

deferred by a participant or beneficiary to a qualified plan (under section 401(a)) maintained by a State. However, a qualified plan may not transfer assets to an eligible governmental plan or to an eligible plan of a tax-exempt entity, and an eligible governmental plan or the plan of a tax-exempt entity may not accept such a transfer.

(2) *Requirements for post-severance plan-to-plan transfers among eligible governmental plans.* A transfer under paragraph (b)(1) of this section from an eligible governmental plan to another eligible governmental plan is permitted if the following conditions are met—

(i) The transferor plan provides for transfers;

(ii) The receiving plan provides for the receipt of transfers;

(iii) The participant or beneficiary whose amounts deferred are being transferred will have an amount deferred immediately after the transfer at least equal to the amount deferred with respect to that participant or beneficiary immediately before the transfer; and

(iv) In the case of a transfer for a participant, the participant has had a severance from employment with the transferring employer and is performing services for the entity maintaining the receiving plan.

(3) *Requirements for plan-to-plan transfers of all plan assets of eligible governmental plan.* A transfer under paragraph (b)(1) of this section from an eligible governmental plan to another eligible governmental plan is permitted if the following conditions are met—

(i) The transfer is from an eligible governmental plan to another eligible governmental plan within the same State;

(ii) All of the assets held by the transferor plan are transferred;

(iii) The transferor plan provides for transfers;

(iv) The receiving plan provides for the receipt of transfers;

(v) The participant or beneficiary whose amounts deferred are being transferred will have an amount deferred immediately after the transfer at least equal to the amount deferred with respect to that participant or beneficiary immediately before the transfer; and

(vi) The participants or beneficiaries whose deferred amounts are being transferred are not eligible for additional annual deferrals in the receiving plan unless they are performing services for the entity maintaining the receiving plan.

(4) *Requirements for plan-to-plan transfers among eligible governmental plans of the same employer.* A transfer

under paragraph (b)(1) of this section from an eligible governmental plan to another eligible governmental plan is permitted if the following conditions are met—

(i) The transfer is from an eligible governmental plan to another eligible governmental plan of the same employer (and, for this purpose, the employer is not treated as the same employer if the participant's compensation is paid by a different entity);

(ii) The transferor plan provides for transfers;

(iii) The receiving plan provides for the receipt of transfers;

(iv) The participant or beneficiary whose amounts deferred are being transferred will have an amount deferred immediately after the transfer at least equal to the amount deferred with respect to that participant or beneficiary immediately before the transfer; and

(v) The participant or beneficiary whose deferred amounts are being transferred is not eligible for additional annual deferrals in the receiving plan unless the participant or beneficiary is performing services for the entity maintaining the receiving plan.

(5) *Requirements for post-severance plan-to-plan transfers among eligible plans of tax-exempt entities.* A transfer under paragraph (b)(1) of this section from an eligible plan of a tax-exempt employer to another eligible plan of a tax-exempt employer is permitted if the following conditions are met—

(i) The transferor plan provides for transfers;

(ii) The receiving plan provides for the receipt of transfers;

(iii) The participant or beneficiary whose amounts deferred are being transferred will have an amount deferred immediately after the transfer at least equal to the amount deferred with respect to that participant or beneficiary immediately before the transfer; and

(iv) In the case of a transfer for a participant, the participant has had a severance from employment with the transferring employer and is performing services for the entity maintaining the receiving plan.

(6) *Treatment of amount transferred following a plan-to-plan transfer between eligible plans.* Following a transfer of any amount between eligible plans under paragraphs (b)(1) through (b)(5) of this section—

(i) The transferred amount is subject to the restrictions of § 1.457-6 (relating to when distributions are permitted to be made to a participant under an eligible plan) in the receiving plan in

the same manner as if the transferred amount had been originally been deferred under the receiving plan if the participant is performing services for the entity maintaining the receiving plan, and

(ii) In the case of a transfer between eligible plans of tax-exempt entities, except as otherwise determined by the Commissioner, the transferred amount is subject to § 1.457-7(c)(2) (relating to when amounts are considered to be made available under an eligible plan of a tax-exempt entity) in the same manner as if the elections made by the participant or beneficiary under the transferor plan had been made under the receiving plan.

(7) *Examples.* The provisions of paragraphs (b)(1) through (6) of this section are illustrated by the following examples:

*Example 1. (i) Facts.* Participant A, the president of City X's hospital, has accepted a position with another hospital which is a tax-exempt entity. A participates in the eligible governmental plan of City X. A would like to transfer the amounts deferred under City X's eligible governmental plan to the eligible plan of the tax-exempt hospital.

(ii) *Conclusion.* City X's plan may not transfer A's amounts deferred to the tax-exempt employer's eligible plan. In addition, because the amounts deferred would no longer be held in trust for the exclusive benefit of participants and their beneficiaries, the transfer would violate the exclusive benefit rule of section 457(g) and § 1.457-8(a).

*Example 2. (i) Facts.* County M, located in State S, operates several health clinics and maintains an eligible governmental plan for employees of those clinics. One of the clinics operated by County M is being acquired by a hospital operated by State S, and employees of that clinic will become employees of State S. County M permits those employees to transfer their balances under County M's eligible governmental plan to the eligible governmental plan of State S.

(ii) *Conclusion.* If the eligible governmental plans of County M and State S provide for the transfer and acceptance of the transfer (and the other requirements of paragraph (b)(1) of this section are satisfied), then the requirements of paragraph (b)(2) of this section are satisfied and, thus, the transfer will not cause either plan to violate the requirements of section 457 or these regulations.

*Example 3. (i) Facts.* City Employer Z, a hospital, sponsors an eligible governmental plan. City Employer Z is located in State B. All of the assets of City Employer Z are being acquired by a tax-exempt hospital. City Employer Z, in accordance with the plan-to-plan transfer rules of paragraph (b) of this section, would like to transfer the total amount of assets deferred under City Employer Z's eligible governmental plan to the acquiring tax-exempt entity's eligible plan.

(ii) *Conclusion.* City Employer Z may not permit participants to transfer the amounts to