Internal Revenue Service, Treasury

§ 1.404(k)–3 Disallowance of deduction for reacquisition payments.

Q–1: Are payments to reacquire stock held by an ESOP applicable dividends that are deductible under section 404(k)?

A–1: (a) Payments to reacquire stock held by an ESOP, including reacquisition payments that are used to make benefit distributions to participants or beneficiaries, are not deductible under section 404(k) because—

(1) Those payments do not constitute applicable dividends under section 404(k); and

(2) The treatment of those payments as applicable dividends would constitute, in substance, an avoidance or evasion of taxation within the meaning of section 404(k).

(b) See also §1.162(k)–1 concerning the disallowance of deductions for amounts paid or incurred by a corporation in connection with the reacquisition of its stock from an ESOP.

Q–2: What is the effective date of this section?

A–2: This section applies with respect to payments to reacquire stock that are made on or after August 30, 2006.

[T.D. 9282, 71 FR 51474, Aug. 30, 2006]

§ 1.405–1 Qualified bond purchase plans.

(a) Introduction. Section 405 relates to the requirements for qualification of, and the tax treatment of funds contributed to, retirement plans of an employer for the benefit of his employees which are funded through the purchase of United States retirement plan bonds. Such bonds may be purchased under a qualified bond purchase plan described in section 405(a) and paragraph (b) of this section. The qualified bond purchase plan is an alternative method of providing some of the deferred compensation benefits provided by plans described in section 401. In addition, retirement bonds may be purchased under a qualified pension or profit-sharing plan described in section 401. A qualified bond purchase plan or a qualified pension or profit-sharing plan under which retirement bonds are purchased may cover only common-law employees, self-employed individuals, or both. A qualified bond purchase plan may be established after December 31, 1962, and retirement bonds may be purchased by a qualified pension or profit-sharing plan after December 31, 1962. For the terms and conditions of the retirement bonds, see section 405(b) and Treasury Department Circular, Public Debt Series—No. 1–63.

(b) Qualified bond purchase plans. (1) A qualified bond purchase plan is a definite written program and arrangement which is communicated to the employees and established and maintained by an employer solely to purchase and distribute to his employees or their beneficiaries retirement bonds. These bonds must be purchased in the name of the employee on whose behalf the contributions are made. The plan must be a permanent plan which meets the requirements of section 405.