



Legal Alert: IRS Announces Cost of Living Adjustments to Retirement Plan Dollar Limitations

10/16/2009

The Internal Revenue Service (IRS) has announced cost of living adjustments to the dollar limitations applicable to various retirement plans for 2010. As a result of zero increases (or even decreases) in the applicable cost of living indices, virtually all of the limitation amounts will remain unchanged from their 2009 levels.

Defined Benefit Plans

- **Annual Benefit Limit** – For 2010, the limitation on the annual benefit under a defined benefit plan under Section 415(b)(1)(A) remains at **\$195,000**.
- **Alternative Compensation Limitation** – For participants who are separated from service before January 1, 2010, the limitation under Section 415(b)(1)(B) is computed by multiplying the participant's compensation limitation, as adjusted through 2009, by 1.0000.

Defined Contribution Plans

- **Annual Limit** – The limitation for defined contribution plans under Section 415(c)(1)(A) is unchanged, at **\$49,000**.
- **Elective Deferral Limitation** – The 2010 limitation on 401(k) elective deferrals (as well as 403(b) and 457(b) plans) remains at **\$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 the following sentence) for individuals aged 50 or over remains **\$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 **\$2,500**.
- **SIMPLE Elective Deferral Limitation** – The limitation under Section 408(p)(2)(E) regarding SIMPLE retirement accounts stays at **\$11,500**, and the limitation for catch-up contributions to SIMPLE accounts remains unchanged at **\$2,500**.
- **SEP Minimum Compensation Amount** – The minimum compensation amount under Section 408(k)(2)(C) regarding simplified employee pensions (SEPs) remains unchanged at **\$550**.

- **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 remains **\$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 unchanged at **\$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) remains **\$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 stays at **\$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 unchanged at **\$110,000**.

Among the few limitations that are changing are the following:

- The applicable dollar amount under Section 219(g)(3)(B)(ii) for determining the deductible amount of an IRA contribution for taxpayers who are active participants (other than those filing a joint return or as a qualifying widow(er), or married individuals filing separate returns) will increase from \$55,000 to \$56,000.

- The applicable dollar amount under Section 219(g)(7)(A) for a taxpayer who is not an active participant but whose spouse is an active participant will increase from \$166,000 to \$167,000.

- The adjusted gross income limitation under Section 408A(c)(3)(C)(i)(I) for determining the maximum Roth IRA contribution for married taxpayers filing a joint return or for a taxpayer filing as a qualifying widow(er) increases from \$166,000 to \$167,000.

- Some – but not all – of the adjusted gross income limitations that apply for purposes of the retirement savings contribution credit under Section 25B(b) are increased slightly.

If you have any questions regarding these adjustments or other questions regarding employee benefits matters, please contact the Ford & Harrison attorney with whom you usually work or any member of Ford & Harrison's Employee Benefits Practice Group.