

**LAW OFFICE OF D. JOSHUA STAUB**

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D. Joshua Staub\*

*\*Admitted in CA and NY*

Pension Plan Limitations for 2009

Effective Jan. 1, 2009, the limitation on the annual benefit under a defined benefit plan under Section 415(b)(1)(A) is increased from \$185,000 to \$195,000. For participants who separated from service before Jan. 1, 2009, the limitation for defined benefit plans under Section 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 Section 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 Section 415(b)(1)(A). These dollar amounts and the adjusted amounts are as follows:

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

The annual compensation limit under Sections 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 Section 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 Section 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 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 Section 414(q)(1)(B) is increased from \$105,000 to \$110,000.

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

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

The annual compensation limitation under Section 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 Section 401(a)(17) to be taken into account, is increased from \$345,000 to \$360,000.

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

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

The limitation on deferrals under Section 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 Section 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 Section 1.61-21(f)(5)(iii) is increased from \$185,000 to \$195,000.

The limitation on wages under Section 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 section 45A was recently extended from Dec. 31, 2007, to Dec. 31, 2009, by Section 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 Section 1(f)(3). These dollar amounts and the adjustments are as follows:

The adjusted gross income limitation under Section 25B(b)(1)(A) for determining

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the retirement savings contribution credit for married taxpayers filing a joint return is increased from \$32,000 to \$33,000; the limitation under Section 25B(b)(1)(B) is increased from \$34,500 to \$36,000; and the limitation under Sections 25B(b)(1)(C) and 25B(b)(1)(D), from \$53,000 to \$55,500.

The adjusted gross income limitation under Section 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 Section 25B(b)(1)(B) is increased from \$25,875 to \$27,000; and the limitation under Sections 25B(b)(1)(C) and 25B(b)(1)(D), from \$39,750 to \$41,625.

The adjusted gross income limitation under Section 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 Section 25B(b)(1)(B) is increased from \$17,250 to \$18,000; and the limitation under Sections 25B(b)(1)(C) and 25B(b)(1)(D), from \$26,500 to \$27,750.

The applicable dollar amount under Section 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 Section 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 Section 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 Section 408A(c)(3)(C)(ii)(I) for determining the maximum **Roth IRA contribution** for married taxpayers filing a joint return or for taxpayers filing as a qualifying widow(er) is increased from \$159,000 to \$166,000. The adjusted gross income limitation under Section 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.