

CLARK HILL PLC

BENEFITS LAW UPDATE -- December 2006

■ Detroit, Michigan ■ Birmingham, Michigan ■ Lansing, Michigan ■ Grand Rapids ■

2007 LIMITS

The Government has announced annual cost-of-living adjustments of dollar limits affecting retirement and certain other plans. The 2006 and 2007 limits are as follows:

	<u>2006</u>	<u>2007</u>		<u>2006</u>	<u>2007</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	\$ 15,000	\$ 15,500	Compensation at which plan participation is mandatory	\$ 450	\$ 500
Maximum 403(b) pre-tax and Roth contributions to tax-shelter annuities	\$ 15,000	\$ 15,500	<u>SIMPLE PLANS</u>		
Age 50 or older "catch-up" contribution dollar limit	\$ 5,000	\$ 5,000	Deferral limit	\$ 10,000	\$ 10,500
<u>COMPENSATION LIMITS</u>			Age 50 or older "catch-up" contributions	\$ 2,500	\$ 2,500
Maximum annual includible compensation limit	\$220,000	\$225,000	<u>PENSION BENEFIT GUARANTY CORPORATION</u>		
<u>STATE/LOCAL AND TAX-EXEMPT 457 PLAN LIMITS</u>			Maximum guaranteed monthly benefit at age 65	\$3,971.59	\$4,125.00
Maximum 457(e)(15) deferral dollar limit by employees	\$ 15,000	\$ 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	\$ 94,200	\$97,500
Defined benefit maximum (Section 415(b))	\$175,000	\$180,000	Medicare portion	Unlimited	Unlimited
Defined contribution maximum 415(c)	\$ 44,000	\$ 45,000	Maximum FICA tax	Unlimited	Unlimited
<u>HIGHLY COMPENSATED EMPLOYEES</u>			FICA Tax Rate (employee)	7.65%	7.65%
Compensation Limit	\$ 100,000	\$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	\$885,000	\$915,000	Maximum tax for self-employed (does not account for self-employment tax deduction)	Unlimited	Unlimited
Incremental amount for distribution beyond five years	\$175,000	\$180,000	Self-employed tax rate (combined)	15.30%	15.30%
<u>KEY EMPLOYEE IN TOP HEAVY PLAN</u>			OASDI	12.40%	12.40%
	\$140,000	\$145,000	Medicare	2.90%	2.90%
			<u>HEALTH SAVINGS ACCOUNT ("HSA")</u>		
			Annual Contribution limits:		
			Single -	\$ 2,700	\$2,850
			Family -	\$ 5,450	\$5,650

409A Transition Relief Extension

IRS guidance required previously that nonqualified deferred compensation plans covered by Code Section 409A must be amended on or before December 31, 2006, to comply with the law.

However, on October 4, 2006, the IRS issued Notice 2006-79, which extended most Internal Revenue Code ("Code") Section 409A compliance deadlines until December 31, 2007.

The IRS now expects to issue Code Section 409A final regulations before the end of 2006. Because of the short time span between the issuance of the final regulations and the prior effective date, the IRS decided to issue the extension.

The Notice provides:

- Generally, employers and other service recipients who adopted nonqualified deferred compensation plans on or before December 31, 2007 (and which aren't grandfathered) have until December 31, 2007 to amend the plans to comply, provided that in the interim such plans are operated in reasonable, good faith compliance with Code Section 409A and related guidance (Note that this extension does not apply for discounted stock rights granted to executive officers of public companies);
- Final Regulations will not become effective until January 1, 2008;
- Transition relief for certain payment elections (allowing new payment elections on or before December 31, 2007, subject to special rules regarding 2006 payments);
- The ability to link a payment election under a nonqualified deferred compensation plan with a payment under a qualified plan is extended through 2007.

IRS GRANTS RELIEF FOR W-2/1099 REPORTING OF NON QUALIFIED DEFERRED COMPENSATION ("NQDC")

Recently issued IRS Notice 2006-100 has waived the requirement to report 2006 deferrals under NQDC plans on Form W-2 or 1099-MISC. However, the IRS has set forth specific procedures for Plan Sponsors to follow if 409A violations occurred in 2006 or 2005. Please call if you have questions.

CLARK HILL

PLC

ATTORNEYS AT LAW

COPYRIGHT © 2006

EMPLOYEE BENEFITS:

James E. Brenner.....	313-965-8814
Stephanie J. Clifford.....	313-965-8368
James M. Crowley.....	248-988-5851
Kristi 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
P. Robert Brown.....	313-965-8311
Jennifer S. Buckley.....	313-965-8371
Robert R. Cleary.....	313-965-8379
Stephanie J. Clifford.....	313-965-8368
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
Mary A. Kalmink.....	313-965-8263
Robert A. Lusk.....	248-988-5847
Mark W. McInerney.....	313-965-8383
William A. Moore.....	313-965-8674
Rachelle G. Silberberg.....	313-965-8379
Reginald M. Turner, Jr.....	313-965-8318
Anne Marie Verduyck-Welch.....	313-965-8571

IMMIGRATION:

Michael P. Nowlan.....	313-965-8666
Kathleen M. Jansinski.....	313-965-3457

THIS NEWSLETTER IS A PERIODIC PUBLICATION OF CLARK HILL PLC AND SHOULD NOT BE CONSTRUED AS LEGAL ADVICE OR LEGAL OPINION ON ANY SPECIFIC FACTS OR CIRCUMSTANCES. THE CONTENTS ARE INTENDED FOR GENERAL INFORMATIONAL PURPOSES ONLY AND YOU ARE URGED TO CONSULT YOUR OWN LAWYER CONCERNING YOUR OWN SITUATION AND ANY SPECIFIC LEGAL QUESTIONS YOU MAY HAVE. FOR FURTHER INFORMATION ABOUT THESE CONTENTS, PLEASE CONTACT EDWARD C. HAMMOND, EDITOR, AT 248-988-1821.

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