

ALERT



November 2006

Employee Benefit Plan Dollar Limits 2007

The Internal Revenue Service has announced the following 2007 dollar limits for employee benefit plans:

Maximum Plan Compensation. The maximum amount of annual compensation which may be taken into account for employee benefit plan purposes has been increased from \$220,000 to \$225,000.

Limit on Salary Deferral Contributions. The annual limitations on elective deferral contributions under plans maintained pursuant to Sections 401(k) and 457 of the Internal Revenue Code of 1986, as amended (the "Code"), have been increased from \$15,000 to \$15,500.

Maximum Benefits for Defined Benefit Plans. The annual limitation on benefits payable from a defined benefit pension plan has been increased to the lesser of 100% of average compensation for the participant's high-three-years or \$180,000 (increased from \$175,000 in 2006). For participants who separated from service before January 1, 2005, the high-three-year compensation limitation for defined benefit plans is computed by multiplying the participant's high-three-year compensation, as adjusted through 2006, by 1.0334.

Maximum Contributions for Defined Contribution Plans. The defined contribution plan annual contribution limit has been increased to the lesser of 100% of the participant's compensation or \$45,000 (from \$44,000 in 2006).

Limit on Salary Reduction Amount for a SIMPLE Retirement Account. The maximum salary reduction amount for a SIMPLE retirement account maintained pursuant to Section 408(p) of the Code has been increased to \$10,500 from \$10,000 in 2006.

Catch-Up Limitation. The dollar limitation for catch-up contributions to an applicable employer plan other than a SIMPLE plan or SIMPLE retirement account for individuals age 50 or over remains unchanged at \$5,000. The dollar limitation for catch-up contributions to a SIMPLE plan or SIMPLE retirement account for individuals age 50 or over remains unchanged at \$2,500.

Compensation Threshold for Highly-Compensated Employees. The compensation threshold for the definition of "highly-compensated employee" remains unchanged at \$100,000. Thus, an employee will be considered highly compensated in a year if, at any time during the year or the preceding year, the employee was a 5% owner or if, during the preceding year, the

employee had compensation from the employer in excess of \$100,000. At the employer's election, such threshold can be applied solely to those employees who were also in the "top-paid group" — that is, the top 20% of employees — during the preceding year.

Key Employee Definition Limitation. The dollar limitation for the definition of key employee in a top-heavy plan increased from \$140,000 to \$145,000.

Amount of Tax-Credit ESOP Maximum Balance and Amount Necessary for Lengthening of Five-Year Period.

The dollar amount of a participant's account which is necessary for a participant to lengthen the period of distributions under a tax-credit employee stock ownership plan (an "ESOP") has been increased from \$885,000 to \$915,000 (the "ESOP maximum balance"). The dollar amount by which a participant's account balance must exceed the ESOP maximum balance in order to lengthen the five-year distribution period has been increased from \$175,000 to \$180,000.

Qualified Transportation Fringe Benefit Limitation. The maximum monthly limitation on the aggregate fringe benefit exclusion amount for transportation in a commuter highway

vehicle and any transit pass is increased to \$110. The monthly limitation on the fringe benefit exclusion amount for qualified parking is increased to \$215.

Health Savings Account (HSA) Limitations. Individuals (regardless of income level) may make tax-deductible contributions to an HSA if they have a high deductible health plan and no other health plan. A high deductible health plan is a health plan that has (i) a minimum deductible of at least \$1,100 with a \$5,500 cap on out-of-pocket expenses for individual coverage or (ii) a minimum deductible of at least \$2,200 with a \$11,000 cap on out-of-pocket expenses for family coverage. The maximum annual tax deductible contribution is limited to the lesser of (i) the annual deductible, and (ii) \$2,850 for individual coverage and \$5,650 for family coverage. Employers will be allowed to offer HSAs through a cafeteria plan. Individuals may not contribute to an HSA upon enrollment in Medicare.

In addition, the Social Security Administration has announced that the taxable wage base for Social Security in the year 2007 has been increased from \$94,200 to \$97,500.

Should you have any questions about the matters addressed in this Alert, please contact the Kirkland & Ellis LLP employee benefits attorney with whom you normally work, or any of the following:

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