

## LEGISLATIVE UPDATE AND TAX REMINDERS

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### Recent Pension Changes

Although EGTRRA has gathered a lot of dust, it had such sweeping provisions that it deserves special attention. The Economic Growth and Tax Relief Reconciliation Act of 2001, **EGTRRA**, is one of the most significant pension legislative acts ever ranking with ERISA 1974 and the Tax Reform Act of 1986.

EGTRRA provides enhancements in so many areas we can only briefly list the most significant, most of which are effective for Plan Years beginning in 2002.

- Compensation limits increased from \$170,000 to \$200,000 (now \$210,000)
- Defined Contribution limits increased to 100% of salary to a maximum of \$40,000 (now \$42,000)
- 401(k) contribution limits increased and catch-up contributions added for those over age 50

YEAR	2002	2003	2004	2005	2006
<b>401(k)</b>	\$11,000	12,000	13,000	14,000	15,000
<b>CATCH-UP</b> (over age 50)	\$1,000	2,000	3,000	4,000	5,000

- Profit Sharing deduction limit increased from 15% of Salary to 25% of Salary with 401(k) contributions separately deductible.
- Defined Benefit limit increased from an annual benefit of \$140,000 payable at the Social Security Retirement Age to \$160,000 (now \$170,000) payable at Age 62.
- Plan loans allow for Self-Employed and Owner Employees.

### Rollovers

Effective 1/1/2002, EGTRRA allows for portability in rollovers among most deferred compensation plans – Qualified Plans, 457 Plans, 403(b) Annuities and IRA's. The IRS has clarified that rollovers take on the characteristics of the receiving plan. This is a good consolidation tool for your employees. We suggest that you get proof from the distributing Plan that it is qualified.

In a related matter, the DOL issued final regulations on the required IRA rollovers of involuntary "cash-out" distributions of over \$1,000. We don't think these issues are fully resolved, but we're leaning toward not providing for involuntary cash-outs of over \$1,000 - we'll keep you informed.

### 401(k) Contribution Depositing Requirements

The DOL is still auditing and penalizing late depositors. Under DOL rules, 401(k) contributions must be deposited **as soon as possible**, but not later than 15 working days after the end of the month for which they were withheld. Although some DOL auditors agree with monthly deposits, some have been assessing prohibited transaction penalties and lost interest charges beginning 7 days after each payroll.

### Defined Benefit Plans

Defined Benefit Plans received temporary funding relief. For 2004 and 2005 a higher interest rate can be used for certain actuarial calculations. Although the relief lessens the contribution burden, it cannot change the ultimate cost of the plan and many plans are not out of the woods yet.

### IRS Dollar Limits for Retirement Plans

	<u>2002</u>	<u>2003</u>	<u>2004</u>	<u>2005</u>
Elective 401(k) and 403(b) deferrals	\$ 11,000	\$ 12,000	\$ 13,000	\$ 14,000
Catch-up Contributions (over age 50)	1,000	2,000	3,000	4,000
Maximum Defined Contribution limit	40,000	40,000	41,000	42,000
Maximum Defined Benefit limit	160,000	160,000	165,000	170,000
Maximum Compensation limit	200,000	200,000	205,000	210,000

### Miscellaneous

- Blackout periods require minimum of 30 days advance notice
- Minimum Distributions are only required for 5% owners
- Contributions must be made by your tax-filing time with extensions to be deductible and must be made within 8 ½ months of the Plan Year end if subject to Minimum Funding Standards.
- Controlled Groups are treated as a single employer for all retirement plan purposes.
- Sub-S pass through income is not compensation for Plan purposes.