

Cooley

November 1, 2011

Adjusted Limits

The Internal Revenue Service has announced the 2012 limits that affect the operation of tax-qualified retirement plans, including 401(k) plans, and certain other types of employee benefit plans, including deferred compensation plans that may be subject to Internal Revenue Code §409A. The amount by which the limits are adjusted each year is based on a cost of living index. Please see the accompanying table for the limits that are effective January 1, 2012.

Social Security

The Social Security (OASDI) taxable wage base, which governs the amount of pay subject to Social Security tax withholding and affects plans that are "integrated" with Social Security, also is subject to adjustment annually. For 2012, the OASDI taxable wage base has been increased to \$110,100. The Medicare tax, however, applies to all wages without limit.

2012 ADJUSTED LIMITS	
Provision	2012 Limit
Maximum 401(k) Contributions	\$17,000
Maximum Compensation Limit	\$250,000
Highly Compensated Employees <i>Earning (in previous year) more than</i>	\$115,000
Key Employee Limit	\$165,000
Annual Contribution Limit for Defined Contribution Plans	\$50,000
Annual Benefit Limit for Defined Benefit Plans	\$200,000 ¹
SIMPLE Plan Limit	\$11,500

2012 ADJUSTED LIMITS	
Provision	2012 Limit
Age 50 and Older Catch-Up Contribution Limit <i>All plans other than SIMPLE Plans</i> <i>SIMPLE Plans</i>	 \$5,500 \$2,500
Annual Contribution Limit for Section 457 Deferred Compensation Plans (government and tax-exempt organizations)	\$17,000
ESOP: <i>Maximum account balance subject to five-year distribution period</i> <i>Each dollar amount of account balance in excess of \$915,000 that adds one year to distribution period</i>	 \$1,015,000 \$200,000
Simplified Employee Pension Plans (SEPs) <i>Contributions must be made for employees earning at least</i>	 \$550
409A Maximum Specified Employee (Officer) Compensation Requirement	\$165,000
409A Involuntary Separation Pay Exception	\$500,000

If you have questions about this *Alert*, please contact a member of your Cooley team or one of the attorneys from the Compensation & Benefits Group listed above.

NOTES

1 Note that the limit on benefits payable to a defined benefit plan participant for a particular year is the lesser of (i) the Annual Benefit Limit for Defined Benefit Plans for that year and (ii) 100% of the participant's average compensation for his high three years. For 2012, the Annual Benefit Limit for such participant is \$200,000. However, such participant's "average compensation" limit is adjusted due to the variance in the cost of living indexes over the past few years. For a participant who separated from service before 2010, the "average compensation" limit for 2012 is computed by multiplying the participant's 2011 "average compensation" limit by 1.0327. For a participant who separated from service during 2010 or 2011, the "average compensation" limit for 2012 is computed by multiplying the participant's 2011 "average compensation" limit by 1.0376.

This content is provided for general informational purposes only, and your access or use of the content does not create an attorney-client relationship between you or your organization and Cooley LLP, Cooley (UK) LLP, or any other affiliated practice or entity (collectively referred to as "Cooley"). By accessing this content, you agree that the information provided does not constitute

legal or other professional advice. This content is not a substitute for obtaining legal advice from a qualified attorney licensed in your jurisdiction and you should not act or refrain from acting based on this content. This content may be changed without notice. It is not guaranteed to be complete, correct or up to date, and it may not reflect the most current legal developments. Prior results do not guarantee a similar outcome. Do not send any confidential information to Cooley, as we do not have any duty to keep any information you provide to us confidential. This content may be considered **Attorney Advertising** and is subject to our [legal notices](#).

Key Contacts

Tom Reicher San Francisco	treicher@cooley.com +1 415 693 2381
David Walsh Reston	dwalsh@cooley.com +1 703 456 8021
Thomas Welk San Diego	twelk@cooley.com +1 858 550 6016

This information is a general description of the law; it is not intended to provide specific legal advice nor is it intended to create an attorney-client relationship with Cooley LLP. Before taking any action on this information you should seek professional counsel.

Copyright © 2023 Cooley LLP, 3175 Hanover Street, Palo Alto, CA 94304; Cooley (UK) LLP, 22 Bishopsgate, London, UK EC2N 4BQ. Permission is granted to make and redistribute, without charge, copies of this entire document provided that such copies are complete and unaltered and identify Cooley LLP as the author. All other rights reserved.