

More 2011 Tax Changes

IRS has announced the 2011 cost-of-living adjustments (COLAs) for retirement plans. The many limits related to pension and other retirement plans, which are adjusted by reference to Code Sec. 415(d), are unchanged for 2011, since the cost-of-living index for the quarter ended Sept. 30, 2010, while greater than the quarter ended Sept. 30, 2009, is actually less than the cost-of-living index for the quarter ended Sept. 30, 2008. Certain dollar limit changes keyed to Code Sec. 1(f)(3) (such as IRA and Roth IRA income limits) some of which were previously calculated by RIA, have increased slightly.

The following plan limits remain unchanged effective Jan. 1, 2011:

- **Defined benefit plans.** The limitation on the annual benefit under a defined benefit plan under Code Sec. 415(b)(1)(A) is \$195,000. For participants who separated from service before Jan. 1, 2011, the 100% of average high-three-years' compensation under Code Sec. 415(b)(1)(B) is computed by multiplying the participant's 2010 compensation limitation by 1.0118. This reflects the change in the cost-of-living index from the quarter ended Sept. 30, 2009 to the quarter ended Sept. 30, 2010.
- **Defined contribution plans.** The limit on the annual additions to a participant's defined contribution account under Code Sec. 415(c)(1)(A) is \$49,000.
- **Annual compensation limit.** The maximum amount of annual compensation that can be taken into account for various qualified plan purposes, including Code Sec. 401(a)(17), Code Sec. 404(l), Code Sec. 408(k)(3)(C), and Code Sec. 408(k)(6)(D)(ii), is \$245,000.
- **Elective deferrals.** The Code Sec. 402(g)(1) limit on the exclusion for elective deferrals described in Code Sec. 402(g)(3) is \$16,500.
- **Deferred compensation plans.** The limit on deferrals under Code Sec. 457(e)(15), concerning deferred compensation plans of state and local governments and tax-exempt organizations, is \$16,500.
- **SEPs.** The compensation limit under Code Sec. 408(k)(2)(C) (amount of compensation above which an employee who meets other requirements must be able to participate in the employer's SEP plan) is \$550.
- **SIMPLE accounts.** The maximum amount of compensation an employee may elect to defer under Code Sec. 408(p)(2)(E) for a SIMPLE plan is \$11,500.
- **Catch-up contributions.** The dollar limit under Code Sec. 414(v)(2)(B)(i) for catch-up contributions to an applicable employer plan other than a plan described in Code Sec. 401(k)(11) or Code Sec. 408(p) for individuals aged 50 or over is \$5,500. The dollar limit under Code Sec. 414(v)(2)(B)(ii) for catch-up contributions to an applicable employer plan described in Code Sec. 401(k)(11) or Code Sec. 408(p) for individuals aged 50 or over is \$2,500.
- **Key employee in top-heavy plan.** The dollar limit under Code Sec. 416(i)(1)(A)(i), relating to the definition of key employee in a top-heavy plan is \$160,000.

- **ESOP five-year distribution period.** The dollar amount under Code Sec. 409(o)(1)(C)(ii) for determining the maximum account balance in an employee stock ownership plan (ESOP) subject to a five-year distribution period is \$985,000, while the dollar amount used to determine the lengthening of the five-year distribution period is \$195,000.
- **Highly compensated employee.** The dollar limit used in defining a highly compensated employee under Code Sec. 414(q)(1)(B) is \$110,000.
- **Government plans.** The annual compensation limitation under Code Sec. 401(a)(17) for eligible participants in certain governmental plans that, under the plan as in effect on July 1, 1993 allowed COLAs to the plan's compensation limit under Code Sec. 401(a)(17) to be taken into account, is \$360,000.
- **Control employee.** The employee compensation amounts used in the definition of "control employee" for purposes of the auto commuting rule of Reg. § 1.61-21(f)(5)(i) is \$95,000; and the compensation amount under Reg. § 1.61-21(f)(5)(iii) is \$195,000.

The following plan limits calculated by reference to Code Sec. 1(f)(3) are increased:

- **Excess employee compensation for purposes of determining installment acceleration amounts.** The Code Sec. 430(c)(7)(D)(i)(II) limit used to determine excess employee compensation for single-employer defined benefit plans for which the special election under Code Sec. 430(c)(2)(D) has been made is increased from \$1,000,000 to \$1,014,000.
- **IRA and Roth IRA income limits.** The 2011 figures reported by IRS for the income limits used to determine traditional IRA deductions and Roth IRA contributions are identical to the figures previously calculated by RIA (see Federal Weekly Alert 09/23/10).
- **Saver's credit AGI amounts.** The 2011 AGI figures reported by IRS for the saver's credit, under which an eligible lower-income taxpayer can claim a nonrefundable tax credit for the applicable percentage (50%, 20%, or 10%, depending on filing status and AGI) of up to \$2,000 of his qualified retirement savings contributions, are identical to the figures previously calculated by RIA (see Federal Taxes Weekly Alert 09/23/10).

The news release can be viewed on the IRS website at <http://www.irs.gov/newsroom/article/0,,id=229975,00.html>. For other inflation-adjusted figures for 2011 released by IRS, see next article below.

IRS has issued a partial list of non-retirement-plan-related inflation-adjusted tax figures for 2011, and says it will issue additional inflation adjustments in future guidance.

Specifically, IRS did not issued adjustments for the following items:

- the tax rate tables under Code Sec. 1,
- the child tax credit under Code Sec. 24,
- the Hope Scholarship and Lifetime Learning Credits under Code Sec. 25A,
- the earned income credit under Code Sec. 32,
- the standard deduction under Code Sec. 63,
- the overall limitation on itemized deductions under Code Sec. 68,
- the qualified transportation fringe under Code Sec. 132,

- the personal exemption under Code Sec. 151, and
- interest on education loans under Code Sec. 221.

Previously, RIA correctly calculated these 2011 figures covered in Rev Proc 2010-40 (see Newsstand e-mail 9/20/2010 or Federal Taxes Weekly Alert 09/23/2010):

- kiddie tax figures;
- AMT exemption for a child subject to the kiddie tax;
- AGI-based phaseout of EE bond interest exclusion for higher education;
- regular gift tax annual exclusion;
- increased annual exclusion for gifts to noncitizen spouses;
- special use valuation reduction limit;
- 2% portion for interest on deferred estate tax;
- maximum hourly fee for attorneys;
- long-term care premiums;
- payments received under long-term care insurance;
- property exempt from levy;
- reporting foreign gifts;
- adoption tax breaks;
- Archer MSAs;
- expatriation;
- foreign earned income exclusion;
- insubstantial benefit charitable contribution limitation; and
- dues paid to agricultural or horticultural organizations.

Rev Proc 2010-40 also contains the 2011 inflation adjustments for some highly specialized items which RIA did not cover in the 09/20/2010 article, such as:

- **Deemed substantiation for reimbursements of employees' expenses.** Under an optional deemed substantiation rule, eligible employers in the pipeline construction industry can provide reimbursements that will be treated as made under an accountable plan to employees who furnish welding rigs or mechanics rigs. (Rev Proc 2002-41, 2002-1 CB 1098) For calendar year 2011, an eligible employer may pay up to \$16 per hour (same as for 2010) for rig-related expenses. If the employer provides fuel or otherwise reimburses fuel expenses, an eligible employer may pay up to \$10 per hour (same as for 2010).
- **Low income housing credit.** For calendar year 2011, the amount used under Code Sec. 42(h)(3)(C)(ii) to calculate the State housing credit ceiling for the low-income housing credit is the greater of (1) \$2.15 (up from \$2.10 for 2010) multiplied by the State population, or (2) \$2,465,000 (up from \$2,430,000 for 2010).
- **Private activity bonds volume cap.** For calendar year 2011, the amounts used under Code Sec. 146(d)(1) to calculate the State ceiling for the volume cap for private activity bonds is the greater of (1) \$95 multiplied by the State population (up from \$90 for 2010), or (2) \$277,820,000 (up from \$273,775,000 for 2010).
- **General arbitrage rebate rules.** For bond years ending in 2011, the amount of the computation credit determined under Prop Reg § 1.148-3(d)(4) is \$1,520 (up from \$1,500 for 2010).