

# REPTECH

Customized Employee Benefits Administration

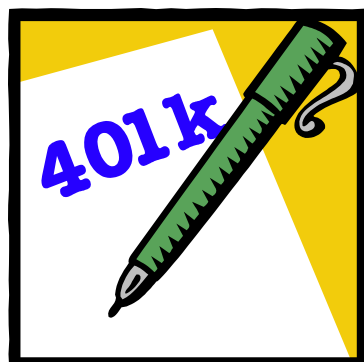
## NEW BENEFIT PLAN LIMITS ANNOUNCED FOR 2007

Each year the U.S. government adjusts the limits for private pension plans, Social Security, Medicare, and other benefit programs to reflect price and wage inflation, and changes in the law.

Many of the pension plan limitations changed for 2007 as noted below.

**Inside this issue:**

<i>2007 Plan Limits</i>	1
<i>The Pension Protection Act of 2006</i>	2-3
<i>Best of Both Worlds</i>	4



	2006	2007
<b>Annual Compensation Limit</b>	\$220,000	\$225,000
<b>Elective deferral limit for 401(k), 403(b), and 457(b) plans</b>	\$ 15,000	\$ 15,500
<b>Catch-up contribution limit for 401(k), 403(b) and governmental 457(b) plans</b>	\$ 5,000	\$ 5,000
<b>SIMPLE Plans</b>		
Elective deferral limit	\$ 10,000	\$ 10,500
Catch-up contribution limit	\$ 2,000	\$ 2,500
<b>Annual additions limit for defined contribution plans</b>		
The maximum annual addition is the lesser of 100% of compensation or \$44,000.	\$ 44,000	\$ 45,000
<b>Annual benefit limit for defined benefit plans</b>		
The maximum annual benefit allowed between ages 62—65 is the lesser of 100% of compensation or \$180,000.	\$175,000	\$180,000
<b>Highly compensated employee compensation threshold</b>		
A highly compensated employee is any person who either owns more than 5% of the employer or earned more than \$100,000 in the prior plan year.	\$ 100,000	\$100,000
<b>Key employee compensation threshold</b>		
A key employee for top-heavy plan purposes is any person who is a more than 5% owner, a 1% owner earning more than \$150,000, or an officer who earned more than \$145,000 in the current plan year.	\$140,000	\$145,000
<b>Social Security taxable wage base</b>	\$ 94,200	\$ 97,500

# The Pension Protection Act of 2006

*On August 17, 2006, President Bush signed into law the Pension Protection Act of 2006 ("Act"). This Act includes a number of provisions impacting both defined benefit and defined contribution plans. This newsletter will focus on key provisions affecting defined contribution plans.*

## **EGTRRA and Saver's Credit Made Permanent**

Originally set to sunset after 2010, the Act makes permanent the retirement plan provisions of the Economic Growth and Tax Relief Reconciliation Act of 2001 ("EGTRRA") including the higher contribution limits, the age 50+ catch-up contribution rule, expanded rollover portability, as well as the Roth 401(k) arrangement. In addition, the Act makes the Saver's Credit permanent.

## **Automatic Enrollment**

The Act includes a number of provisions designed to encourage employers to use automatic enrollment. Under an automatic enrollment arrangement, employers automatically deduct employee 401(k) contributions from the pay of new employees unless the employees elect otherwise.

The Act establishes a new safe harbor which allows the plan to automatically satisfy the ADP, ACP, and Top Heavy compliance tests. The Act changes to corrective distribution rules for non-safe harbor automatic enrollment plans. Employees may elect to withdraw deferrals made under an automatic enrollment arrangement within 90 days of the first contribution. For plans subject to the Employee Retirement Income Security Act ("ERISA"), the Act preempts any conflicting state law which would directly or indirectly prohibit or restrict the use of any automatic enrollment feature. Except for the

state law preemption which is effective immediately, the automatic enrollment provisions are effective for plan years beginning in 2008.



**New Safe Harbor** – Under the Act, a new nondiscrimination safe harbor is available to plans with a “qualified automatic contribution arrangement”. The safe harbor places minimum and maximum limits on the plan’s automatic deferral percentage, requires a minimum employer contribution and includes a notice requirement. A qualified automatic contribution arrangement will automatically satisfy the ADP test, the ACP test and the Top Heavy requirements if the plan includes only qualified automatic contribution arrangement contributions.

**Automatic Deferral Percentage**– Under the safe harbor, the plan’s automatic deferral percentage can be as high as 10% of compensation or as low as 3%. However, if the automatic deferral percentage under the plan is less than 6%, a participant’s deferral percentage must be increased each year by 1% until

reaching at least 6% of compensation.

**Employer Contribution** – A qualified automatic contribution arrangement must provide an employer safe harbor contribution to non-highly compensated employees of either: an employer match of 100% of the first 1% deferred plus 50% of the next 5%; or a 3% profit sharing contribution in lieu of the matching contribution.

The employer safe harbor contribution must fully vest upon the completion of two years of service and must be subject to the 401(k) distribution restrictions (not available for hardship withdrawal). The plan’s contribution formula may not take advantage of the permitted disparity rules.

**Notice** – Eligible employees must receive prior to the plan year regarding the qualified automatic contribution arrangement. The notice must describe the employee’s right to elect not to make contributions percentage and explain how contributions will be invested.

**Corrective Distributions**– A plan with an automatic enrollment arrangement that is subject to the ADP and ACP tests will have up to six months after plan year end to distribute ADP or ACP excess amounts and avoid the 10% excise tax. These excess amounts will now be taxable in the year distributed.

**Permissible Withdrawals** – A 401(k) plan may allow an employee to elect to withdraw all deferrals (and any applicable earnings) made by the employee within the first 90 days of the start of the eligible automatic contribution arrangement. The actual withdrawal must be made within six months after the applicable plan year. Any employer contri-

*(Continued on page 3)*

## Pension Protection (Continued from Page 2)

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Contributions made on behalf of the employee will be forfeited or applied as provided under official guidance to be issued. As with the qualified arrangement must also provide participant's with a notice regarding the arrangement. The arrangement's default investments must satisfy the Department of Labor ("DOL") default investment guidance.

### Default Investments

With proper advanced and annual notices and subject to the DOL's rules, a plan fiduciary may, in the absence of a participant's election, select investments for a participant under an automatic enrollment feature or for other plan purposes and receive ERISA 404(c) protection. This provision is effective for plan years beginning in 2007.

**Mapping Protection**— Generally effective for plan year beginning in 2008, the Act provides new ERISA 404(c) protection for a "qualified change" in investment options. A qualified change occurs when, with proper 30-60 day advance notice and no contrary participant instruction, there is a change in the plan's investment options that results in a reallocation of participant's benefits among one or more remaining or new investment options. The stated characteristics of the remaining or new investment options provided under the plan, including the risk/return characteristics, must be reasonably similar to the investment options in place prior to the change.

### Participant Benefit Statements

Beginning in 2007, the Act requires ERISA defined contribution plans with participant directed investments to provide participant statements each calendar quarter.

Under the Act, participant statements must include information such as vesting, an explanation of possible investment limitations or restrictions, an explanation of the importance of a well-balanced and diversified portfolio including a statement of the risk of holding more than 20% of the portfolio in any one investment, and a notice directing participants to the DOL website for information on individual investing and diversification. The Act instructs the DOL to provide one or more model statements that may be used by plan administrators to satisfy the requirements of the law.

### Form 5500 Changes

Effective in 2008, the Act requires Form 5500s to be filed electronically, requires the DOL to display Form 5500 information on its website, and requires employers (or plan administrators) with intranet websites to display to its employees the Form 5500 on the website. Starting with 2007 plan year, the Act eliminates Form 5500 filing requirements for one-participant plans (and spouse) with assets of \$250,000 or less and requires the IRS and DOL to develop a short filing for certain plans with less than 25 participants. The requirements including additional disclosure requirements as well as an electronic filing requirement.

The following provisions are effective for years beginning in 2007:

- **Vesting**— Requires ERISA plan employer contributions to vest as least as rapidly as under a three-year cliff or six-year graded vesting schedule.
- **Tax Notice**— Expand the special tax notice period from 90 to 180 days, require an explanation of a participant's right to defer payment.
- **In-Service Pension Distributions**— Allow pension plan distri-

tributions to in-service employees upon attainment of age 62.

- **Tribal Government Plans**— The Act treats Indian tribal government plans covering noncommercial activities as governmental plans under the Internal Revenue Code and ERISA.
- **Rollovers**— The Act allows after-tax rollovers between 401 and 403(b) plans. It allows non-spousal beneficiaries to roll over benefits to an "inherited" IRA subject to the non-spousal distribution requirements. Finally, the Act provides for the direct payment of tax refunds to IRAs.

The following provisions are effective for years beginning in 2008:

- **Annuities**— Plans subject to the Qualified Joint and Survivor Annuity rules must provide a 75% QJSA benefit plan participants.
- **Rollovers**— Subject to certain income limits, the Act allows direct rollovers from 401, 403(b) and governmental 457(b) plan to Roth IRAs.
- **Excess Contributions**— Distribution of "gap period" income, the income that accrues from the end of the plan year to the time of ADP/ACP excess distributions, will no longer be required.

### Plan Amendments

In general, plans must be amended by the end of the 2009 plan year, governmental plans by end of the 2011 plan year. For the period prior to the amendment of the plan, the plan must be operated as if the amendment were in place.



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## The Best of Both Worlds?

### New Roth 401(k) option blends 401(k) and Roth IRA features

There is a new option on the retirement plan savings menu—the Roth 401(k). Incorporated in the Economic Growth and Tax Relief Reconciliation Act of 2001, the Roth 401(k) option became available this year. Many workers already have a Roth IRA. So, what's a Roth 401(k)? As the name suggests, it is a combination of the two savings options.

#### It is like a Roth IRA in that:

- Your contributions are made on an after-tax basis.
- Earnings on those contributions accumulate on a tax-free basis.
- Withdrawals taken during retirement are not subject to income tax, so long as you are at least 59 1/2, and have had the account for five years or more.

#### It is different from a

#### Roth IRA in that:

- There are no compensation limits imposed for eligibility.
- You may contribute more in a Roth 401(k).

#### It is like a 401(k) in that:

- Your contributions may be matched by your employer.
- Your contributions—Roth 401(k) and regular 401(k) combined—are subject to the current 401(k) deferral limits (\$15,000 in 2006, or \$20,000 for those 50 or older by the end of the year).
- The rules for withdrawals are the same.

#### It is different from a 401(k) in that:

- The contributions are made on an after-tax basis.
- Earnings accumulate on a tax-free basis, rather than tax-deferred.

#### Will a Roth 401(k) Work for You?

While every situation is unique, experts suggest that a Roth 401(k) works best for workers who expect their tax rate to be higher in the future. With the Roth option, you are paying taxes now rather than deferring them into the future. This is expected to make the Roth 401(k) particularly attractive for younger workers currently in 15% or 25% tax brackets. It also might be considered an attractive option by workers of any age who expect tax rates overall to be higher in the future than they are today, particularly higher-income workers. There are certain estate planning strategies that work better when funded with tax-free distributions such as will be available from a qualified Roth 401(k).



## *Farewell and Best Wishes.....*

We bid a fond farewell to Nancy Walker, our Compliance Manager for the last seven years. We wish her the best in her future endeavors.