

KIRKLAND ALERT

December 2012

Employee Benefit Plan Dollar Limits 2013

The Internal Revenue Service has announced the following 2013 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 increases to \$255,000.

Limit on Salary Deferral Contributions. The annual limitation on elective deferral contributions under plans maintained pursuant to Sections 401(k) and 457 of the Internal Revenue Code increases to \$17,500.

Maximum Benefits for Defined Benefit Plans. The annual limitation on benefits payable from a defined benefit pension plan increases to the lesser of 100% of average compensation for the participant's high-three-years or \$205,000. For participants who separated from service before January 1, 2013, the high-three-year compensation limitation for defined benefit plans for 2013 is computed by multiplying the participant's high-three-year compensation by 1.0170.

Maximum Contributions for Defined Contribution Plans. The defined contribution plan annual contribution limit increases to the lesser of 100% of the participant's compensation or \$51,000.

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 Internal Revenue Code increases to \$12,000.

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 \$5,500. 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 \$115,000. 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 of an employer sponsoring the plan or if, during the preceding year, the employee had compensation from the employer in excess of \$115,000. 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 remains unchanged at \$165,000.

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 an employee stock ownership plan (an "ESOP") increases to \$1,035,000 (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 increases to \$205,000.

In addition, the Pension Benefit Guaranty Corporation (“PBGC”) has announced the maximum insurance benefit and the per-participant premium for 2013:

Maximum PBGC Guarantee for Defined Benefit Plans. The maximum benefit that the PBGC will guarantee for participants in underfunded single-employer defined benefit plans that terminate in 2013 increases to \$57,477.24 per year for those who retire at age 65. The amount is higher for those who retire later and lower for those who retire earlier or elect survivor benefits.

PBGC Per-Participant Flat Rate Premium. The per-participant flat-rate premium for 2013 increases to \$42 for single-employer plans and increases to \$12 for multiemployer plans.

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