
CLARK HILL PLC

BENEFITS LAW UPDATE -- DECEMBER 2005

■ Detroit, Michigan ■ Birmingham, Michigan ■ Lansing, Michigan ■

2006 LIMITS

The Government has announced annual cost-of-living adjustments of dollar limits affecting retirement and certain other plans. The 2005 and 2006 limits are as follows:

	<u>2005</u>	<u>2006</u>		<u>2005</u>	<u>2006</u>
<u>401(k) PLAN and 403(b) PLAN LIMITS</u>			<u>SIMPLIFIED EMPLOYEE PENSIONS (SEPs)</u>		
Maximum 401(k) pre-tax salary deferrals by employees	\$ 14,000	\$ 15,000	Compensation at which plan participation is mandatory	\$ 450	\$ 450
Maximum 403(b) pre-tax contributions to tax-shelter annuities	\$ 14,000	\$ 15,000	<u>SIMPLE PLANS</u>		
Age 50 or older "catch-up" contribution dollar limit	\$ 4,000	\$ 5,000	Deferral limit	\$ 10,000	\$ 10,000
<u>COMPENSATION LIMITS</u>			Age 50 or older "catch-up" contributions	\$ 2,000	\$ 2,500
Maximum annual includible compensation limit	\$210,000	\$220,000	<u>PENSION BENEFIT GUARANTY CORPORATION</u>		
<u>STATE/LOCAL AND TAX-EXEMPT 457 PLAN LIMITS</u>			Maximum guaranteed monthly benefit at age 65	\$3,801.14	\$3,971.59
Maximum 457(e) deferral dollar limit by employees	\$ 14,000	\$ 15,000	<u>SOCIAL SECURITY</u>		
Age 50 or older "catch-up" contribution dollar limit	\$ 4,000	\$ 5,000	Maximum taxable earnings subject to FICA tax:		
<u>ANNUAL SECTION 415 LIMITS</u>			OASDI portion	\$ 90,000	\$ 94,200
Defined benefit maximum (Section 415(b))	\$170,000	\$175,000	Medicare portion	Unlimited	Unlimited
Defined contribution maximum 415(c)	\$ 42,000	\$ 44,000	Maximum FICA tax	Unlimited	Unlimited
<u>HIGHLY COMPENSATED EMPLOYEES</u>			FICA Tax Rate (employee)	7.65%	7.65%
Compensation Limit	\$ 95,000	\$100,000	OASDI	6.20%	6.20%
<u>EMPLOYEE STOCK OWNERSHIP PLANS</u>			Medicare	1.45%	1.45%
Threshold amount for exception to five-year distribution requirement	\$850,000	\$885,000	Maximum tax for self-employed (does not account for self-employment tax deduction)	Unlimited	Unlimited
Incremental amount for distribution beyond five years	\$170,000	\$175,000	Self-employed tax rate (combined)	15.30%	15.30%
<u>KEY EMPLOYEE IN TOP HEAVY PLAN</u>			OASDI	12.40%	12.40%
	\$135,000	\$140,000	Medicare	2.90%	2.90%
			<u>HEALTH SPENDING ACCOUNT ("HSA")</u>		
			Annual maximum limits:		
			Single -	\$ 2,650	\$ 2,700
			Family -	\$ 5,250	\$ 5,450

SECTION 409A COMPLIANCE EXTENSION

The IRS has generally extended the deadline for amending deferred compensation plans subject to new Internal Revenue Code Section 409A. The deadline for amending to comply has been extended until December 31, 2006. These regulations are broad and may affect arrangements that have not typically been considered deferred compensation (e.g., severance plans, bonus arrangements, etc.). Grandfather rules apply to certain arrangements. Now is the time to take a close look at these arrangements to see what steps may be necessary to bring them into compliance under the new regulations.

STAGGERED REMEDIAL AMENDMENT PERIOD

The IRS has announced the implementation of a new determination letter program which is designed to provide staggered amendment cycles for qualified plans subject to Internal Revenue Code Section 401(a).

Individually designed plans have a regular five-year remedial amendment cycle. The cycles are staggered and spread over five-year periods. Cycles will commence in different years for different plans, based on the employer's EIN. The IRS will begin accepting applications for determination letters for individually designed plans on February 1, 2006, that will take into account the requirements of the Economic Growth and Tax Relief Reconciliation Act of 2001 ("EGTRRA").

Additionally, pre-approved plans (e.g., master and prototype and volume submitter plans) will have a six-year remedial amendment cycle. Sponsors, practitioners and adopters of pre-approved plans will need to apply for new opinion, advisory, or determination letters only once every six years. Pre-approved defined contribution plans have different six-year cycles than pre-approved defined benefit plans.

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