

# EMPLOYEE BENEFITS & EXECUTIVE COMPENSATION

LEGAL PERSPECTIVES

July 2001

## New Tax Act Makes Sweeping Changes To Pension Laws

On June 7, 2001, President George W. Bush signed a new tax act which makes over 80 changes to existing pension laws. These sweeping changes are designed to encourage savings for retirement through increased IRA contribution limits, increased plan contribution limits, increased credits and deductions for employees and employers, enhanced IRA and plan contributions, enhanced IRA and plan portability and access to funds, streamlined plan administration and enhanced pension security.

Most of the changes are effective beginning in 2002. Plans do not need to be amended

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before the effective dates as long as the plans comply in operation with the new rules. The Internal Revenue Service is expected to issue additional guidance on these changes, including guidance as to when plans will need to be amended to comply with the changes and a model amendment that can be adopted to comply with the new rules. Unless Congress acts to extend the effective dates of the new rules, all of the new rules will “sunset” or expire after December 31, 2010, and the rules now in effect will once again apply.

We have included in this newsletter a chart for pension practitioners describing the most significant changes to the pension laws.

## Increased IRA Contribution Limits

### IRA Contribution Limits

IRC §§ 219 and 408

Limits the amount that may be contributed to an IRA in any calendar year generally to the lesser of \$2,000 or 100% of compensation

Gradually increases the \$2,000 limit to \$5,000 by 2008, then indexed for inflation in \$500 increments:

2002 through 2004	\$3,000
2005 through 2007	\$4,000
2008 and thereafter	\$5,000

### IRA "Catch-Up" Contributions

IRC §§ 219 and 408

Does not provide an opportunity for an employee to "catch-up" on contributions that could have been made to an IRA for past years

Permits an employee age 50 and over to make "catch-up" contributions to an IRA:

2002 through 2005	\$500
2006 and thereafter	\$1,000

## Increased Plan Contribution Limits

### Limit on Compensation That May be Taken Into Account in Determining Benefits

IRC § 401(a)(17)

Limits compensation that may be taken into account in determining benefits under a qualified plan to \$170,000 in 2001

Increases the limit from \$170,000 to \$200,000 in 2002, then indexed for inflation in \$5,000 increments

### Annual Limit on Elective Deferrals

IRC § 402(g)

Limits the annual elective deferrals (pre-tax contributions) that may be made to a 401(k) or a 403(b) plan (plan sponsored by a tax-exempt or governmental entity similar to a 401(k) plan) to \$10,500 (in 2001); limits annual elective deferrals to a 457(b) plan (deferred compensation plan sponsored by a tax-exempt or governmental entity) to \$8,500 (in 2001)

Gradually increases the annual limit on elective deferrals to a 401(k) plan, a 403(b) plan and a 457(b) plan to \$15,000, as follows:

2002	\$11,000
2003	\$12,000
2004	\$13,000
2005	\$14,000
2006	\$15,000

After 2006, such amount is indexed for inflation in \$500 increments

### Limit on Annual Contributions Under Defined Contribution Plans

IRC §§ 403(b), 415(c) and 457(b)

Limits the total amount of contributions that may be made to a 403(b) plan by an employee over the entire period of participation to the maximum exclusion allowance (MEA)

Repeals the "MEA" rules

Limits the annual contributions that may be made to a defined contribution plan to the lesser of \$35,000 (in 2001) or 25% of compensation (*con'd pg. 3*)

Increases the annual contribution limit to the lesser of \$40,000 (indexed for inflation in \$1,000 increments) or 100% of compensation (*con'd pg. 3*)

PROVISION	CURRENT LAW	CHANGE IN LAW								
<b>Limit on Annual Contributions Under Defined Contribution Plans</b> <i>(con'd from pg. 2)</i> IRC §§ 403(b), 415(c) and 457(b)	Limits annual contributions that may be made to a 457(b) plan to the lesser of \$8,500 (in 2001) or 33 $\frac{1}{3}$ % of compensation	Increases the 33 $\frac{1}{3}$ % of compensation limitation on 457(b) contributions to 100% of compensation								
<b>Annual Limit on Elective Deferrals to SIMPLE Plans</b> IRC § 408(p)	Limits the maximum annual elective deferral to a SIMPLE 401(k) plan (a special simplified 401(k) plan) to \$6,500 (in 2001)	Increases the annual limit on elective deferrals to a SIMPLE plan to \$10,000, as follows: <table border="1" data-bbox="1055 630 1489 777"> <tr> <td>2002</td> <td>\$7,000</td> </tr> <tr> <td>2003</td> <td>\$8,000</td> </tr> <tr> <td>2004</td> <td>\$9,000</td> </tr> <tr> <td>2005</td> <td>\$10,000</td> </tr> </table> After 2005, such amount is indexed for inflation in \$500 increments	2002	\$7,000	2003	\$8,000	2004	\$9,000	2005	\$10,000
2002	\$7,000									
2003	\$8,000									
2004	\$9,000									
2005	\$10,000									
<b>Limits Allocations in ESOPs Sponsored by S Corporations to Certain Individuals</b> IRC § 409(p)	No comparable rule	Prohibits an ESOP sponsored by an S corporation from allocating to “disqualified persons” if, in the aggregate, all disqualified persons own 50% or more of the S corporation sponsoring the ESOP; a “disqualified person” is an employee who, with his or her family, owns at least 20% of the employer or an employee who individually owns 10% of the employer; employees with stock options are considered as owning the underlying shares <p>If a disqualified person does receive an ESOP allocation, he or she is taxed as if he or she had received a distribution and the corporation must pay a 50% corporate excise tax on the value of the stock allocated</p> <p>Rules become effective for plans in existence on March 14, 2001 for plan years beginning in 2005; rules become effective for new plans established after March 14, 2001 and for existing C corporation ESOPs which switch to S corporation status after March 14, 2001 for plan years ending after March 14, 2001</p>								

PROVISION	CURRENT LAW	CHANGE IN LAW																				
<p><b>Additional “Catch-Up” Contributions Allowed</b></p> <p>IRC §§ 414(v) and 457(b)</p>	<p>Does not provide an opportunity for an employee to “catch-up” on contributions that could have been made to a 401(a) plan, a 403(b) plan, or a SIMPLE 401(k) plan for past years</p>	<p>Permits an employee age 50 and over to make “catch-up” contributions to a 401(k) plan, a 403(b) plan and a 457(b) plan (only after maximum elective deferral is made by the employee):</p> <table border="0"> <tr> <td data-bbox="1081 516 1138 541">2002</td> <td data-bbox="1433 516 1507 541">\$1,000</td> </tr> <tr> <td data-bbox="1081 552 1138 577">2003</td> <td data-bbox="1433 552 1507 577">\$2,000</td> </tr> <tr> <td data-bbox="1081 588 1138 613">2004</td> <td data-bbox="1433 588 1507 613">\$3,000</td> </tr> <tr> <td data-bbox="1081 623 1138 648">2005</td> <td data-bbox="1433 623 1507 648">\$4,000</td> </tr> <tr> <td data-bbox="1081 659 1138 684">2006</td> <td data-bbox="1433 659 1507 684">\$5,000</td> </tr> </table> <p>Permits a 457(b) plan participant to use either this catch-up provision or the specific provision in 457(b) (described below), but not both</p> <p>Permits an employee age 50 and over to make “catch-up” contributions to a SIMPLE 401(k) plan (only after maximum elective deferral is made by the employee):</p> <table border="0"> <tr> <td data-bbox="1081 1035 1138 1060">2002</td> <td data-bbox="1451 1035 1507 1060">\$500</td> </tr> <tr> <td data-bbox="1081 1071 1138 1096">2003</td> <td data-bbox="1433 1071 1507 1096">\$1,000</td> </tr> <tr> <td data-bbox="1081 1106 1138 1131">2004</td> <td data-bbox="1433 1106 1507 1131">\$1,500</td> </tr> <tr> <td data-bbox="1081 1142 1138 1167">2005</td> <td data-bbox="1433 1142 1507 1167">\$2,000</td> </tr> <tr> <td data-bbox="1081 1178 1138 1203">2006</td> <td data-bbox="1433 1178 1507 1203">\$2,500</td> </tr> </table> <p>After 2006, the “catch-up” limits for all types of plans are indexed for inflation in \$500 increments and are not subject to any other contribution limits or any nondiscrimination rules, except that, if the plan includes a “catch-up” provision, all employees age 50 and over must be allowed to make the same “catch-up” elections</p> <p>Permits an employee in a 457(b) plan to “catch-up” on missed contributions by deferring up to a total of \$15,000 in the final three taxable years ending before normal retirement age</p> <p>Modifies the special “catch-up” provision under a 457(b) plan to increase the maximum amount to 2x the amount permitted under the regular elective deferral rules</p>	2002	\$1,000	2003	\$2,000	2004	\$3,000	2005	\$4,000	2006	\$5,000	2002	\$500	2003	\$1,000	2004	\$1,500	2005	\$2,000	2006	\$2,500
2002	\$1,000																					
2003	\$2,000																					
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PROVISION	CURRENT LAW	CHANGE IN LAW
<p><b>Limit on Annual Benefits Under Defined Benefit Plans</b></p> <p>IRC § 415(b)</p>	<p>Limits the annual benefits that may be provided from a defined benefit plan to the lesser of 100% of three-year average annual highest compensation or \$140,000</p> <p>Requires actuarial reductions and increases of this limit if benefits begin before or after Social Security normal retirement age</p>	<p>Increases the \$140,000 limit to \$160,000 for plan years ending after December 31, 2001, then indexed for inflation in \$5,000 increments</p> <p>Requires actuarial reductions only for benefits beginning before age 62 and actuarial increases for benefits beginning after age 65</p>
<p><b>Limit on Annual Benefits for Multiemployer Plans Under Section 415</b></p> <p>IRC § 415(b)</p>	<p>Limits the annual benefits that may be provided from a defined benefit plan to the lesser of 100% of three-year average annual highest compensation or \$140,000</p> <p>Requires that a multiemployer plan (plan sponsored by union) be aggregated with the employer's single-employer plans for purposes of applying the 415(b) limits under the employer's single-employer plan</p>	<p>Eliminates the 100% of compensation limit (but not the dollar limit) for multi-employer plans</p> <p>Eliminates the requirement that a multiemployer plan be aggregated with the employer's single-employer plan for purposes of applying the 415(b) limit under the employer's single-employer plans</p>
<p><b>Top-Heavy Plan Limits</b></p> <p>IRC § 416</p>	<p>Requires an employer with a top-heavy plan (60% or more of account balances or accrued benefits belong to "key employees") to make a minimum contribution or accrual and to satisfy a minimum vesting schedule</p> <p>Requires an employer to look at the current plan year plus the four prior plan years to determine key employee status</p> <p>In part, defines key employee to include those employees who earn annually more than \$35,000 (in 2001) <i>and</i> who own one of the 10 largest interests in the 10 largest interests in the employer (10 largest owners) and those employees who annually earn more than \$70,000 (in 2001) <i>and</i> who are officers of the employer <i>(con'd on pg. 6)</i></p>	<p>Simplifies top-heavy plan requirements</p> <p>Requires an employer to look only at the current plan year to determine key employee status</p> <p>Eliminates 10 largest owners test from the definition of key employee and changes definition relating to officers to include only those officers who annually earn more than \$130,000 (indexed for inflation in \$5,000 increments) <i>(con'd on pg. 6)</i></p>

PROVISION	CURRENT LAW	CHANGE IN LAW
<b>Top-Heavy Plan Limits</b> <i>(con'd from pg. 5)</i> IRC § 416	<p>Excludes matching contributions for purposes of determining whether the minimum top-heavy contribution has been made</p> <p>Includes all distributions within the last 5 years for purposes of determining the value of accrued benefits or account balances for employees</p> <p>Requires that a safe harbor 401(k) or 401(m) plan (special types of a 401(k) plan) satisfy top-heavy requirements</p>	<p>Includes matching contributions for purposes of determining whether the minimum top-heavy contribution has been made</p> <p>Shortens look-back period for distributions to 1 year</p> <p>Eliminates requirement that a safe harbor 401(k) or 401(m) plan satisfy the top-heavy requirements</p>

## Credits and Deductions for Employees and Employers

<b>Credit for Low and Middle Income Participants</b> IRC § 25A	<p>Does not provide income tax credit for contributions made to a qualified plan or an IRA</p>	<p>Provides a nonrefundable tax credit to a low or middle income participant who makes contributions to a qualified plan and/or an IRA</p> <p>The participant may claim credit on tax return for years 2002–2006</p> <p>Credit range is 10%-50% of the amount contributed, depending upon the single/joint annual gross income of the participant (phases out by \$25K/\$50K)</p>
<b>Small Business Tax Credit for Administrative Expenses</b> IRC § 45E	<p>Does not provide a tax credit for administrative expenses paid in connection with establishing a new retirement plan</p>	<p>Permits a small employer (100 or fewer employees) to claim a nonrefundable tax credit in connection with establishing a new retirement plan</p> <p>Credit applies to 50% of the first \$1,000 in administrative and retirement-education expenses for first three years, beginning with new plans established in 2002</p> <p>The employer may take either a deduction or a credit, but not both</p>
<b>Deduction Limit for Stock Bonus, Profit Sharing and 401(k) Plans</b> IRC § 404(a)(3)	<p>Limits an employer's deduction for contributions to a stock bonus, a profit sharing, and a 401(k) plan to 15% of the total compensation of all the plan's participants</p>	<p>Increases the annual limit on deductions for contributions to a stock bonus, a profit sharing or a 401(k) plan to 25% of the total compensation of all the plan's participants</p>

PROVISION	CURRENT LAW	CHANGE IN LAW
<b>Elective Deferrals Not Taken Into Account for Deduction Limits</b> IRC § 404(a)(3)	Includes elective deferrals in calculating employer contribution deduction limit	Excludes elective deferrals in calculating employer contribution deduction limit; elective deferrals separately deductible
<b>Definition of Compensation</b> IRC § 404(a)(3)	Excludes elective deferrals from compensation definition for purposes of calculating deduction limit	Includes elective deferrals in compensation definition for purposes of calculating deduction limit
<b>ESOP Dividends</b> IRC § 404(k)	Permits an employer to deduct dividends paid on employer stock in a leveraged ESOP only if the dividends are paid in cash and the dividends do not remain in the ESOP for reinvestment	Permits an employer to deduct dividends paid on employer stock in a leveraged ESOP even if the dividends are either paid in cash or remain in the ESOP for reinvestment
<b>Valuing Defined Benefit Plan Assets</b> IRC § 412(c)	Requires that assets be valued annually on a date during the plan year for purposes of determining a plan's funded status	Permits assets to be valued on a date during the plan year or on a date that is within one month prior to the beginning of the plan year  Also permits use of the asset value from previous plan year if the value of the assets was not less than 125% of the plan's current liability (liability of accrued benefits to date) on that date
<b>Full Funding Limitation for Defined Benefit Plans</b> IRC § 412(l)	Prohibits an employer from making deductible contributions to a defined benefit plan to the extent plan asset value exceeds the lesser of 160% (in 2001 and 2002) of the plan's current liability or a limitation based on reasonable projections	Increases the 160% limit to 165% in 2002 and to 170% in 2003, and completely repeals the limit in 2004
<b>Nondeductible Contributions to Defined Benefit Plan not Subject to Excise Tax</b> IRC § 4972(c)	Imposes 10% excise tax on an employer for making nondeductible contributions to qualified plans	Eliminates excise tax on nondeductible contributions to a defined benefit plan where employer also sponsors defined contribution plan and is making contributions to both plans, as long as contributions to a defined benefit plan do not exceed the accrued liability full-funding limitation

## Enhanced IRA and Plan Contributions

### Hardship Withdrawal Safe Harbor

IRC §§ 401(k)(2) and 402(c)(4)

Requires, for safe harbor purposes, an employee to suspend contributions to a 401(k) plan for 12 months after taking a hardship withdrawal

Reduces 401(k) contribution 12-month suspension period to 6 months following a hardship withdrawal

### Elective Deferrals as Roth Contributions

IRC § 402A

Does not permit elective deferrals to be treated as after-tax “Roth contributions” under a 401(k) plan

Beginning in 2006, permits a plan to allow an employee to treat 401(k) elective deferrals as after-tax Roth contributions if contributions are placed in separate accounts under the qualified plan

Subjects Roth contributions to combined annual limit for both elective deferrals and Roth contributions made in the same year

### IRAs Under Qualified Plans

IRC § 408(p)

Prohibits a tax-qualified plan from maintaining a separate IRA account

Beginning in 2003, permits a tax-qualified plan to maintain a separate IRA account (also called a “workplace IRA”)

## Enhanced IRA and Plan Portability and Access to Funds

### IRA Rollovers

IRC §§ 219 and 408

Prohibits amounts contributed directly to an IRA to be rolled into a qualified plan, but does permit a rollover from an IRA which holds prior employer’s qualified plan balances (conduit IRAs) to a qualified plan

Permits amounts contributed directly to an IRA to be rolled over into a qualified plan

### Rollovers

IRC § 401(a)(31)

Permits rollovers between like plans (401(a) to 401(a), 403(b) to 403(b), etc.) or from plans to IRAs, but generally not from IRAs to plans

Permits rollovers between different types of plans, including new workplace IRAs and permits rollovers to and from IRAs

Prohibits after-tax contributions from being rolled over to a qualified plan or an IRA

Permits rollovers of after-tax contributions to a qualified plan (including a Roth contribution account in a qualified plan) or an IRA

PROVISION	CURRENT LAW	CHANGE IN LAW
<b>Same Desk Rule</b> IRC § 401(k)(2)(B)	Prohibits an employee who works at his or her same desk after certain corporate reorganizations from receiving a 401(k) plan distribution until there is a “separation from service” from the successor company or another distributable event	Repeals “same desk” rule
<b>Hardship Exception to 60-Day Limit on Rollovers</b> IRC §§ 401(k)(2)(B) and 408(d)(3)	Requires that an eligible rollover distribution from a qualified plan be included in employee’s gross income unless rolled over to another qualified plan or an IRA within 60 days of receipt	Establishes a hardship exception for failure to roll over amounts to a qualified plan or an IRA within 60 days of receipt
<b>Faster Vesting on Employer Matching Contributions</b> IRC § 411(a)	Requires full vesting in employer contributions to a qualified plan after 5 years of service or vesting in 20% increments over a 3- to- 7 year period, or a more generous formula	Requires full vesting in employer matching contributions after 3 years of service or vesting in 20% increments over a 2- to- 6 year period, or a more generous formula
<b>QDROs for 457(b) Plans</b> IRC § 414(p)	Does not permit a 457(b) plan to make distributions to an alternate payee pursuant to a qualified domestic relations order (QDRO)	Permits a 457(b) plan to make distributions to an alternate payee pursuant to a QDRO
<b>Plan Loans to Subchapter S Owners, Partners and Sole Proprietors</b> IRC § 4975(f)(6)	Prohibits S corporation owners, partners and sole proprietors from taking loans from a qualified plan	Permits S corporation owners, partners and sole proprietors to take certain loans from a qualified plan, if the plan allows such loans

## Streamlining Plan Administration

<b>401(k) Plan Multiple Use Test</b> IRC § 401(m)	Requires that elective deferrals tested under the actual deferral percentage (ADP) test and matching contributions tested under the actual contribution percentage (ACP) test satisfy an additional test called the “multiple use” test, unless the ADP and ACP tests are satisfied by certain margins	Repeals “multiple use” test
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PROVISION	CURRENT LAW	CHANGE IN LAW
<b>Calculating Cash-Out Amounts</b> IRC § 411(a)(11)	Requires that an employer look at entire value of an individual's account (including rollover amounts) to determine whether "cash-out" is permissible	Eliminates rollover contributions from being taken into account for purposes of determining whether account value is more than \$1,000 or \$5,000 or less
<b>Elimination of Optional Forms of Distributions</b> IRC § 411(d)(6)	Subject to certain exceptions, requires a merged plan to retain all optional forms of distributions from both plans	Generally permits a merged plan to eliminate optional forms of distributions as long as a lump sum cash distribution exists

## Enhanced Pension Security

<b>Employer-Provided Investment or Retirement Advice</b> IRC § 132(a)	Unclear whether the value of investment advice that an employer provides to employees should be included in the gross income of employees	Treats employer-provided investment and retirement advice as a fringe benefit and excludes from an employee's gross income the value of such advice as long as services are available to all employees on substantially the same terms
<b>Mandatory Cash-Outs</b> IRC § 411(a)(11)	Permits an employer to "cash-out" accrued benefits or account balances that are \$5,000 or less without an employee's permission, subject to certain exceptions	<p>Requires that mandatory "cash-outs" of account balances of more than \$1,000, but \$5,000 or less be transferred to a default IRA on behalf of the employee unless the employee affirmatively elects otherwise</p> <p>The employer retains fiduciary responsibility for default IRA until the employee assumes responsibility (see below)</p> <p>The employee is deemed to assume responsibility for default IRAs when he or she rolls the funds into his or her own IRA or automatically one year after the transfer, whichever is earlier</p>

## Determination Letter Application Process Modified

The Internal Revenue Service (IRS) has simplified the determination letter application process under IRS Announcement 2001-77. A determination letter application is a request for a ruling from the IRS that the form of a particular retirement or savings plan satisfies the requirements of Internal Revenue Code (Code) Section 401(a). The current application process is time-consuming and information-intensive. Announcement 2001-77 seeks to make the application process less burdensome.

### Schedule Q Optional

Schedule Q is an attachment to the determination letter application which requires extensive information relating to minimum participation and coverage test. The completion of Schedule Q often complicates a determination letter application significantly because of the amount of information needed. Under the new filing procedures, Schedule Q will now be an optional attachment.

### Forms Revised

All of the current forms used to file a determination letter application (Form

5300, Schedule Q, Form 5307, Form 5309, Form 5310, Form 5310-A, Form 6088, Form 6406 and Form 8717) are being revised. Form 5303 which is used by collectively-bargained plans is being eliminated. Collectively-bargained plans will now file using Form 5300. The revised forms will be available in August.

### Non-Standardized Master and Prototype Plans and Volume Submitter Plans

Currently, employers who adopt non-standardized master and prototype plans (M&PP) and volume submitter plans (VSP) cannot rely on the opinion letters for these plans but must apply for an individual determination letter. The IRS now permits employers who adopt these types of plans to rely on the M&PP or VSP opinion letter, subject to certain limitations and conditions. First, the employers must adopt a plan which is identical to the M&PP or VSP and may only choose the options permitted under such plans. Second, except as specifically permitted in Announcement 2001-77, adopting employers of M&PPs and VSPs cannot rely on the opinion let-

ter for purposes of Code Sections 401(a)(4), 401(a)(26), 401(l), 410(b) and 414(s), nor may such employers rely on the opinion letter for Code Sections 415 and 416, if the employer maintains or has ever maintained another plan covering the same employees. Non-standardized M&PPs and VSPs may rely on the opinion letter for Code Sections 401(a)(4), 401(l) and 414(s) if the adopting employers are permitted to elect safe harbor allocation or benefit formulas and safe harbor compensation formulas (and they do elect such formulas). Non-standardized M&PPs and VSPs generally may also rely on the opinion letter for purposes of Code Sections 401(a)(26) and 410(b) if 100% of all nonexcludable employees benefit under the plan.

### Multiple Employer Plans

Currently, a multiple employer plan must include separate Forms 5300 for each employer maintaining the plan. The IRS now permits multiple employer plans to choose either to file for a letter for the plan only (with information provided for one employer only and a single-employer user fee) or to file for a letter for all employees, with questions 1 through 8 of Form 5300 being submitted for each employer. ☺

## GUST Amendment Deadline Nears

The deadline for amending tax-qualified pension and savings plans to comply with "GUST amendments" is approaching rapidly.

GUST amendments are amendments to comply with the Uruguay Round Agreements Act (GATT), the Uniformed Services Employment

and Reemployment Rights Act of 1994 (USERRA), the Small Business Job Protection Act of 1996 (SBJPA), and the Taxpayer Relief Act of 1997 (TRA '97).

In general, tax-qualified plans need to be amended (and plans seeking determination letters must file applications) no later than the last day of the

plan year beginning on or after January 1, 2001. For calendar year plans, this means GUST amendments must be adopted and any determination letter applications must be filed to approve GUST amendments no later than December 31, 2001. ☺

# 2001 Internal Revenue Service Priority Guidance Plan Released

The Internal Revenue Service (IRS) has issued its 2001 Priority Guidance Plan (the Guidance Plan). The Guidance Plan indicates which regulations the IRS is expected to issue through June 30, 2002. This year the IRS has indicated it will issue guidance on numerous provisions relating to employee benefits and executive compensation, including:

Final regulations on plan loans;

Guidance relating to nonqualified deferred compensation, including stock interests;

Guidance relating to the limit on the compensation used in calculating benefits and allocating contributions in qualified plans;

Guidance on 401(k) plans, including guidance relating to mergers and acquisitions and these types of plans;

Guidance relating to minimum vesting standards;

Guidance relating to accrued benefit calculation rules under defined benefit plans;

Guidance relating to cash balance plans (a type of defined benefit plan);

Guidance on disclosure to participants regarding distributions from pension plans;

Guidance relating to pension distributions

and retirement age;

Guidance relating to mortality tables for defined benefit pension plans;

Guidance relating to funding requirements for defined benefit pension plans;

Guidance relating to the definition of highly compensated employee;

Guidance relating to 457(b) plans (deferred compensation plans sponsored by tax-exempt and governmental entities);

Guidance relating to the coordination with the Department of Labor's delinquent filer program for Form 5500 annual reports (the tax return filed for qualified plans);

Revenue Procedure which amends and restates employee plans compliance resolution program which provides methods to correct plan qualification defects;

Guidance relating to cafeteria plans and the Family Medical Leave Act;

Guidance on automatic enrollment for participants in cafeteria plans;

Guidance on split dollar life insurance;

Guidance relating to "golden parachute" rules (limitations on payments to executives upon a change of control of the employer); and

Guidance on incentive stock options and nonqualified stock options, including income tax and FICA and FUTA tax withholding on incentive stock options.

We will inform you as new guidance is issued. ☺

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## Employee Benefits & Executive Compensation: Legal Perspectives

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