Major Retirement Savings Provisions of EGTRRA

Issue	Current Law	Prior Law Reinstated in 2011 if EGTRRA Sunsets
IRA LIMITS		
IRA Contributions Limit	The IRA maximum annual contribution limit is the lesser of 100 percent of the individual's compensation or: Year — Limit 2005-2007 — $4,000 2008 — $5,000 Thereafter, the limit will be indexed annually for inflation (in $500 increments).	The contribution permitted to IRAs (traditional or Roth) would be the lesser of $2,000 or 100 percent of the individual's compensation
Catch-Up Contributions	Individuals age 50 and over may make catch-up contributions to IRAs of $1,000 per year.	Once an individual has missed the opportunity to make an IRA contribution for a given year, the individual has no opportunity to "catch up" in later years.
LIMITS ON RETIREMENT PLAN CONTRIBUTIONS AND BENEFITS		
Maximum Salary Reduction Contribution (Section 402(g))	The 402(g) limit on elective deferrals is $15,000 for 2006. Thereafter, the limit will be indexed annually for inflation (in $500 increments).	Section 402(g) limited elective deferrals under most salary reduction plans, (e.g., section 401(k) plans and section 403(b) arrangements) to $10,500 in 2001. This amount would be indexed for subsequent inflation in $500 increments.
Defined Contribution Plan Limit (Section 415(c))	Section 415(c) currently limits maximum annual contributions to defined contribution plans on behalf of an individual to the lesser of 100 percent of compensation or $40,000. This amount is indexed annually for inflation in $1,000 increments beginning in 2003. The 2006 limit is $44,000.	The limit in section 415(c) would be reduced to the lesser of 25 percent of compensation or $35,000. The $35,000 limit would be indexed for inflation in $5,000 increments.
Compensation Taken Into Account (Section 410(a)(17))	Under section 401(a)(17) compensation that may be taken into account in determining benefits under qualified plans is limited to $200,000 with that amount indexed annually for inflation in $5,000 increments beginning in 2003. The 2006 limit is $220,000. In 1993, the limit was $235,840.	The section 401(a)(17) compensation limit was $170,000 in 2001. This amount would be indexed annually for subsequent inflation in $10,000 increments.

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Defined Benefit Plan Limit (Section 415(b))	Maximum annual benefits under a defined benefit plan are limited by section 415(b) to the lesser of 100 percent of three-year-high-average pay or, for years ending after 12/31/01, $160,000. That amount is indexed annually for inflation in $5,000 increments beginning in 2003. The 2006 limit is $175,000. Actuarial reduction of the section 415(b) dollar limit is required for benefit commencement prior to age 62.	The 415(b) dollar limit was $140,000 in 2001. This amount would be indexed annually for subsequent inflation in $5,000 increments. Actuarial reduction of the limit would be required if benefits start prior to Social Security normal retirement age.
Section 457(b) Plan Contribution Limit	The dollar limit on contributions under eligible deferred compensation plans under section 457(b) is $15,000 for 2006. Thereafter, the limit would be indexed annually for inflation in $500 increments.	The limit on elective deferrals to plans governed by section 457(b) was generally $8,500 in 2001.
SIMPLE Plan Contribution Limit (Section 408(p))	Maximum elective deferral to SIMPLE retirement plans was increased to $10,000 by 2005. Thereafter, the limit will be indexed annually for inflation in $500 increments.	The limit on elective deferrals to SIMPLE plans was $6,500 per year in 2001. This amount would be indexed annually for subsequent inflation in $500 increments.
ENHANCING FAIRNESS FOR WOMEN		
Additional Salary Reduction Catch-up Contribution	The Code imposes annual limits on the maximum amount that can be contributed by an employee to a section 401(k) plan, a section 403(b) arrangement, a SIMPLE plan, and section 457 plans maintained by state and local governments. Individuals age 50 or older may make annual catch-up contributions to salary reduction arrangements of $2,500 for SIMPLE plans and $5,000 for other types of plans.	With certain limited exceptions, once an individual has missed the opportunity to make a contribution for a given year, the individual has no opportunity to "catch up" in later years.
Additional Contribution Limits on 457(b) Plans and 403(b) Arrangements	EGTRRA essentially eliminated the separate rules that applied to 457(b) plans and 403(b) arrangements.	These limitations would be in addition to the 415(c) general limits described above. Generally, for section 457(b) plans, total annual contributions would be limited to 33 1/3 percent of compensation. Section 403(b) arrangements would be subject to a set of complex maximum exclusion allowance (MEA) rules.
Slower Vesting of Employer Matching Contributions	Employer matching contributions to most retirement plans are required either to be fully vested after an employee has completed three years of service or to become vested in increments of 20 percent for each year beginning with the employee's second year of service, with full vesting after the employee has completed six years of service.	Employer contributions would be required to be fully vested after the employee has completed five years of service or must become vested in increments of 20 percent for each year beginning with the employee's third year of service, with full vesting after the employee has completed seven years of service.

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EXPANSION OF COVERAGE AND BENEFITS GENERALLY		
Credit for Low- and Middle-Income Savers	A targeted non-refundable tax credit is provided to low- and moderate-income savers who make salary reduction contributions to eligible retirement savings plans (e.g., 401(k), 403(b), 457(b) or IRAs). The credit is claimed on the individual's tax return, and applies to the first $2,000 in savings contributions. The amount of the credit is based on the following AGI schedule: Credit / Individual / Joint 50% / $0-$15,000 / $0-$30,000 20% / $15,001-$16,250 / $30,001-$32,500 10% / $16,251-$25,000 / $32,501-$50,000 Contributions to eligible retirement savings plans are also deductible or excludable from income as under prior law. If a potential credit recipient (or such person's spouse) receives a pre-retirement distribution in any year, the credit is reduced in that year or in the two subsequent years by the amount of the distribution.	The "saver's credit" would be repealed. The saver's credit is currently scheduled to expire at the end of 2006.
Roth 401(k)/403(b)	Under a Roth 401(k)/403(b), plan participants can designate employee deferrals as Roth contributions. These elective contributions are included in gross income but subsequent distributions are excludable from gross income (along with earnings on the contributions if the distribution is qualified). A qualified distribution can be made after age 59 ½ or upon the death or disability of the participant provided contributions were made to the account at or before the beginning of a five-taxable year period. If Roth contributions are first made in 2006, a distribution meeting the age/death/disability requirement could be qualified if made in 2011 or later, provided EGTRRA does not sunset.	EGTRRA created the Roth 401(k)/403(b) with the effective date delayed until 2006. Not only would the Roth401(k)/403(b) be repealed if EGTRRA sunsets, but any money placed in such an account prior to 2011 would remain in limbo until further guidance is provided by the Treasury Department or Congress. It will be impossible to receive, in this case, a qualified distribution from a Roth 401(k)/403(b) prior to 2011 because of the five-taxable year holding requirement.

SMALL BUSINESS ENHANCEMENTS		
Top-Heavy Rules	Section 416 establishes complicated testing rules for determining whether or not a plan is top heavy. (e.g., whether "key employees" are deemed to be receiving an excessive portion of plan benefits). Top-heavy plans are required to satisfy a special vesting schedule and make minimum contributions or accruals for "non-key" employees. "Super top-heavy" plans must make additional minimum contributions or accruals. EGTRRA simplified the top heavy rules in a variety of ways. For example: ▪ Key employee definition was modified to include (1) an officer with compensation in excess of $130,000; (2) a 5 percent owner; and (3) a 1 percent owner with compensation in excess of $150,000. ▪ Count matching contributions toward satisfying minimum contribution rules. ▪ Look-back rules were shortened. ▪ Plans meeting the section 401(k) and section 401(m) design-based discrimination testing safe harbors are not subject to top-heavy testing.	Simplifications of the top-heavy rules would disappear.
Small Business Tax Credit for Administrative Expenses in Connection with New Retirement Plans	Certain small employers can claim a non-refundable tax credit in connection with new retirement plans. The credit applies to 50 percent of the first $1,000 in administrative and retirement-education expenses ("start-up expenses") for three years after establishing a new employment-based retirement plan and is available to employers with 100 or fewer employees. No deduction is allowed for the amount claimed as a credit.	The credit to small employers that establish new retirement plans would disappear.
Deduction Limit for Stock Bonus and Profit Sharing Plans	The annual limitation on the amount of deductible contributions to a profit-sharing or stock bonus plan is 25 percent of compensation of the employees covered by the plan for the year.	An employer's deduction for contributions to a profit-sharing or stock bonus plan was generally limited to 15 percent of the taxable compensation of the plan's participants. The limit on deductions to other types of plans was generally 25 percent.

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INCREASED PORTABILITY FOR PARTICIPANTS		
Rollovers Among Various Types of Employment-Based Retirement Plans	Amounts in section 401(a) plans, section 403(b) arrangements, or section 457(b) plans maintained by state and local government generally can be rolled over to another section 401 plan, a section 403(b) arrangement, a section 457(b) plan maintained by a state or local government, or an IRA	Amounts in a section 401(a) plan or a section 403(b) arrangement generally could only be rolled over to the same type of plan or arrangement or to an IRA. Amounts in section 457(b) plans could only be transferred from one section 457(b) plan to another section 457(b) plan.
Rollovers of After-Tax Contributions	Employees are allowed to make after-tax contributions to 401(k) and other plans. After-tax employee contributions can be rolled over to other plans and IRAs.	Employees would not be permitted to rollover distributions of after-tax contributions into an IRA or another plan.
Rollovers from Contributory IRAs to Qualified Plans	Rollovers of amounts originally contributed directly into an IRA ("contributory IRAs") can be rolled over to a section 401(a) plan, a section 403(b) arrangement, a section 457(b) plan maintained by a state or local government, or another IRA.	Rollovers of contributory IRA amounts into any type of employment-based plan generally would not be allowed.
"Same Desk Rule" Repeal	In some cases, 401(k) plan distributions are limited to separation from service with the employer. Under previous law, the term "separation from service" was interpreted not to include a situation where the employee performs the same functions for a successor employer (the "same desk" rule). The same desk rule was also applied to section 403(b) and 457(b) arrangements. EGTRRA eliminated the "same desk" rule by replacing "separation from service" in section 401(k)(2)(B) with "severance from employment". Conforming changes were made for 403(b) and 457(b) plans.	The statutory changes would be reversed and the "same desk rule" would again apply.
Purchase of Service Credit in Government Defined Benefit Plans	Under state law, employees of state and local governments often have the option of purchasing service credits in their state defined benefit pension plans. State and local government employees can use funds from their section 403(b) arrangements or section 457(b) plans to purchase service credits.	Employees would not be permitted to use money in section 403(b) arrangements or 457(b) plans to purchase service credits.

STRENGTHENING PENSION SECURITY, EDUCATION AND ENFORCEMENT		
Repeal of Funding Limit	Under prior law, contributions to a defined benefit plan were not deductible to the extent that plan assets exceeded the lesser of (1) 160 percent (in 2001) of the plan's current liability, or (2) a limitation based on a reasonable projection of benefits. The 160 percent figure was scheduled to be phased up to 170 percent by the year 2005. EGTRRA repealed the full funding limit in 2004 and thereafter.	Prior law would be reinstated.
Additional Disclosure Re: Significant Reduction in Benefit Accruals (Including Cash Balance Plan Conversions)	A defined benefit plan or a money purchase plan is required to provide participants with a written notice concerning a plan amendment that provides for a significant reduction in future benefit accruals under the plan (including any elimination or reduction of an early retirement benefit). The secretary of the Treasury can exempt or provide a simplified form of notice for a plan that has fewer than 100 participants who have accrued a benefit under the plan or that offers participants the option to choose between the new benefit formula and the old benefit formula. The notice is required to describe the benefit reduction caused by the plan amendment in a manner calculated to be understood by the average plan participant, and generally has to be provided within a reasonable time period prior to the effective date of the plan amendment. The penalty for failure to comply with the notice requirements is $100 per day per omitted party with a maximum penalty of $500,000 in any year (except in cases of willful neglect). The secretary of the Treasury can waive this penalty if reasonable cause for failure is shown. Also, ERISA was amended to provide that plan amendment providing for a significant reduction in the rate of future benefit accruals will not be permitted where there has been an egregious failure by the plan administrator to comply with the notice requirements. Also, the prior law ERISA notice requirement was expanded to early retirement benefits.	Under prior law, which would be reinstated, a defined benefit plan or a money purchase pension plan could not be amended in a manner that resulted in a significant reduction in the rate of future benefit accrual unless, after the adoption of the plan amendment (and not less than 15 days before the effective date of the plan amendment), the plan administrator provided a written notice to affected participants and alternate payees. The notice was required to either (1) specify the plan amendment and its effective date, or (2) contain a summary of the amendment and the effective date, written in a manner calculated to be understood by the average plan participant and contains the effective date.

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Treatment of Multiemployer Plans under Section 415	The section 415(b) limits applicable to multiemployer plans was modified to eliminate the 100 percent of compensation limit (but not the dollar limit) for such plans. With respect to aggregation of multiemployer plans with other plans, multiemployer plans are not aggregated with single-employer defined benefit plans maintained by an employer contributing to the multiemployer plan for purposes of applying the 100 percent of compensation limit to such single-employer plan.	Under section 415(b), the annual benefits payable under a defined benefit plan were limited to the lesser $140,000 (for 2001) or 100 percent of "three-year-high-average compensation". A reduction in the dollar or percentage limit for defined benefit plans could be required if the employee had fewer than 10 years of plan participation or service. Plans maintained by state and local governments were generally exempt from the 100 percent of compensation limit.
ESOP Dividends May Be Reinvested Without Loss of Dividend Deductions	An employer is allowed to deduct dividends paid to an ESOP when its employees are allowed to elect to take the dividends in cash or leave them in the plan for reinvestment in employer stock. The secretary of the Treasury can disallow the deduction for any ESOP dividend if it is determined that such dividend constitutes an avoidance or evasion of tax. For this purpose, the secretary of the Treasury's authority includes the authority to disallow the dividend deduction for unreasonable dividends.	Dividend deductions were allowed under section 404(k) on dividends paid on employer stock to an unleveraged ESOP but only if the dividends were paid to the employees in cash; the deduction was denied if the dividends remained in the ESOP for reinvestment.
Automatic Rollovers of Certain Mandatory Distributions	A plan may provide for the automatic distribution ("cash out") of certain vested accrued benefits that do not exceed $5,000. A plan that provides mandatory "cash-outs" of vested accrued benefits is required to directly transfer such distributions to an IRA ("default IRA") or other qualified retirement vehicle unless the participant affirmatively elects to receive the distribution directly. The requirement does not apply to distributions of $1,000 or less. Limited fiduciary relief is provided to a plan fiduciary with respect to the selection of the default IRA. The Department of Labor (DOL) has issued guidance providing safe harbors with respect to the designation of an institution and investment of funds.	The plan is not required to rollover "cash-out" amounts to another retirement savings vehicle.
Other Provisions	Generally, EGTRRA included a variety of provisions simplifying the law for employment-based retirement plans.	A number of complex and often counter-intuitive rules applied to employment-based retirement plans would be reinstated.