

Form 13070 (March 2010)	Department of Treasury – Internal Revenue Service Employee Plans Deficiency Checksheet Attachment #13 Section 401(h)	Date
<i>For IRS Use</i>	Please furnish the amendment(s) requested in the section(s) checked	
1.a.b.	For a section 420 transfer of excess assets to retiree health accounts, the plan must be amended to include provisions for a medical benefits account within the meaning of section 401(h). IRC section 420(e)(3).	
1.c.d.	A pension or annuity plan containing a section 401(h) account may only provide medical benefits including payment of benefits for sickness, accident, hospitalization and medical expenses. Section _____ of the plan should be amended to specify the medical benefits which will be available, the amount which will be paid and when the payments will occur. IRC section 401(h); Treas. Regs. 1.401-1(b)(1)(i); 1.401-14(a) and (c)(1).	
1.e.	Section _____ of the plan should be amended to specify who is eligible to receive medical benefits from the section 401(h) account. Note that benefits may only be provided to retired employees, their spouses and their dependents. IRC section 401(h); Treas. Regs. 1.401-14(a), (b)(1) and (b)(2).	
1.f.	Section _____ of the plan should be amended to provide whether contributions to the section 401(h) account are provided entirely from employer contributions or whether they will be paid from employer and employee contributions. Treas. Reg. 1.401-14(b)(3).	
II.a.	Section _____ of the plan should be amended to provide that the aggregate actual contributions for retiree medical benefits, when added to the actual contributions for life insurance under the plan, are limited to 25 percent of the total actual contributions made to the plan (other than contributions to fund past service credits) after the later of the adoption or effective date of the section 401(h) arrangement (note that the date of adoption is the date the employer signs or executes the section 401(h) amendment). IRC section 401(h); Treas. Reg. 1.401-14(c)(1)(i).	
III.a.	Section _____ of the plan should be amended to provide that a separate account is established and maintained with respect to contributions to fund medical benefits under the section 401(h) arrangement. IRC section 401(h)(2); Treas. Reg. 1.401-14(c)(2).	
III.b.c.	Section _____ of the plan should be amended to provide that in the case of an employee who is a key employee (as defined in IRC section 416(i)), a separate account is established and maintained for benefits payable to such employee (and his spouse and dependents) and such benefits (to the extent attributable to plan years beginning after March 31, 1984, for which the employee is a key employee) are only payable to such employee (and his spouse and dependents) from such separate account. IRC section 401(h)(6).	
IV.a.	Section _____ of the plan should be amended to provide that the employer's contributions to the medical benefits account are reasonable and ascertainable and that the employer must, at the time a contribution is made, designate that portion of such contribution allocable to the funding of medical benefits. In addition, section of the plan should be amended to specify the amounts of benefits, the priority and the time period with respect to which benefits which will be paid from each source, when other sources of payment for such medical benefits exist, such as a welfare benefit fund (for example, a section 501(c)(9) voluntary employees beneficiary association) or the general funds of the employer. IRC section 401(h)(3); Treas. Reg. 1.401-14(c)(1) and (3).	

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V.a.	Section _____ of the plan should be amended to provide that it is impossible, at anytime prior to the satisfaction of all liabilities under the plan to provide section 401(h) medical benefits, for any part of the corpus or income of such separate account to be (within the taxable year or thereafter) used for, or diverted to, any purpose other than the providing of such benefits. IRC section 401(h)(4); Treas. Reg. 1.401-14(c)(4).
V.b.	Section _____ of the plan should be amended to provide, notwithstanding the provisions of section 401(a)(2), that upon the satisfaction of all liabilities under the plan to provide section 401(h) medical benefits, any amount remaining in such separate account must be returned to the employer. IRC section 401(h)(5); Treas. Reg. 1.401-14(c)(5).
V.c.	Section _____ of the plan should be amended to provide that in the event an individual's interest in the medical benefits account is forfeited prior to termination of the plan an amount equal to the amount of the forfeiture must be applied as soon as possible to reduce employer contributions to fund the medical benefits. Treas. Reg. 1.401-14(c)(6).