

CLARK HILL PLC

BENEFITS LAW UPDATE -- December 2007

■ Detroit, MI ■ Birmingham, MI ■ Lansing, MI ■ Grand Rapids, MI ■ Chicago, IL

2008 LIMITS

The Government has announced annual cost-of-living adjustments of dollar limits affecting retirement and certain other plans. The 2007 and 2008 limits are as follows:

| | <u>2007</u> | <u>2008</u> | | <u>2007</u> | <u>2008</u> |
|--|-------------|-------------|--|-------------|-------------|
| <u>401(k) PLAN and 403(b) PLAN LIMITS</u> | | | <u>SIMPLIFIED EMPLOYEE PENSIONS (SEPs)</u> | | |
| Aggregate 401(k) pre-tax and Roth salary deferrals by employees | \$ 15,500 | \$ 15,500 | Compensation at which plan participation is mandatory | \$ 500 | \$ 500 |
| Maximum 403(b) pre-tax and Roth contributions to tax-shelter annuities | \$ 15,500 | \$ 15,500 | <u>SIMPLE PLANS</u> | | |
| Age 50 or older "catch-up" contribution dollar limit | \$ 5,000 | \$ 5,000 | Deferral limit | \$ 10,500 | \$ 10,500 |
| <u>COMPENSATION LIMITS</u> | | | Age 50 or older "catch-up" contributions | \$ 2,500 | \$ 2,500 |
| Maximum annual includible compensation limit | \$225,000 | \$230,000 | <u>PENSION BENEFIT GUARANTY CORPORATION</u> | | |
| <u>STATE/LOCAL AND TAX-EXEMPT 457 PLAN LIMITS</u> | | | Maximum guaranteed monthly benefit at age 65 | \$4,125.00 | \$4,312.50 |
| Maximum 457(e)(15) deferral dollar limit by employees | \$ 15,500 | \$ 15,500 | <u>SOCIAL SECURITY</u> | | |
| Age 50 or older "catch-up" contribution dollar limit | \$ 5,000 | \$ 5,000 | Maximum taxable earnings subject to FICA tax: | | |
| <u>ANNUAL SECTION 415 LIMITS</u> | | | OASDI portion | \$ 97,500 | \$102,000 |
| Defined benefit maximum (Section 415(b)) | \$180,000 | \$185,000 | Medicare portion | Unlimited | Unlimited |
| Defined contribution maximum 415(c) | \$ 45,000 | \$ 46,000 | Maximum FICA tax | Unlimited | Unlimited |
| <u>HIGHLY COMPENSATED EMPLOYEES</u> | | | FICA Tax Rate (employee) | 7.65% | 7.65% |
| Compensation Limit | \$ 100,000 | \$105,000 | 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 | \$915,000 | \$935,000 | Maximum tax for self-employed (does not account for self-employment tax deduction) | Unlimited | Unlimited |
| Incremental amount for distribution beyond five years | \$180,000 | \$185,000 | Self-employed tax rate (combined) | 15.30% | 15.30% |
| <u>KEY EMPLOYEE IN TOP HEAVY PLAN</u> | | | OASDI | 12.40% | 12.40% |
| | \$145,000 | \$150,000 | Medicare | 2.90% | 2.90% |
| | | | <u>HEALTH SAVINGS ACCOUNT ("HSA")</u> | | |
| | | | Annual Contribution limits: | | |
| | | | Single - | \$ 2,850 | \$2,900 |
| | | | Family - | \$ 5,650 | \$5,800 |

REVISED 409A DEADLINE EXTENSION

The IRS recently issued Notice 2007-86 amending and superseding Notice 2007-78. Notice 2007-78 extended the “documentation deadline” for amending nonqualified deferred compensation plans to comply with Code Section 409A regulations. Sponsors will still have until December 31, 2008 to amend their nonqualified deferred compensation plans. Notice 2007-86 further extended the effective date of the final regulations, and also extended the deadline to December 31, 2008 for establishing a written designation of time and form of payment for nonqualified deferred compensation.

In the interim, affected plans may provide, or be amended to provide, for new payment elections as to both time and form of payment regarding such compensation on or before December 31, 2008. Such election or amendment will not be treated as a change in the time and form of payment or as an acceleration of a payment under Code Section 409A; provided, (i) the plan is amended and elections are made on or before December 31, 2008, and (ii) the election or amendment applies only to amounts that would not otherwise be payable in the year of election or amendment.

Notice 2007-86 is available on the IRS website, www.IRS.gov.



CLARK HILL

PLC

ATTORNEYS AT LAW

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EMPLOYEE BENEFITS:

| | |
|----------------------------|--------------|
| James E. Brenner..... | 313-965-8814 |
| Stephanie J. Clifford..... | 313-965-8368 |
| James M. Crowley..... | 248-988-5851 |
| Kristi R. Gauthier..... | 248-988-5854 |
| Edward C. Hammond..... | 248-988-1821 |
| John P. Schneider..... | 616-608-1108 |

LABOR & EMPLOYMENT:

| | |
|--------------------------------|--------------|
| Fred W. Batten..... | 313-965-8804 |
| Joseph C. Bennett..... | 248-988-5850 |
| Thomas P. Brady..... | 313-965-8291 |
| Daniel J. Bretz..... | 313-965-8356 |
| P. Robert Brown..... | 313-965-8311 |
| Jennifer S. Buckley..... | 313-965-8371 |
| Connie M. Cessante..... | 313-965-8329 |
| David M. Cessante..... | 313-965-8574 |
| Richard M. Chapman..... | 312-985-5904 |
| Paul W. Coughenour..... | 313-965-8409 |
| Frederick R. "Fritz" Damm..... | 313-965-8241 |
| Maria Fracassa Dwyer..... | 248-988-5899 |
| John L. Gierak..... | 248-988-5845 |
| Danon D. Goodrum..... | 313-965-8817 |
| Marshall W. Grate..... | 616-608-1103 |
| David A. Hardesty..... | 313-965-8363 |
| Thomas M. J. Hathaway..... | 313-965-8233 |
| Mary A. Kalmink..... | 313-965-8263 |
| Tracy A. Leahy..... | 313-965-8533 |
| Robert A. Lusk..... | 248-988-5847 |
| Mark W. McNerney..... | 313-965-8383 |
| William A. Moore..... | 313-965-8674 |
| Linda L. Ryan..... | 616-608-1116 |
| Barbara A. Ruga..... | 616-608-1105 |
| David A. Sebastian..... | 313-965-8672 |
| Rachelle G. Silberberg..... | 313-965-8379 |
| Jeffrey A. Steele..... | 313-965-8509 |
| Reginald M. Turner, Jr..... | 313-965-8318 |
| Anne Marie Verduyse-Welch..... | 313-965-8571 |

IMMIGRATION:

| | |
|-----------------------------|--------------|
| Michael P. Nowlan..... | 313-965-8666 |
| Celia Banks Washington..... | 313-965-3457 |

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CLARK HILL LAW OFFICES

Detroit Office

500 Woodward Ave.
Suite 3500
Detroit, MI 48226-3435
(313) 965-8300
(313) 965-4348 FAX

Birmingham Office

255 S. Old Woodward Ave.
Third Floor
Birmingham, MI 48009
(248) 642-9692
(248) 642-2174 FAX

Lansing Office

212 East Grand River
Lansing, MI 48906
(517) 318-3100
(517) 318-3099 FAX

Grand Rapids Office

200 Ottawa Ave. NW
Suite 500
Grand Rapids, MI 49503
(616) 608-1100
(616) 608-1199 FAX

Chicago Office

150 N. Michigan Ave.
Suite 2400
Chicago, IL 60601
(312) 985-5900
(312) 985-5999 FAX