

**2010 Limitations Adjusted As Provided in Section 415(d), etc.**<sup>1</sup>

Notice 2009-94

Section 415 of the Internal Revenue Code (the Code) provides for dollar limitations on benefits and contributions under qualified retirement plans. Section 415(d) 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 under § 415. Under § 415(d), the adjustments are to be made pursuant to adjustment procedures which are similar to those used to adjust benefit amounts under section 215(i)(2)(A) of the Social Security Act.

The limitations that are adjusted by reference to § 415(d) will remain unchanged for 2010. This is because the cost-of-living index for the quarter ended September 30, 2009, is less than the cost-of-living index for the quarter ended September 30, 2008, and, following the procedures under the Social Security Act for adjusting benefit amounts, any decline in the applicable index cannot result in a reduced limitation. For example, the limitation under § 402(g)(1) on the exclusion for elective deferrals described in § 402(g)(3) will be \$16,500 for 2010, which is the same amount as for 2009. This limitation affects elective deferrals to § 401(k) plans and to the Federal Government's Thrift Savings Plan, among other plans.

**Cost-of-Living Adjusted Limits for 2010**

Effective January 1, 2010, the limitation on the annual benefit under a defined benefit plan under § 415(b)(1)(A) remains unchanged at \$195,000. For participants who separated from service before January 1, 2010, the limitation for defined benefit plans under § 415(b)(1)(B) is computed by multiplying the participant's compensation limitation, as adjusted through 2009, by 1.0000.

The limitation for defined contribution plans under § 415(c)(1)(A) remains unchanged for 2010 at \$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). After taking into account the applicable rounding rules, the amounts for 2010 are as follows:

The limitation under § 402(g)(1) on the exclusion for elective deferrals described in § 402(g)(3) remains unchanged at \$16,500.

The annual compensation limit under §§ 401(a)(17), 404(l), 408(k)(3)(C), and 408(k)(6)(D)(ii) remains unchanged at \$245,000.

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<sup>1</sup>Based on News Release IR-2009-94 dated October 15, 2009.

The dollar limitation under § 416(i)(1)(A)(i) concerning the definition of key employee in a top-heavy plan remains unchanged at \$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 remains unchanged at \$985,000, while the dollar amount used to determine the lengthening of the 5-year distribution period remains unchanged at \$195,000.

The limitation used in the definition of highly compensated employee under § 414(q)(1)(B) remains unchanged at \$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 remains unchanged at \$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, remains unchanged at \$360,000.

The compensation amount under § 408(k)(2)(C) regarding simplified employee pensions (SEPs) remains unchanged at \$550.

The limitation under § 408(p)(2)(E) regarding SIMPLE retirement accounts remains unchanged at \$11,500.

The limitation on deferrals under § 457(e)(15) concerning deferred compensation plans of state and local governments and tax-exempt organizations remains unchanged at \$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 remains unchanged at \$95,000. The compensation amount under § 1.61-21(f)(5)(iii) remains unchanged at \$195,000.

The Code also provides that several pension-related amounts are to be adjusted using the cost-of-living adjustment under § 1(f)(3). After taking the applicable rounding rules into account, the amounts for 2010 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 \$33,000 to \$33,500; the limitation under § 25B(b)(1)(B) remains unchanged at \$36,000; and the limitation under § 25B(b)(1)(C) and (D) remains unchanged at \$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 \$24,750 to \$25,125; the limitation under § 25B(b)(1)(B) remains unchanged at \$27,000; and the limitation under § 25B(b)(1)(C) and (D) remains unchanged at \$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 \$16,500 to \$16,750; the limitation under § 25B(b)(1)(B) remains unchanged at \$18,000; and the limitation under § 25B(b)(1)(C) and (D) remains unchanged at \$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) remains unchanged at \$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 \$55,000 to \$56,000. 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 \$166,000 to \$167,000.

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 \$166,000 to \$167,000. The adjusted gross income limitation under § 408A(c)(3)(C)(ii)(II) for all other taxpayers (other than married taxpayers filing separate returns) remains unchanged at \$105,000.

### **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](mailto:RetirementPlanQuestions@irs.gov).