



Electronic Dispatch

Employee Benefits Law Action Memo

October 2007

[Go to BS&K Employee Benefits Home Page](#)

IRS ANNOUNCES 2008 PENSION AND RELATED LIMITATIONS

IRS ALSO EXTENDS COMPLIANCE DEADLINE FOR NONQUALIFIED DEFERRED COMPENSATION PLANS

On October 18, 2007, the Internal Revenue Service announced cost-of-living adjustments applicable to dollar limitations for pension plans and other items beginning January 1, 2008.

Section 415 of the Internal Revenue Code provides for dollar limitations on benefits and contributions under qualified retirement plans. These limitations are adjusted annually to reflect cost-of-living increases. Many other limitations applicable to retirement plans are adjusted at the same time and in the same manner as the Section 415 limit. The amounts to be applied for 2008 are listed below. Also included are the 2008 amounts for comparison purposes.

LIMITATION	2007 AMOUNT	2008 AMOUNT
Maximum Annual Compensation taken into account for determining benefits or contributions to a qualified plan	\$225,000	\$230,000
Basic Elective Deferral Limitation for 401(k), 403(b) and 457(b) Plans	\$15,500	\$15,500
Catch-up Contribution Limit for Persons Age 50 and older in 401(k), 403(b) or SARSEP Plans	\$5,000	\$5,000
Limitation on Annual Additions to a Defined Contribution Plan ¹	\$45,000	\$46,000
Limitation on Annual Benefits from a Defined Benefit Plan ²	\$180,000	\$185,000
Highly Compensated Employee Compensation Threshold ³	\$100,000	\$105,000
SEP Compensation Threshold	\$500	\$500
Social Security Taxable Wage Base for Social Security Tax (6.2%)	\$97,500	\$102,000
For Medicare (1.45%)	No Limit	No Limit
Health Savings Accounts:		
• Individual Contribution Limit	\$2,850	\$2,900
• Family Contribution Limit	\$5,650	\$5,800
• Catch-Up Contributions	\$800	\$900

¹ In no event may annual additions exceed 100% of a participant's compensation.

² In no event may a participant's annual benefit exceed 100% of the participant's average compensation for the participant's high three years.

³ Generally, an employee is considered "highly compensated" if the employee:

- (a) was a five-percent owner of the employer at any time during the current or preceding year; or
- (b) received compensation from the employer in the preceding year of more than the applicable dollar limit for that year.

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IRS Extends Transition Relief For Nonqualified Deferred Compensation Plans

On October 22, 2007, the Internal Revenue Service ("IRS") announced a one-year extension of most of the existing transition relief for compliance with the final regulations under Internal Revenue Code Section 409A ("Code Section 409A"), governing the taxation of nonqualified deferred compensation benefits. The latest IRS announcement follows the partial relief provided by the IRS in September. In its latest announcement, published in Notice 2007-86, the IRS indicated that compliance with the final Code Section 409A regulations (published April 10, 2007) generally is not required prior to January 1, 2009. Until then, taxpayers generally are required to operate nonqualified deferred compensation arrangements in compliance with the terms of the arrangements, to the extent consistent with Code Section 409A and applicable IRS guidance. Compliance with the final regulations will be treated as a reasonable, good faith compliance with the requirements of Code Section 409A.

For employers that have yet to resolve open compliance issues raised by existing nonqualified deferred compensation arrangements, the latest IRS announcement is welcome relief. The announcement generally provides employers with another year to analyze all deferred compensation arrangements and make informed and reasoned decisions regarding changes that may be necessary to bring arrangements into compliance with the final regulations. Among other things, Notice 2007-86 will allow employers and affected employees to continue to consider and make both required and desired changes in the time and/or form of payment provisions in covered nonqualified deferred compensation arrangements. The flexibility to make changes after December 31, 2008 will be substantially curtailed, particularly with respect to time and form of payment provisions.

For additional information on Code Section 409A, nonqualified deferred compensation arrangements that are subject to Code Section 409A, compliance steps that must be taken, and the consequences of noncompliance, please [see](#) our *BS&K Employee Benefits Law Action Memos* dated October 2004, November 2005, May 2007 and September 2007. If you have questions, you are invited to contact any of the members of our Employee Benefits Law Practice Group. Contact information is provided below.

If you have any questions about this memorandum, please contact Amelia M. Klein in our Albany office (518-533-3217; aklein@bsk.com) or any of the other members of our Employee Benefits Law Practice Group listed below:

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