

Notice 2012-67

December 10, 2012

Section 415 of the Internal Revenue Code (the Code) provides for dollar limitations on benefits and contributions under qualified retirement plans. Section 415 (d) requires that the Commissioner annually adjust these limits for cost-of-living increases. Other limitations applicable to deferred compensation plans are also affected by these adjustments under § 415. Under § 415 (d), the adjustments are to be made pursuant to adjustment procedures which are similar to those used to adjust benefit amounts under § 215 (i) (2) (A) of the Social Security Act.

The limitations that are adjusted by reference to § 415 (d) generally will change for 2013 because the increase in the cost-of-living index met the statutory thresholds that trigger their adjustment. For example, the limitation under § 402 (g) (1) on the exclusion for elective deferrals described in § 402 (g) (3) is increased from \$17,000 to \$17,500 for 2013. This limitation affects elective deferrals to § 401 (k) plans, § 403 (b) plans, and the Federal Government's Thrift Savings Plan, among other plans.

Cost-of-Living Adjusted Limits for 2013

Effective January 1, 2013, the limitation on the annual benefit under a defined benefit plan under [*2] § 415 (b) (1) (A) is increased from \$200,000 to \$205,000.

For a participant who separated from service before January 1, 2013, the participant's limitation under a defined benefit plan under § 415 (b) (1) (B) is computed by multiplying the participant's compensation limitation, as adjusted through 2012, by 1.0170.

The limitation for defined contribution plans under § 415 (c) (1) (A) is increased in 2013 from \$50,000 to \$51,000.

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 § 415 (b) (1) (A). After taking into account the applicable rounding rules, the amounts for 2013 are as follows:

The limitation under § 402 (g) (1) on the exclusion for elective deferrals described in § 402 (g) (3) is increased from \$17,000 to \$17,500.

The annual compensation limit under §§ 401 (a) (17), 404 (l), 408 (k) (3) (C), and 408 (k) (6) (D) (ii) is increased from \$250,000 to \$255,000.

The dollar limitation under § 416 (i) (1) (A) (i) concerning the definition of key employee in a top-heavy plan remains unchanged at \$165,000.

The dollar amount under § 409 (o) (1) (C) (ii) for determining the maximum account balance in an [*3] employee stock ownership plan subject to a 5-year distribution period is increased from \$1,015,000 to \$1,035,000, while the dollar

amount used to determine the lengthening of the 5-year distribution period is increased from \$200,000 to \$205,000.

The limitation used in the definition of highly compensated employee under § 414 (q) (1) (B) remains unchanged at \$115,000.

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

The annual compensation limitation under § 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 § 401 (a) (17) to be taken into account, is increased from \$375,000 to \$380,000.

The compensation amount under § 408 (k) (2) (C) regarding simplified [*4] employee pensions (SEPs) remains unchanged at \$550.

The limitation under § 408 (p) (2) (E) regarding SIMPLE retirement accounts is increased from \$11,500 to \$12,000.

The limitation on deferrals under § 457 (e) (15) concerning deferred compensation plans of state and local governments and tax-exempt organizations is increased from \$17,000 to \$17,500.

The compensation amount under § 1.61-21 (f) (5) (i) of the Income Tax Regulations concerning the definition of "control employee" for fringe benefit valuation purposes remains unchanged at \$100,000. The compensation amount under § 1.61-21 (f) (5) (iii) remains unchanged at \$205,000.

The Code also provides that several pension-related amounts are to be adjusted using the cost-of-living adjustment under § 1 (f) (3). After taking the applicable rounding rules into account, the amounts for 2013 are as follows:

The adjusted gross income limitation under § 25B (b) (1) (A) for determining the retirement savings contribution credit for married taxpayers filing a joint return is increased from \$34,500 to \$35,500; the limitation under § 25B (b) (1) (B) is increased from \$37,500 to \$38,500; and the limitation under § 25B (b) (1) (C) and (D) is increased [*5] from \$57,500 to \$59,000.

The adjusted gross income limitation under § 25B (b) (1) (A) for determining the retirement savings contribution credit for taxpayers filing as head of household is increased from \$25,875 to \$26,625; the limitation under § 25B (b) (1) (B) is increased from \$28,125 to \$28,875; and the limitation under § 25B (b) (1) (C) and (D) is increased from \$43,125 to \$44,250.

The adjusted gross income limitation under § 25B (b) (1) (A) for determining the retirement savings contribution credit for all other taxpayers is increased from \$17,250 to \$17,750; the limitation under § 25B (b) (1) (B) is increased from \$18,750

to \$19,250; and the limitation under § 25B (b) (1) (C) and (D) is increased from \$28,750 to \$29,500.

The deductible amount under § 219 (b) (5) (A) for an individual making qualified retirement contributions is increased from \$5,000 to \$5,500.

The applicable dollar amount under § 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 \$92,000 to \$95,000. The applicable dollar amount under § 219 (g) (3) (B) (ii) for all other taxpayers [*6] (other than married taxpayers filing separate returns) is increased from \$58,000 to \$59,000. The applicable dollar amount under § 219 (g) (7) (A) for a taxpayer who is not an active participant but whose spouse is an active participant is increased from \$173,000 to \$178,000.

The adjusted gross income limitation under § 408A (c) (3) (B) (ii) (I) for determining the maximum Roth IRA contribution for married taxpayers filing a joint return or as a qualifying widow (er) is increased from \$173,000 to \$178,000. The adjusted gross income limitation under § 408A (c) (3) (B) (ii) (II) for all other taxpayers (other than married taxpayers filing separate returns) is increased from \$110,000 to \$112,000.

The dollar amount under § 430 (c) (7) (D) (i) (II) used to determine excess employee compensation with respect to a single-employer defined benefit pension plan for which the special election under § 430 (c) (2) (D) has been made is increased from \$1,039,000 to \$1,066,000.

Drafting Information

The principal author of this notice is John Heil of the Employee Plans, Tax Exempt and Government Entities Division. For further information regarding the data in this notice, please contact the Employee Plans' [*7] taxpayer assistance telephone service at 1-877-829-5500 (a toll-free call) between the hours of 8:30 a.m. and 4:30 p.m. Eastern time Monday through Friday. For information regarding the methodology used in arriving at the data in this notice, please e-mail Mr. Heil at RetirementPlanQuestions@irs.gov.

FOOTNOTES:

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Based on News Release IR-2012-77 dated October 18, 201