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The Internal Revenue Service has announced the 2010 plan year cost-of-living adjustments for the dollar limitations on benefits, contributions, compensation and other items relating to qualified retirement plans. The limits are shown in the following year-to-year comparison - all have remained the same for 2010.

MAXIMUM DOLLAR LIMITS

| | <u>2009</u> | <u>2010</u> |
|---|------------------|------------------|
| 401(k) Elective Deferrals | \$16,500 | \$16,500 |
| 401(k) Catch-up Contributions (Age 50 & Older) | \$5,500 | \$5,500 |
| Defined Contribution Annual Additions (415 limit) | \$49,000 | \$49,000 |
| Annual Compensation Limit | \$245,000 | \$245,000 |
| Highly Compensated Employee* | \$110,000 | \$110,000 |

*An employee must earn more than \$110,000 in 2009 to be highly compensated in 2010 and must earn more than \$110,000 in 2010 to be highly compensated for 2011 plan year testing.

If your plan has a SIMPLE 401(k) feature, the Elective Deferral limit is \$11,500 and the plan's Catch Up Contribution for those over 50 is \$2,500. Both of these limits have remained the same as last year.

In addition, the Social Security Taxable Wage Base has remained the same as in 2009 - \$106,800 for Plan Years beginning in 2010.

As a reminder, **the DOL aggressively investigates employee allegations of late deposits.** They do not have materiality thresholds and **they follow up on every employee complaint** of late deposits.

The DOL has strict regulations regarding the time frame in which elective deferral contributions must be transferred by an Employer to a qualified plan. Both the IRS, upon Plan audit, and DOL insist that **deferrals and loan payments must be segregated from the general assets as soon administratively possible. The IRS and DOL normally consider this to be within three (3) to seven (7) business days of being withheld from employee paychecks.** Deposits to the Plan must be made consistently and as early as possible each and every time that elective deferral contributions are withheld from paychecks. **If participants are paid on a bi-weekly basis, 401(k) deferrals and loan payments should be processed on a bi-weekly basis.** Monthly deposits are not acceptable and are not considered timely if your payroll cycle is more frequent than monthly.

The annual IRS Form 5500 has a question that asks "Did the employer fail to transmit to the plan any participant contributions within the time period described in 29 CFR 2510.3-102?" It is very important that all Plan Sponsors comply with this regulation. If not, it is our understanding that it may trigger a DOL audit as well as potential penalties and excise taxes.

Please feel free to contact us at 215.703.0844 if you have any questions regarding your company's retirement plan.