LEGISLATIVE UPDATE AND TAX REMINDERS

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Recent Pension Changes

Although EGTRRA is five years old, its sweeping provisions are finally phased-in for 2006, along with the Roth 401(k) described below. 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 $220,000)
- Defined Contribution limits increased to 100% of salary to a maximum of $40,000 (now $44,000)
- 401(k) contribution limits increased and catch-up contributions added for those over age 50 are fully phased-in for 2006. Only inflationary increases are on tap from now on.

YEAR	**2002**	**2003**	**2004**	**2005**	**2006**
401(k)	$11,000	12,000	13,000	14,000	15,000
CATCH-UP (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 $175,000) payable at Age 62.
- Plan loans allow for Self-Employed and Owner Employees.

Roth 401(k)

Effective 1/1/2006, you can designate your 401(k) contributions as *after-tax* money that grows *tax-free*. The Roth 401(k) has significant advantages for certain highly paid employees. If you're maxing out your 401(k), designating them as Roth contributions to permit *tax-free* growth may be real financial advantage. Visit www.the401kstore.com to read To Roth, or Not to Roth to get the full scoop.

Rollovers

Effective 1/1/2002, EGTRRA allows for portability in rollovers among most deferred compensation plans – Qualified 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.

401(k) Contribution Depositing Requirements

The DOL is still auditing and penalizing late depositors. Under current 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. Because of the confusion this rule has caused, the DOL is supposed to come up with a hard-and-fast rule, but we haven't seen or heard anything yet.

Pension Legislation

The Administration says that the temporary funding relief for 2004 and 2005 afforded defined benefit plans was supposed to give Congress enough time to pass a reform bill. As we end 2005 - no legislation yet, but both the Senate and the House have passed their versions of massive pension legislation. If nothing is done, some defined benefit plans will experience significantly higher contribution requirements. Also PBGC premiums will jump. Keep your ear to the rail, but watch out for the train.

IRS Dollar Limits for Retirement Plans	**2003**	**2004**	**2005**	**2006**
Elective 401(k) and 403(b) deferrals	$ 12,000	$ 13,000	$ 14,000	$ 15,000
Catch-up Contributions (over age 50)	2,000	3,000	4,000	5,000
Maximum Defined Contribution limit	40,000	41,000	42,000	44,000
Maximum Defined Benefit limit	160,000	165,000	170,000	175,000
Maximum Compensation limit	200,000	205,000	210,000	220,000

Miscellaneous

- Blackout periods require minimum of 30 days advance notice
- In-service minimum 70 ½ 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.