

Employee Benefit Plans: Year-End Compliance Issues

Every year plan sponsors must ensure that their employee benefit plans meet compliance requirements as set forth by the Internal Revenue Service ("IRS"). With 2012 rapidly drawing to a close, this is the time for employers to conduct year-end reviews to ensure that all qualified retirement plans are up-to-date and operating in compliance with applicable law. The following list identifies some of the salient compliance issues for plan sponsors to consider as the year end approaches:

- **2012 Compensation Limit is \$250,000.** When determining 2012 contributions and tax-deductible contribution limits and performing most of the 2012 plan year nondiscrimination tests, plan sponsors may only take into account each participant's compensation up to \$250,000. The IRS has increased the compensation limit to \$255,000 for all qualified plans in plan year 2013.
- **Annual Deferral Limit and Correction Deadline.** For the 2012 plan year, the limit on a participant's deferral contributions to a 401(k) plan, 403(b) program or section 457 plan cannot exceed \$17,000. This single \$17,000 limit applies to deferral contributions made to any combination of 401(k) plans or 403(b) programs. However, deferrals made to 401(k) plans or 403(b) programs do not reduce the limit on deferrals that may be made to a section 457 plan. As a result, an individual can contribute \$17,000 to a combination of 401(k) plans or 403(b) programs and contribute an additional \$17,000 to a section 457 plan. For all qualified plans in plan year 2013, the IRS has increased the maximum elective deferral limit to \$17,500.

Depending upon plan design, many 401(k), 403(b), or governmental section 457 plans may also allow participants age 50, to contribute an additional \$5,500 of "catch-up" deferrals during the 2012 plan year. The age 50 catch-up contribution for plan year 2013 remains unchanged.

- **Maximum Individual Contributions.** Generally, employer contributions and employee post-tax and pre-tax contributions to a defined contribution plan are limited to the lesser of \$50,000 or 100% of a participant's compensation. The IRS has increased the maximum individual contribution to \$51,000 for qualified plans in 2013.
- **Maximum Defined Benefit.** For 2012, the maximum retirement benefit permitted under a defined benefit plan is \$200,000. In plan year 2013, the IRS has increased the maximum defined benefit amount to \$205,000.
- **Required and Discretionary Plan Amendments.** Plan sponsors will need to comply with IRS deadlines for required plan amendments with respect to plan year 2012, unless an extension by the IRS has been granted. With respect to discretionary plan amendments, a plan sponsor may need to adopt such amendments before the current plan year ends.

Generally, discretionary amendments to qualified employee benefit plans that take effect during a plan year must be adopted prior to the end of the plan year, unless Congress or the IRS has granted an extension.

	2013	2012
Maximum Defined Benefit - § 415(b)(1)(A)	\$205,000	\$200,000
Maximum Defined Contribution - § 415(c)(1)(A)	\$51,000	\$50,000
Maximum 401(k) Elective Deferral - § 402(g)(1)	\$17,500	\$17,000
Catch-up Contributions - § 414(v)(2)(B)(i)	\$5,500	\$5,500
Annual Compensation - § 401(a)17/408(k)(3)(C)	\$255,000	\$250,000
Highly Compensated Employee - § 414(q)(1)(B)	\$115,000	\$115,000
Top-Heavy Plan Key Employee Limitation – 416(i)(1)(A)(i)	\$165,000	\$165,000
Social Security Wage Base	\$113,700	\$110,100
SEP Minimum Compensation - § 408(k)(2)(C)	\$550	\$550
Simple Plan Deferral - § 408(p)(2)(E)	\$12,000	\$11,500

For information on how the new limits may affect any aspect of your retirement plan(s), how we can work with you to conduct a self-audit of your qualified plans to ensure compliance, including seeking relief under the IRS and DOL correction programs, please contact [Stephen L. Ferszt](#), Chair of the Employee Benefits and Executive Compensation Practice Group.

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