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CLIENT ADVISORY

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The Internal Revenue Service (“IRS”) has announced cost-of-living adjustments to the dollar limits for tax-qualified retirement plans and individual retirement accounts, for calendar year 2010. The Internal Revenue Code provides for dollar limitations on benefits and contributions under tax-qualified retirement plans, and for dollar limitations on contributions to individual retirement accounts. These limitations are adjusted annually to reflect cost-of-living increases. After months of speculation about whether these limitations might be reduced for 2010, the Obama administration and the IRS have confirmed that the limitations will remain unchanged for 2010. Some of the more significant limitations for retirement plans, and for individual retirement accounts, are as follows:

	2009	2010
Maximum Pre-tax Contribution by Employees to 401(k), 403(b) and 457(f) plans (without Catch-Up)	\$16,500	\$16,500
Maximum Pre-tax Catch-Up Contribution by Employees to 401(k), 403(b) and 457(e) plans	\$5,500	\$5,500
Defined Benefit Maximum	\$195,000	\$195,000*
Defined Contribution Maximum	\$49,000	\$49,000
Highly Compensated Employee Compensation	\$110,000	\$110,000
Includable Compensation Limit	\$245,000	\$245,000
Key Employee Compensation (for “top heavy” plans)	\$160,000	\$160,000
Maximum Individual Retirement Account Contribution (without Catch-Up)	\$5,000	\$5,000
Maximum Individual Retirement Account Catch-Up Contribution	\$1,000	\$1,000

*For participants who separated from service before January 1, 2010, the limitation for defined benefit plans under Internal Revenue Code Section 415(b)(1)(B) is computed by multiplying the participant’s compensation limitation, as adjusted through 2009, by 1.000.

- 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 remains at \$985,000, and the dollar amount used to determine the lengthening of the 5-year distribution period remains at \$195,000.
- 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 remains at \$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 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, remains at \$360,000.
- The compensation amount under Section 408(k)(2)(C) regarding simplified employee pensions (SEPs) remains at \$550.
- The limitation under Section 408(p)(2)(E) regarding SIMPLE retirement accounts remains at \$11,500.
- The limitation on deferrals under Section 457(e)(15) concerning deferred compensation plans of state and local governments and tax-exempt organizations remains at \$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 remains at \$95,000. The compensation amount under Section 1.61-21(f)(5)(iii) remains at \$195,000.

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 applicable adjustments, if any, are as follows:

- The adjusted gross income limitation under Section 25B(b)(1)(A) for determining the retirement savings contribution credit for married taxpayers filing a joint return remains at \$33,500; the limitation under Section 25B(b)(1)(B) remains at \$36,000; and the limitation under Sections 25B(b)(1)(C) and 25B(b)(1)(D) remains at \$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 remains at \$25,125; the limitation under Section 25B(b)(1)(B) remains at \$27,000; and the limitation under Sections 25B(b)(1)(C) and 25B(b)(1)(D) remains at \$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 \$16,500 to \$16,750; the limitation under Section 25B(b)(1)(B) remains at \$18,000; and the limitation under Sections 25B(b)(1)(C) and 25B(b)(1)(D) remains at \$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) remains at \$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 \$55,000 to \$56,000. 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 \$166,000 to \$167,000.

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

If you have any questions, please contact any member of our Benefits and Compensation Group.

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