
29 C.F.R. § 778.215

Conditions for exclusion of benefit-plan contributions under section 7(e)(4).

(a) *General rules.* In order for an employer's contribution to qualify for exclusion from the regular rate under section 7(e)(4) of the Act the following conditions must be met:

- (1) The contributions must be made pursuant to a specific plan or program adopted by the employer, or by contract as a result of collective bargaining, and communicated to the employees. This may be either a company-financed plan or an employer-employee contributory plan.
- (2) The primary purpose of the plan must be to provide systematically for the payment of benefits to employees on account of death, disability, advanced age, retirement, illness, medical expenses, hospitalization, accident, unemployment, legal services, or other events that could cause significant future financial hardship or expense.
- (3) In a plan or trust, either:
 - (i) The benefits must be specified or definitely determinable on an actuarial basis; or
 - (ii) There must be both a definite formula for determining the amount to be contributed by the employer and a definite formula for determining the benefits for each of the employees participating in the plan; or
 - (iii) There must be both a formula for determining the amount to be contributed by the employer and a provision for determining the individual benefits by a method which is consistent with the purposes of the plan or trust under section 7(e)(4) of the Act.

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