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LEGAL ALERT



Legal Alert: IRS Announces Cost of Living Increases to Dollar Limitations on Pension Plans

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The Internal Revenue Service (IRS) has announced cost of living adjustments applicable to dollar limitations on pension plans as well as other tax items for 2009. Under the Internal Revenue Code, benefits and contributions under qualified retirement plans are subject to dollar limitations. The Code requires the Secretary of the Treasury to adjust these limits for cost of living increases.

Defined Benefit Plans

Effective January 1, 2009, the limitation on the annual benefit under a defined benefit plan under Section 415(b)(1)(A) is increased from **\$185,000** to **\$195,000**. For participants who separated from service before January 1, 2009, the limitation for defined benefit plans under Section 415(b)(1)(B) is computed by multiplying the participant's compensation limitation, as adjusted through 2008, by 1.0530.

Defined Contribution Plans

- **Annual Limit** – The limitation for defined contribution plans under Section 415(c)(1)(A) is increased from **\$46,000** to **\$49,000**.
- **Elective Deferral Limitation** – The 2009 limitation on 401(k) elective deferrals (as well as 403(b) and 457 plans) is increased from **\$15,500** to **\$16,500**.
- **Catch-up Deferral Limitation** – The dollar limitation under Section 414(v)(2)(B)(i) for catch-up contributions to an applicable employer plan other than a plan described in Section 401(k)(11) or Section 408(p) for individuals aged 50 or over is increased from **\$5,000** to **\$5,500**. The dollar limitation under Section 414(v)(2)(B)(ii) for catch-up contributions to an applicable employer plan described in Section 401(k)(11) or Section 408(p) for individuals aged 50 or over remains unchanged at **\$2,500**.
- **SIMPLE Elective Deferral Limitation** – The limitation under Section 408(p)(2)(E) regarding SIMPLE retirement accounts is increased from **\$10,500** to **\$11,500**. As noted above, the limitation for catch-up contributions to SIMPLE accounts remains unchanged at **\$2,500**.
- **ESOP Subject to 5-year Distribution Period** – The dollar amount under Section 409(o)(1)(C)(ii) for determining the maximum account balance in an employee stock ownership plan (ESOP) subject to a 5-year distribution period

is increased from **\$935,000** to **\$985,000**.

• **Amount Used to Determine Lengthening of 5-Year ESOP Distribution Period** – The dollar amount used to determine the lengthening of the 5-year distribution period for an ESOP is increased from **\$185,000** to **\$195,000**.

All Pension Plans

• **Maximum Compensation Limit** – The annual compensation limit under Sections 401(a)(17), 404(l), 408(k)(3)(C), and 408(k)(6)(D)(ii) is increased from **\$230,000** to **\$245,000**.

• **Limitation for Determining Key Employee in Top-Heavy Plan** – The dollar limitation under Section 416(i)(1)(A)(i) concerning the definition of key employee in a top-heavy plan is increased from **\$150,000** to **\$160,000**.

• **Limitation for Determining Highly Compensated Employee** – The limitation used in the definition of highly compensated employee under Section 414(q)(1)(B) is increased from **\$105,000** to **\$110,000**.

Certain other limitations will also be adjusted for cost of living increases. If you have any questions regarding these adjustments or other questions regarding employee benefits, please contact the Ford & Harrison attorney with whom you usually work or any member of Ford & Harrison's Employee Benefits Practice Group.