

CLIENT ALERT

## Key 2018 Dollar Limits for Benefits and Executive Compensation to Increase

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On October 19, 2017, the Internal Revenue Service announced its 2018 cost-of-living adjustments to various employee benefit plan dollar limits. While these limits directly affect tax-qualified retirement plans, certain dollar limits and thresholds imposed outside of the tax-qualified retirement plan context, such as nonqualified deferred compensation subject to Section 409A of the Internal Revenue Code of 1986, as amended (the “Code”), also will be affected. Certain limitations on benefits and contributions for tax-qualified retirement plans will increase in 2018, while others will not change because the increase in the cost-of-living index did not meet the statutory thresholds that would trigger their adjustment.

Attached to this alert is a table comparing the 2018 dollar limits and thresholds that are most relevant to retirement and deferred compensation plans to those in 2017 and 2016. The most noteworthy are the following:

- The elective deferral (contribution) limit for employees who participate in 401(k) plans is increased from \$18,000 to \$18,500. The catch-up contribution limit for those aged 50 and over remains unchanged at \$6,000.
- The limit on the annual benefits under a defined benefit plan is increased from \$215,000 to \$220,000. This limit may also affect nonqualified deferred compensation plans that provide defined benefits in excess of a tax-qualified defined benefit plan.
- The annual allocation limit for defined contribution plans is increased from \$54,000 to \$55,000.

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- The maximum amount of annual compensation that can be taken into account under a qualified retirement plan is increased from \$270,000 to \$275,000. This limit may also affect nonqualified deferred compensation plans that provide benefits in excess of this annual dollar limit. In addition, under the above limit, the amount of severance pay that can be exempt from Code Section 409A under a “safe harbor” separation pay arrangement (e.g., a severance arrangement that pays severance pay only upon an involuntary separation from service, also referred to as the “two-times exception”<sup>1</sup>) is increased from \$540,000 to \$550,000.
- The dollar limit used in the definition of “highly compensated employee” remains unchanged at \$120,000.
- The dollar limit relating to the definition of “key employee” in a top-heavy plan remains unchanged at \$175,000.

If you have any questions regarding this client alert, please contact the following attorneys or the attorney with whom you regularly work.

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<sup>1</sup> An involuntary severance pay plan that, among other things, limits benefits so as not to exceed the lesser of two times (i) the service provider's annualized compensation or (ii) the maximum amount of annual compensation that can be taken into account under a qualified retirement plan, and that requires payment no later than the last day of the service provider's second taxable year following the year of the service provider's separation, is not treated as deferred compensation that is subject to Code Section 409A.

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### IRS Cost-of-Living Adjustments

	2018	2017	2016
<b>401(k), 403(b), Profit-Sharing Plans, Pension Plans, etc.</b>			
Maximum Annual Compensation	\$275,000	\$270,000	\$265,000
Elective Deferrals	\$18,500	\$18,000	\$18,000
Catch-Up Contributions	\$6,000	\$6,000	\$6,000
Annual Defined Contribution Limits	\$55,000	\$54,000	\$53,000
Annual Defined Benefit Limits	\$220,000	\$215,000	\$210,000
<b>IRAs</b>			
IRA Contribution Limit	\$5,500	\$5,500	\$5,500
IRA Catch-Up Contributions	\$1,000	\$1,000	\$1,000
<b>IRA AGI Deduction Phase-Out Starting At</b>			
Joint Return	\$101,000	\$99,000	\$98,000
Single or Head of Household	\$63,000	\$62,000	\$61,000
<b>SEPs</b>			
SEP Minimum Compensation	\$600	\$600	\$600
SEP Maximum Compensation	\$275,000	\$270,000	\$265,000
<b>SIMPLE Plans</b>			
SIMPLE Maximum Contributions	\$12,500	\$12,500	\$12,500
Catch-Up Contributions	\$3,000	\$3,000	\$3,000
<b>Section 409A Nonqualified Deferred Compensation</b>			
Specified Employee	\$175,000	\$175,000	\$170,000
Maximum Severance Pay under "Two-Times Exception"	\$550,000	\$540,000	\$530,000
Limit on Aggregate General Post-Termination Payments Exempt from Code Section 409A	\$18,500	\$18,000	\$18,000
Discretionary Cash-Out of Deferred Compensation	\$18,500	\$18,000	\$18,000
<b>Other</b>			
Highly Compensated Employee Threshold	\$120,000	\$120,000	\$120,000
Key Employee	\$175,000	\$175,000	\$170,000
Code Section 457 Elective Deferrals	\$18,500	\$18,000	\$18,000
Social Security Taxable Wage Base	\$128,700	\$127,200	\$118,500