long as a governmental Code § 457(b) plan self-corrects any excess deferrals by the first day of the plan year beginning 180 days after the date the Secretary of the Treasury is notified of the excess deferrals.</p> <p>Code § 457(b) (flush language)</p> <p>Proposed regulation: (Prop. Treas. Reg. §§ 1.457-4(e) and 1.457-5)</p> <p>For governmental Code § 457(b) plans:</p> <p style="padding-left: 40px;">Excess deferrals occurring for any reason (other than application of the individual Code § 457(b)(2) limit to a participant because of participation in multiple plans) and any allocable net income must be distributed as soon as administratively practicable following the determination that an excess deferral has occurred. All Code § 457(b) plans of a sponsor are treated as one plan for purposes of these requirements. This distribution will not result in the Code § 457(b) plan being treated as an ineligible plan under Code § 457(f).</p> <p style="padding-left: 40px;">Failure to comply with these requirements will result in the Code § 457(b) plan being treated as an ineligible plan under Code § 457(f) and Prop. Treas. Reg. § 1.457-11.</p> <p>For tax-exempt organization Code § 457(b) plans:</p> <p style="padding-left: 40px;">Failure to comply with the applicable Code § 457(b) deferral limits will result in the plan being treated as an ineligible plan under</p>	Proposed Requirement	<p>Proposed to apply generally for taxable years beginning after December 31, 2001. Sponsors may rely on the 2002 proposed regulations for taxable years beginning after August 20, 1996.</p> <p><u>Applies to both governmental and tax-exempt Code § 457(b) plans.</u></p>	<p>The proposed regulations establish a completely new set of rules governing excess deferrals. Sponsors should establish procedures to ensure that the deferral limits are properly applied to ensure that their Code § 457(b) plan does not face disqualification.</p> <p>Because there is no correction mechanism for tax-exempt Code § 457(b) plans (other than disqualification), tax-exempt sponsors should put special emphasis on preventing excess deferrals.</p> <p>Sponsors should note that Prop. Treas. Reg. § 1.457-9 retains the 180 day Code § 457(b) flush language rule for all other failures.</p>

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<p>Code § 457(f) and Prop. Treas. Reg. § 1.457-11.</p> <p>Special rule for participants participate in multiple Code § 457(b) plans (governmental and tax-exempt):</p> <p>If a participant in multiple Code § 457(b) plans (with different sponsors), fails to comply with the individual limit (<u>e.g.</u>, \$15,000 deferral limit in 2006), the Code § 457(b) plans in which he or she participates must distribute amounts it determines to be an excess as soon as administratively practicable. However, failure to distribute these amounts will not result in treatment of the Code § 457(b) plan as an ineligible plan, but the participant must include this excess deferral in his gross income in the taxable year in which it is deferred, or if later, the year in which there is no longer a substantial risk of forfeiture.</p>			
Deemed IRA. (Code § 408(q))	Optional	<p>Plan years beginning after December 31, 2002</p> <p><u>Only applicable to governmental Code § 457(b) plans.</u></p>	<p>EGTRRA added a new plan design feature for governmental Code § 457(b) plans with the enactment of Code § 408(q). This new section permits participants to make IRA contributions to a governmental Code § 457(b) plan and other "qualified employer plan." This means that traditional or Roth IRA contributions can be made to governmental Code § 457(b) plan. All the same IRA rules apply to a deemed IRA, but none of the Code § 457(b) plan rules or limits apply. This allows employers to take advantage of commingling investments and employees to get one-stop shopping for their retirement savings needs.</p> <p>Prop. Treas. Reg. § 1.457-10(f) currently contains a placeholder for future guidance on deemed IRAs in Code § 457(b) plans.</p>

**CHECKLIST OF REQUIRED AND OPTIONAL EGTRRA/JCWAA AMENDMENTS  
AND OTHER RECENT GUIDANCE  
APPLICABLE TO CODE SECTION 457(b) PLANS**

**DISTRIBUTIONS**

<b>Description</b>	<b>Required or Optional</b>	<b>Effective Date and Applicability</b>	<b>Comments</b>
<p>Modification of constructive receipt rules.</p> <p>Pre-2002:</p> <p>Amounts held in a Code § 457(b) plan are includible in a participant's (or beneficiary's) gross income when these amounts are paid or made available to the participant (or beneficiary).</p> <p>Post-2001:</p> <p>Amounts held in a Code § 457(b) plan are includible in a participant's (or beneficiary's) gross income when these amounts are paid to the participant (or beneficiary).</p>	Required	<p>Distributions on or after January 1, 2002.</p> <p><u>Only applicable to governmental Code § 457(b) plans.</u></p>	<p>EGTRRA conformed the constructive receipt rules for governmental Code § 457(b) plans to those applicable to qualified plans. As a result, the pre-EGTRRA election to defer distribution permitted under current Treas. Reg. § 1.457-1(b) and the second deferral election to defer distribution under Code § 457(e)(9)(B) are no longer required for a participant to elect to defer distributions from a governmental Code § 457(b) plan. Accordingly, a governmental Code § 457(b) plan may permit (but is not required to permit) a participant to change his or her elections made under the current regulations and Code § 457(e)(9)(B) without resulting in the participant's constructive receipt of income.</p>
<p>Election to defer distributions prior to default distribution date.</p> <p>Current regulation:</p> <p>A participant may elect no less than 30 days before his or her commencement date to defer distribution of his or her benefit from the Code § 457(b) plan.</p> <p>(Treas. Reg. § 1.457-1(b)(1) and (2), Example 1)</p> <p>Amounts deferred from an initial default distribution date may be further deferred via a second election if the election to further defer is made prior to the previously elected deferred benefit commencement date.</p> <p>(Code § 457(e)(9)(B))</p> <p>Proposed regulation:</p>	Optional	<p>Proposed to apply generally for taxable years beginning after December 31, 2001. Sponsors may rely on the 2002 proposed regulations for taxable years beginning after August 20, 1996.</p> <p><u>Only applicable to tax-exempt Code § 457(b) plans.</u></p>	<p>Many sponsors, based on a example in the current regulations, have required participants to elect to defer distribution of benefits at least 30 days before a participant's benefit commencement date. The proposed regulations eliminate this requirement that the election be made 30 days prior, but rather provide that the election must be made no later than the earliest date on which distributions could commence to the participant.</p> <p>In addition, the proposed regulations provide new guidance on the second deferral election permitted under Code § 457(e)(9)(B). The current regulations have not previously been updated to address this</p>



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<p>A participant may elect to defer distribution of his or her benefit from the Code § 457(b) plan if such election is made prior to the date that amounts would be considered made available under the plan. Amounts are considered made available under a Code § 457(b) plan as of the earliest date, on or after a participant's severance from employment, on which the plan allows distributions to commence.</p> <p>A participant may make a further election to defer distribution of his or her benefit so long as such election occurs after the earliest possible initial distribution date permitted under the Code § 457(b) plan but before the commencement date elected in the initial election to defer distribution.</p> <p>(Prop. Treas. Reg. § 1.457-7(c)(2))</p>			election.
<p>General distribution requirements. (Code § 457(d)(1))</p> <p>Pre-2002 requirements:</p> <p>Amount held under a Code § 457(b) plan may not be available to participants or beneficiaries until earlier than:</p> <ol style="list-style-type: none"> <li>1. The calendar year in which the participant attains age 70 1/2;</li> <li>2. When the participant is "<u>separated from service</u>" with the employer; or</li> <li>3. When the participant is faced with an unforeseeable emergency.</li> </ol> <p>Payments under a Code § 457(b) plan must commence no later than 60 days after the close of the plan year in which the later of a participant's separation from service date or normal retirement date occurs.</p> <p>(Treas. Reg. § 1.457-2(i))</p> <p>Post 2001 requirements:</p> <p>Amount held under a Code § 457(b) plan may not be available to participants or beneficiaries until earlier than:</p> <ol style="list-style-type: none"> <li>1. The calendar year in which the participant attains age 70 1/2;</li> <li>2. When the participant has a "<u>severance from employment</u>" with the employer; or</li> <li>3. When the participant is faced with an unforeseeable</li> </ol>	Optional	<p>Distributions on or after January 1, 2002.</p> <p><u>Applies to both governmental and tax-exempt Code § 457(b) plans.</u></p>	<p>Sponsors should determine whether they want to switch to the "severance from employment" language that replaced the "separation from service" language as of January 1, 2002. In general, the term "separation from service" does not necessarily include all events (e.g., the divestiture of a division of a company or the privatization of a portion of governmental services) covered by the term "severance from employment".</p> <p>Based on Code § 401(k) guidance, post-2002 distributions may be made in accordance with this new provision even with respect to severances from service that occurred before January 1, 2002. Notice 2002-4. As such, sponsors who want to adopt the expanded distribution rights must decide whether to limit the expanded distribution rights to "severances from employment" that occur after 2001 or to apply the provision to prior severances, (as permitted by the sample amendment for Code § 401(k) plans).</p> <p>Even after EGTRRA, no distributable event occurs if the seller transfers plan assets to a plan maintained by the purchaser.</p>

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emergency.			<p>Notice 2002-4.</p> <p>In addition, sponsors should note that the proposed regulations do not retain the mandatory commencement rule from the current regulations that requires that distributions commence no later than 60 days after the close of the plan year in which the later of a participant's separation from service or normal retirement date occurs.</p>
<p>Minimum required distribution rules. (Code § 457(d)(2))</p> <p>Pre-2002 requirements:</p> <p>A Code § 457(b) plan must (1) satisfy the Code § 401(a)(9) minimum required distribution rules; (2) comply with the minimum distribution incidental benefit rules of Code § 401(a)(9)(G); (3) provide that any distribution that does not begin before the death of a participant must be paid in full over a 15 year period (or the life expectancy of a surviving spouse beneficiary if the life expectancy is longer); and (4) provide that distributions over a period greater than one year must be paid in substantially nonincreasing amounts.</p> <p>Post 2001 requirements:</p> <p>A Code § 457(b) plan must satisfy the Code § 401(a)(9) minimum required distribution rules.</p>	Required	<p>Distributions on or after January 1, 2002.</p> <p><u>Applies to both governmental and tax-exempt Code § 457(b) plans.</u></p>	<p>This change simplifies and conforms the Code § 457(b) plan minimum required distribution rules to those applicable to qualified retirement plans. However, because the minimum required distribution rules set forth in Code § 401(a)(9) do not prevent a sponsor from applying more restrictive rules, a sponsor may wish to retain the prior rules. To maximize the benefits to participants, sponsors should consider adopting the new Code § 457(b) rules.</p> <p>Plan sponsors should also note that new minimum required distribution rules (finalized in 2002) will go into effect on January 1, 2003. Sponsors should consider the following potential elections:</p> <p><u>Five-Year Rule as Default Method of Distribution.</u> A sponsor may elect to retain the five-year default rule for any distributions commencing after the death of a participant.</p> <p><u>Participant/Beneficiary Election of the Five-Year Rule.</u> A sponsor may permit participants and beneficiaries to elect whether to apply the five-year rule for distributions commencing after a participant's death. This election must be made no later than the earlier of (i) the September 30 of the calendar year in which distributions must commence or (ii) the September 30 of the calendar year which contains the fifth anniversary of the participant's</p>

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			<p>death.</p> <p><u>Transition Rule.</u> A sponsor may adopt the transition rule that permits participants already receiving distributions under the 5-year rule to convert to the life expectancy rule, assuming the 5-year period has not expired by the end of 2003.</p> <p>For examples of model language for defined contributions plans that may be looked to as a model, <u>see</u> Announcement 2001-18, 2001-82.</p>
<p>Compliance with eligible rollover distribution requirements. (Code §§ 457(d)(1)(C) and 457(e)(16))</p> <p>EGTRRA requires that distributions from Code § 457(b) plans sponsored by governmental employers must satisfy rollover distribution requirements similar to those set forth in Code § 401(a)(31).</p> <p>The notice requirements of Code § 402(f) also apply to governmental Code § 457(b) plans.</p> <p>Rollover distributions are reported in the same manner as rollover distributions from qualified retirement plans</p>	Required	<p>Distributions on or after January 1, 2002.</p> <p><u>Only applicable to governmental Code § 457(b) plans.</u></p>	<p>Sponsors must apply the eligible rollover distribution rules to distributions on or after January 1, 2002. It may be permissible to incorporate these requirements by reference into a Code § 457(b) plan, although no guidance has been issued.</p> <p>Sponsors are also subject to 20% withholding requirement applicable to the distribution of eligible rollover distributions. <u>See</u> below for a discussion of the general reporting and withholding rules applicable to governmental Code § 457(b) plans.</p> <p>Notice 2002-3, I.R.B. 2002-2, 289 (Jan. 13, 2002) provides a model notice regarding rollover distribution rights for eligible rollover distributions.</p>
<p>Small sum cashout rules. (Code §§ 457(d)(3) and 457(e)(9))</p> <p>Pre-2002 and post-2001, a Code § 457(b) plan may (1) involuntarily cash out participant accounts equal to or less than the \$5,000 Code § 411(a)(11)(A) dollar limit <u>and/or</u> (2) permit a participant to elect to receive a distribution of his or her account if the account is less than or equal to the \$5,000 cashout limit, if:</p> <ol style="list-style-type: none"> <li>1. No amount has deferred under the plan by the participant during the 2-year period ending on the date of distribution.</li> <li>2. This rule has not previously applied to a participant.</li> </ol> <p>For post-2001 distributions, a Code § 457(b)</p>	Optional	<p>Distributions on or after January 1, 2002.</p> <p><u>Applies to both governmental and tax-exempt Code § 457(b) plans.</u></p>	<p>EGTRRA revised the statutory structure of the Code § 457(e)(9) rules on account of the elimination of the applicability of the constructive receipt rules previously applicable to governmental Code § 457(b) plans. <u>See</u> comment below regarding the change in the constructive receipt rules applicable to Code § 457(b) plans. However, as revised, Code § 457(b) still permits a plan to cashout small sum accounts in the same manner used prior to EGTRRA.</p> <p>Sponsors may wish to amend their plans to exclude amounts attributable to "rollover</p>

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<p>plan may disregard amounts described as rollover contributions in Code § 411(a)(11)(D).</p>			<p>contributions" from the calculation of small-sum accounts (applicable to governmental plans only). See comment above regarding rollover contributions. Notice 2001-57 contains a sample amendment for defined contribution plans implementing this EGTRRA change which may be looked to as a model for a governmental Code § 457(b) plans.</p>
<p>Loans. (Prop. Treas. Reg. §§ 1.457-6(f) and 1.457-7(b)(3))</p> <p>A governmental Code § 457(b) plan may provide loans without violating the distribution requirements of Code § 457(d).</p> <p>Failure to repay a loan is treated as a distribution to the participant or beneficiary.</p> <p>Availability of the loan feature, the rate of return, the overall prudence of the investment of the Code § 457(b) trust in a loan note, and the pattern of repayment should be determined on a facts and circumstances basis in a manner similar to the rules governing loans prior to ERISA. The intent of the review is to determine whether the loan is bona fide and for the exclusive benefit of participants in accordance with Code § 457(b).</p> <p>Factors to consider include whether the loan has a fixed repayment schedule, a reasonable interest rate, and whether a prudent lender would require these repayment terms. All loans must bear a reasonable rate of interest. The requirements of Code § 72(p) (relating to loans) must also be satisfied.</p>	<p>Optional</p>	<p>Proposed to apply generally for taxable years beginning after December 31, 2001. Sponsors may rely on the 2002 proposed regulations for taxable years beginning after August 20, 1996.</p> <p><u>Only applicable to governmental Code § 457(b) plans.</u></p>	<p>There is no provision of the Code or current regulations that permits loans in Code § 457(b) plans.</p> <p>The Internal Revenue Service will not currently issue private letter rulings on Code § 457(b) plans that provide for participant loans. See Rev. Proc. 98-40 and Rev. Proc. 2002-3. However, the preamble to the proposed regulations indicates that the Internal Revenue Service will, at some point, change its no-ruling position on Code § 457(b) plans that include participant loan provisions.</p> <p>The proposed guidance is partially based on the legislative history of the Small Business Job Protection Act of 1996 which indicates that a Code § 457(b) plan may permit loans.</p> <p>Sponsors wishing to add loan provisions to their Code § 457(b) plans will need to establish a framework for evaluating the facts and circumstances of potential loans. These procedures must also include any requirements set forth in the proposed regulations (e.g., loans must require a reasonable rate of interest). See also Treasury Decision 9021 (Dec. 2, 2002) (noting the availability of loans under Code § 457(b) plans).</p> <p>Because payments after a "deemed distribution" under the Code § 72(p) loan regulations as treated as an after-tax contribution for Code § 72(e) purposes, a sponsor implementing loans in a Code § 457(b) plan may also face additional recordkeeping</p>

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			<p>requirements.</p> <p>However, in all events, tax-exempt organizations may not permit loans from their Code § 457(b) plans.</p>
<p>Unforeseeable Emergency.</p> <p>Current regulations:</p> <p>Unforeseeable emergency includes:</p> <ol style="list-style-type: none"> <li>(1) any severe financial hardship to the participant resulting from a sudden and unexpected illness or accident of the participant or a dependent of a participant as defined in Code § 152(a);</li> <li>(2) loss of the participant's property due to casualty; and</li> <li>(3) other extraordinary and unforeseeable circumstances caused by events beyond control of the participant.</li> </ol> <p>The hardship may not be relievable by a cessation of deferrals under the Code § 457(b) plan, by insurance, or by liquidation of assets.</p> <p>Withdrawals permitted only to the extent reasonably required to satisfy the emergency need.</p> <p>(Prop. Treas. Reg. § 1.457-2(h)(4) and (5))</p> <p>Proposed regulations:</p> <p>Unforeseeable emergency includes:</p> <ol style="list-style-type: none"> <li>(1) any severe financial hardship to the participant or a beneficiary resulting from a sudden and unexpected illness or accident of the participant, his or her spouse, or a dependent of the participant as defined in Code § 152(a);</li> <li>(2) loss of the participant's or beneficiary's property due to casualty; and</li> <li>(3) other extraordinary and unforeseeable circumstances caused by events beyond control of</li> </ol>	<p>Optional</p>	<p>Proposed to apply generally for taxable years beginning after December 31, 2001. Sponsors may rely on the 2002 proposed regulations for taxable years beginning after August 20, 1996.</p> <p><u>Applies to both governmental and tax-exempt Code § 457(b) plans.</u></p>	<p>The proposed regulations provide several changes to the definition of "unforeseeable emergency".</p> <p>First, the definition of unforeseeable emergency is expanded to explicitly include the unforeseeable emergency of a beneficiary.</p> <p>Second, the proposed regulations provide three additional examples of what constitutes an unforeseeable emergency. The Internal Revenue Service has indicated that these examples were provided to address the concern that some Code § 457(b) sponsors have been interpreting the term unforeseeable emergency too narrowly.</p> <p>Sponsors should note that the examples stating that home purchase expenses and tuition payments are not unforeseeable emergencies illustrate that an "unforeseeable emergency" under a Code § 457(b) plan is not as broad a concept as a "hardship" under a Code § 401(k).</p> <p>Unforeseeable emergency distributions may not be rolled over. Notice 2002-3, I.R.B. 2002-2, 289 (Jan. 13, 2002)</p>

<b>Description</b>	<b>Required or Optional</b>	<b>Effective Date and Applicability</b>	<b>Comments</b>
<p>the participant or the beneficiary.</p> <p>Examples of unforeseeable emergency include:</p> <ul style="list-style-type: none"> <li>(A) Imminent foreclosure of or eviction from the participant's or beneficiary's primary residence;</li> <li>(B) The need to pay for medical expenses, including non-refundable deductibles, as well as for the cost of prescription drug medication; and</li> <li>(C) The need to pay for the funeral expenses of a family member.</li> </ul> <p>Purchase of a home and payment of college tuition are not unforeseeable emergencies.</p> <p>The unforeseeable emergency may not be relievable by a cessation of deferrals under the Code § 457(b) plan, by insurance, or by liquidation of assets.</p> <p>Withdrawals permitted only to the extent reasonably required to satisfy the emergency need.</p>			

**CHECKLIST OF REQUIRED AND OPTIONAL EGTRRA/JCWAA AMENDMENTS  
AND OTHER RECENT GUIDANCE  
APPLICABLE TO CODE SECTION 457(b) PLANS**

**TRANSFERS AND TERMINATION**

<b>Description</b>	<b>Required or Optional</b>	<b>Effective Date and Applicability</b>	<b>Comments</b>
<p>Plan-to-plan transfers.</p> <p>Current regulations:</p> <p>A Code § 457(b) plan may transfer amounts deferred by a former participant to another eligible plan in which the participant has become a participant if (1) the entities sponsoring the transferor and transferee Code § 457(b) plans are in the same state; (2) the transferee plan allows receipt of the transfer; and (3) the transferor plan provides that a participant's separation from service from the transferor plan sponsor for purposes of transferring to the transferee plan sponsor (a) will not be treated as a distribution event, and (b) the participant's account will automatically be transferred.</p> <p>(Treas. Reg. § 1.457-2(k))</p> <p>Proposed regulations:</p> <p>A tax-exempt Code § 457(b) plan sponsor may transfer participant deferrals to another tax-exempt Code § 457(b) plan. This same rule applies for governmental Code § 457(b) sponsors. However, transfer between Code § 457(b) plans sponsored by tax-exempt and governmental employers are not permitted.</p> <p>Plan-to-plan transfers are permitted if (1) the transferor and transferee plans permit for transfers; (2) the participant or beneficiary whose amounts are being transferred will not have his or her account reduced on account of the transfer; and (3) the participant whose account is being transferred has had a severance from employment with the transferor sponsor and is now performing services for the transferee sponsor. Requirement (3) does not apply to a governmental Code § 457(b) plan if (A) all assets of the plan are being transferred; (B) the assets are transferred to a governmental Code § 457 plan sponsored by a</p>	<p>Proposed Requirement</p>	<p>Proposed to apply generally for taxable years beginning after December 31, 2001. Sponsors may rely on the 2002 proposed regulations for taxable years beginning after August 20, 1996.</p> <p><u>Applies to both governmental and tax-exempt Code § 457(b) plans.</u></p>	<p>The proposed regulations permit plan-to-plan transfers in two situations: (1) when a participant terminates employment with one sponsor and begins employment with another employer sponsoring a Code § 457(b) plan, or (2) when a governmental Code § 457(b) plan is terminating or losing its status as a governmental plan.</p> <p>The proposed regulations expressly require that participant benefits not be cutback upon plan-to-plan transfers. However, the same state rules applicable to certain governmental plan transfers (e.g., upon termination or privatization) continue to apply.</p> <p>Once the proposed regulations are finalized, sponsors should review their transfer procedures to ensure compliance with the new plan-to-plan transfer rules.</p>

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<p>governmental entity within the same state; and (C) participants who are being transferred can not make contributions to the transferee plan unless they are performing services covered under the receiving plan.</p> <p>(Prop. Treas. Reg. § 1.457-10(b))</p>			
<p>Trustee-to-trustee transfers for purchases of service credit. (Code § 457(e)(17))</p> <p>Amounts transferred in a trustee-to-trustee transfer from a governmental Code § 457(b) plan to a governmental defined benefit plan are not includible in a participant's gross income if these transferred amounts are used to either:</p> <ol style="list-style-type: none"> <li>1. Purchase "permissive service credit" under Code § 415(n)(3)(A); or</li> <li>2. Repay prior distributions from a pursuant to Code § 415(k)(3).</li> </ol> <p>A transfer for purchase of service credit may be made while a participant is still employed by a governmental Code § 457(b) plan sponsor.</p> <p>(Prop. Treas. Reg. § 1.457-10(b)(4))</p>	Optional	<p>Transfers on or after January 1, 2002.</p> <p><u>Only applicable to governmental Code § 457(b) plans.</u></p> <p>(Proposed regulations addressing this requirement are intended to apply generally for taxable years beginning after December 31, 2001. Sponsors may rely on the 2002 proposed regulations for taxable years beginning after August 20, 1996.)</p>	<p>Sponsors may want to adopt a specific plan provision addressing this issue.</p> <p>As drafted, Code § 457(e)(17) does not appear to require a Code § 457(b) plan sponsor to comply with the requirements of Code § 415(n)(3)(B) and (C). However, the example in Prop. Treas. Reg. § 1.457-10(b)(4) indicates that the Internal Revenue Service has interpreted Code § 457(e)(17) transfers to be subject to the full Code § 415(n) requirements.</p>
<p>Plan terminations. (Prop. Treas. Reg. § 1.457-10(a)(1))</p> <p>A Code § 457(b) plan may be terminated or frozen. Inclusion of plan provisions either (1) freezing the plan or (2) permitting the termination of the plan and the distribution of participant accounts when the plan terminates, will not violate the Code § 457(b) requirements.</p>	Proposed Requirement	<p>Proposed to apply generally for taxable years beginning after December 31, 2001. Sponsors may rely on the 2002 proposed regulations for taxable years beginning after August 20, 1996.</p> <p><u>Applies to both governmental and tax-exempt Code § 457(b) plans.</u></p>	<p>A long-standing issue for sponsors has been how (and if) Code § 457(b) plans can be terminated. The proposed regulations permit Code § 457(b) plans to be either terminated or frozen.</p> <p>Sponsors may wish to add a provision to their Code § 457(b) plans permitting distribution of participant accounts upon the termination of the plan. However, such a provision may trigger constructive receipt issues for Code § 457(b) plans sponsored by tax-exempt employers.</p> <p>Sponsors that freeze their plan must continue to comply with all applicable statutory and regulatory requirements applicable to Code § 457(b) plans until the plan is terminated.</p> <p>Upon termination, sponsors must remember that amounts to be distributed to participants must be distributed to participants as soon as administratively practicable.</p>



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<p>Effect of ceasing to be an eligible employer. (Prop. Treas. Reg. § 1.457(b)-10(a)(2))</p> <p>A tax-exempt sponsor of a Code § 457(b) plan may, upon ceasing to be an eligible employer, either (1) terminate the plan when it ceases to be an eligible employer for purposes of Code § 457(b) or (2) continue the plan. If the plan is continued it will be governed by the constructive receipt rules of Code § 451 (if the entity becomes a for-profit entity) or under Prop. Treas. Reg. § 1.457-11 (if the entity becomes a governmental entity).</p> <p>A state sponsor of a Code § 457(b) plan may, upon ceasing to be an eligible employer, (1) terminate the plan, (2) transfer the assets of the plan in a plan-to-plan transfer, or (3) be subject to the tax rules applicable to non-exempt trusts (Code § 402(b)) or annuities (Code § 403(a)) (as applicable) and the Code § 457(b) plan's Code § 457(g) trust will no longer be treated as tax exempt.</p>	Proposed Requirement	<p>Proposed to apply generally for taxable years beginning after December 31, 2001.</p> <p>Sponsors may rely on the 2002 proposed regulations for taxable years beginning after August 20, 1996.</p> <p><u>Applies to both governmental and tax-exempt Code § 457(b) plans.</u></p>	<p>Sponsors considering terminating their plans should review the options permitted under the proposed regulations.</p> <p>Governmental Code § 457(b) plan sponsors who are becoming ineligible employers (<u>i.e.</u>, privatization of a governmental function) should remember that (1) the eligible rollover distribution rules apply to distributions made upon plan termination (provided the eligible rollover distribution rules are satisfied) and (2) plan-to-plan transfers are only permitted within the same state. <u>See</u> the discussion of transfers above for more information on the transfer rules.</p>

**CHECKLIST OF REQUIRED AND OPTIONAL EGTRRA/JCWAA AMENDMENTS  
AND OTHER RECENT GUIDANCE  
APPLICABLE TO CODE SECTION 457(b) PLANS**

**MISCELLANEOUS**

<b>Description</b>	<b>Required or Optional</b>	<b>Effective Date and Applicability</b>	<b>Comments</b>
Written document requirement. (Prop. Treas. Reg. § 1.457-3(a))	Proposed Requirement	Proposed to apply generally for taxable years beginning after December 31, 2001. Sponsors may rely on the 2002 proposed regulations for taxable years beginning after August 20, 1996.  <u>Applies to both governmental and tax-exempt Code § 457(b) plans.</u>	All "material terms and conditions for benefits under the plan" must be set forth in a written plan document. Optional features ( <u>e.g.</u> , distributions for unforeseeable emergencies, loans, plan-to-plan transfers, additional deferral elections, acceptance of rollover contributions, and small sum cashouts) that are included in a Code § 457(b) plan must also be included in the document.
"Sunset" provision.  The provisions of the Code added by EGTRRA (as amended by JCWAA) are scheduled to terminate for taxable, plan, and limitation years beginning after December 31, 2010.	Optional	Effective as of the first day of the first plan year beginning after December 31, 2001, unless otherwise provided in the amendment, and ending December 31, 2010 (unless otherwise extended by law)  <u>Applies to both governmental and tax-exempt Code § 457(b) plans.</u>	There is no specific requirement that the EGTRRA 2010 sunset provisions be included in Code § 457(b) plan documents.  In the defined contribution context, the IRS informally indicated that the sample EGTRRA preamble set forth in Notice 2001-57 may also include a sunset provision, to protect against anti-cutback claims if these provisions are not extended after 10 years, and still constitute a "good faith" amendment. Although Code § 457(b) plans are not subject to the cutback rules of Code § 411(d)(6), state laws may limit the ability of Code § 457(b) plan sponsors to eliminate EGTRRA changes. Accordingly, a sunset provision might be added to Code § 457(b) plans.
Qualified domestic relations orders (QDROs). (Code § 414(p))  A Code § 457(b) plan may comply with a qualified domestic relations order without jeopardizing its tax-exempt status.	Optional	Effective as of the first day of the first plan year beginning after December 31, 2001, unless otherwise provided in the amendment, and ending	Distributions from governmental Code § 457(b) plans that comply with a QDRO are taxable to the alternate payee when amounts are paid.  Distributions from tax-exempt

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		December 31, 2010 (unless otherwise extended by law) <u>Applies to both governmental and tax-exempt Code § 457(b) plans.</u>	Code § 457(b) plans that comply with a QDRO are taxable when first made available to the alternate payee.
<p>Anti-abuse provisions.</p> <p>An arrangement does not fail to constitute an eligible governmental Code § 457(b) plan merely because the arrangement is funded through more than one trustee, custodian, or insurance carrier.</p> <p>(Prop. Treas. Reg. §§ 1.457-2(f))</p> <p>The Internal Revenue Service may treat multiple Code § 457(b) plans as if are a single plan in order to prevent the use of multiple plans to avoid or evade the requirements of Code § 457(b).</p> <p>(Prop. Treas. Reg. §§ 1.457-3(b))</p>	Proposed Requirement	<p>Proposed to apply generally for taxable years beginning after December 31, 2001. Sponsors may rely on the 2002 proposed regulations for taxable years beginning after August 20, 1996.</p> <p><u>Applies to both governmental and tax-exempt Code § 457(b) plans.</u></p>	<p>Some governmental Code § 457(b) plan sponsors have attempted to treat each participant's annuity contract as a separate plan, thus allowing for different distribution rules for each investment. However, the proposed regulation rejects this view.</p> <p>In addition, the Internal Revenue Service now has the authority to aggregate multiple plans to prevent abuse or avoidance of the Code § 457(b) requirements.</p>
State law provisions.	May be Required	Various	Although many state laws have been conformed to EGTRRA, state (and local) law provisions may restrict the features of a Code § 457(b) plan.
Reporting and withholding requirements.	Required	January 1, 2002. <u>Only applicable to governmental Code § 457(b) plans.</u>	Due to the change in the constructive receipt rules and eligible rollover distribution rules discussed above, distributions from governmental Code § 457(b) plans are now reported on Form 1099-R rather than on Form W-2 when amounts are distributed and subject to qualified plan withholding rules. The Internal Revenue Service has indicated that additional withholding guidance for Code § 457(b) plans is being considered.
Voluntary compliance program for correction of plan defects. (Proposed 457 Regulations, Preamble Item 12).	Optional	N/A	The preamble to the proposed treasury regulations indicate that the Internal Revenue Service intends to expand the provisions of EPCRS to encompass Code § 457(b) plans. Until this update occurs, Employee Plans will accept plan failure submissions on a provisional basis outside of the EPCRS program.
Guidance on supplemental governmental compensation programs.	N/A	N/A	In Announcement 2000-1, the Internal Revenue Service provided

Description	Required or Optional	Effective Date and Applicability	Comments
			guidance on the tax-reporting rules applicable to certain broad-based, non-elective plans in existence before 1999. The preamble to the proposed regulations asked for comments on whether similar guidance addressing supplemental compensation / incentive compensation programs designed to balance workforce should be included in any final regulations issued under Code § 457(b).
Revised DOL claims procedure rules.	Required	Claims filed on or after January 1, 2002. <u>Only applicable to tax-exempt Code § 457(b) plans.</u>	Although tax-exempt Code § 457(b) plans are not subject to many provisions of ERISA because of their status as "top hat" plans, the claims procedure rules of ERISA § 503 remain applicable.  The revised procedures may have some minor impact on plans with detailed claims procedure provisions. DOL Reg. § 2560.503-1.
Use of new technologies for plan administration.	Optional	Various	The Taxpayer Relief Act of 1997 required the IRS to issue guidance regarding the use of new technologies for plan administration ( <u>e.g.</u> , e-mail, Internet and intranet systems, automated telephone voice response systems). IRS Notice 99-1 and final regulations under Code sections 402(f) (relating to direct rollover notices) and 3405(e)(10)(B) (relating to the tax withholding notice that must be provided to payees of distributions that are not eligible rollover distributions) address the use of such technologies. This guidance was issued before the enactment of the E-Sign Act; therefore, IRS is currently considering the impact of E-Sign on this prior guidance.  Note, Announcement 99-6 permits electronic transmission of Form W-4P ( <u>i.e.</u> , pension withholding form), and JCWAA permits electronic transmission of Form 1099-R, with participant consent.