

2009 Limitations Adjusted As Provided in Section 415(d), etc.¹

Notice 2008-102

Section 415 of the Internal Revenue Code (the Code) provides for dollar limitations on benefits and contributions under qualified retirement plans. Section 415 also requires that the Commissioner annually adjust these limits for cost-of-living increases. Other limitations applicable to deferred compensation plans are also affected by these adjustments. Many of the limitations will change for 2009 because the increase in the cost-of-living index met the statutory thresholds that trigger their adjustment. However, for others, the limitation will remain unchanged. For example, the limitation under § 402(g)(1) on the exclusion for elective deferrals described in § 402(g)(3) is increased from \$15,500 to \$16,500. This limitation affects elective deferrals to § 401(k) plans and to the Federal Government's Thrift Savings Plan, among other plans.

Cost-of-Living limits for 2009

Effective January 1, 2009, the limitation on the annual benefit under a defined benefit plan under § 415(b)(1)(A) is increased from \$185,000 to \$195,000. For participants who separated from service before January 1, 2009, the limitation for defined benefit plans under § 415(b)(1)(B) is computed by multiplying the participant's compensation limitation, as adjusted through 2008, by 1.0530.

The limitation for defined contribution plans under § 415(c)(1)(A) is increased from \$46,000 to \$49,000.

The Code provides that various other dollar amounts are to be adjusted at the same time and in the same manner as the dollar limitation of § 415(b)(1)(A). These dollar amounts and the adjusted amounts are as follows:

The limitation under § 402(g)(1) on the exclusion for elective deferrals described in § 402(g)(3) is increased from \$15,500 to \$16,500.

The annual compensation limit under §§ 401(a)(17), 404(l), 408(k)(3)(C), and 408(k)(6)(D)(ii) is increased from \$230,000 to \$245,000.

The dollar limitation under § 416(i)(1)(A)(i) concerning the definition of key employee in a top-heavy plan is increased from \$150,000 to \$160,000.

The dollar amount under § 409(o)(1)(C)(ii) for determining the maximum account balance in an employee stock ownership plan subject to a 5-year distribution period is increased from \$935,000 to \$985,000, while the dollar amount used to

¹Based on News Release IR-2008-118 dated October 16, 2008.

determine the lengthening of the 5-year distribution period is increased from \$185,000 to \$195,000.

The limitation used in the definition of highly compensated employee under § 414(q)(1)(B) is increased from \$105,000 to \$110,000.

The dollar limitation under § 414(v)(2)(B)(i) for catch-up contributions to an applicable employer plan other than a plan described in § 401(k)(11) or 408(p) for individuals aged 50 or over is increased from \$5,000 to \$5,500. The dollar limitation under § 414(v)(2)(B)(ii) for catch-up contributions to an applicable employer plan described in § 401(k)(11) or 408(p) for individuals aged 50 or over remains unchanged at \$2,500.

The annual compensation limitation under § 401(a)(17) for eligible participants in certain governmental plans that, under the plan as in effect on July 1, 1993, allowed cost-of-living adjustments to the compensation limitation under the plan under § 401(a)(17) to be taken into account, is increased from \$345,000 to \$360,000.

The compensation amount under § 408(k)(2)(C) regarding simplified employee pensions (SEPs) is increased from \$500 to \$550.

The limitation under § 408(p)(2)(E) regarding SIMPLE retirement accounts is increased from \$10,500 to \$11,500.

The limitation on deferrals under § 457(e)(15) concerning deferred compensation plans of state and local governments and tax-exempt organizations is increased from \$15,500 to \$16,500.

The compensation amounts under § 1.61-21(f)(5)(i) of the Income Tax Regulations concerning the definition of “control employee” for fringe benefit valuation purposes is increased from \$90,000 to \$95,000. The compensation amount under § 1.61-21(f)(5)(iii) is increased from \$185,000 to \$195,000.

The limitation on wages under § 45A regarding individuals eligible for the Indian employment credit is \$40,000 for tax years beginning in 2008 and will increase to \$45,000 for tax years beginning in 2009. The termination date of § 45A was recently extended from December 31, 2007, to December 31, 2009, by § 314 of Division C of the Emergency Economic Stabilization Act of 2008, P.L. 110-343.

The Code also provides that several pension-related amounts are to be adjusted using the cost-of-living adjustment under § 1(f)(3). These dollar amounts and the adjustments are as follows:

The adjusted gross income limitation under § 25B(b)(1)(A) for determining the retirement savings contribution credit for taxpayers filing a joint return is increased from \$32,000 to \$33,000; the limitation under § 25B(b)(1)(B) is increased from \$34,500 to \$36,000; and the limitation under § 25B(b)(1)(C) and (D) is increased from \$53,000 to \$55,500.

The adjusted gross income limitation under § 25B(b)(1)(A) for determining the retirement savings contribution credit for taxpayers filing as head of household is increased from \$24,000 to \$24,750; the limitation under § 25B(b)(1)(B) is increased from \$25,875 to \$27,000; and the limitation under § 25B(b)(1)(C) and (D) is increased from \$39,750 to \$41,625.

The adjusted gross income limitation under § 25B(b)(1)(A) for determining the retirement savings contribution credit for all other taxpayers is increased from \$16,000 to \$16,500; the limitation under § 25B(b)(1)(B) is increased from \$17,250 to \$18,000; and the limitation under § 25B(b)(1)(C) and (D) is increased from \$26,500 to \$27,750.

The deductible amount under § 219(b)(5)(A) for an individual making qualified retirement contributions remains unchanged at \$5,000.

The applicable dollar amount under § 219(g)(3)(B)(i) for determining the deductible amount of an IRA contribution for taxpayers who are active participants filing a joint return or as a qualifying widow(er) is increased from \$85,000 to \$89,000. The applicable dollar amount under § 219(g)(3)(B)(ii) for all other taxpayers (other than married taxpayers filing separate returns) is increased from \$53,000 to \$55,000. The applicable dollar amount under § 219(g)(7)(A) for a taxpayer who is not an active participant but whose spouse is an active participant is increased from \$159,000 to \$166,000.

The adjusted gross income limitation under § 408A(c)(3)(C)(ii)(I) for determining the maximum Roth IRA contribution for taxpayers filing a joint return or as a qualifying widow(er) is increased from \$159,000 to \$166,000. The adjusted gross income limitation under § 408A(c)(3)(C)(ii)(II) for all other taxpayers (other than married taxpayers filing separate returns) is increased from \$101,000 to \$105,000.

Administrators of defined benefit or defined contribution plans that have received favorable determination letters should not request new determination letters solely because of yearly amendments to adjust maximum limitations in the plans.

Drafting Information

The principal author of this notice is John Heil of the Employee Plans, Tax Exempt and Government Entities Division. For further information regarding the data in this notice, please contact the Employee Plans' taxpayer assistance telephone service at 1-877-829-5500 (a toll-free call) between the hours of 8:30 a.m. and 4:30 p.m. Eastern time Monday through Friday. For information regarding the methodology used in arriving at the data in this notice, please e-mail Mr. Heil at RetirementPlanQuestions@irs.gov.