

CLIENT ALERT

Key Dollar Limits for Retirement Benefits and Executive Compensation to Increase for 2023

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On October 21, 2022, the Internal Revenue Service (“IRS”) announced its 2023 cost-of-living adjustments to various employee benefit plan dollar limits. These limits directly affect tax-qualified retirement plans in addition to 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”).

With surging inflation, virtually all of the IRS-adjusted limits will increase for 2023. Some of these limits will increase by record amounts, including the limit on individual contributions to a 401(k) plan.

Attached to this alert is a table comparing the 2023 dollar limits and thresholds that are most relevant to retirement and deferred compensation plans to those in effect in 2022 and 2021. The most noteworthy changes are the following:

- The elective deferral (contribution) limit for employees who participate in 401(k) plans (other than SIMPLE plans) is increased from \$20,500 to \$22,500.
- The catch-up contribution limit for those aged 50 and over is increased from \$6,500 to \$7,500.
- The limit on annual benefits under a defined benefit plan is increased from \$245,000 to \$265,000. 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 \$61,000 to \$66,000.

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- The maximum amount of annual compensation that can be taken into account under a qualified retirement plan is increased from \$305,000 to \$330,000. This limit also may 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”¹) is increased from \$610,000 to \$660,000.
- The dollar limit used in the definition of “highly compensated employee” is increased from \$135,000 to \$150,000.
- The dollar limit relating to the definition of “key employee” in a top-heavy plan is increased from \$200,000 to \$215,000.

¹ 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

	2023	2022	2021
401(k), 403(b), Profit-Sharing Plans, Pension Plans, Etc.			
Maximum Annual Compensation	\$330,000	\$305,000	\$290,000
Elective Deferrals	\$22,500	\$20,500	\$19,500
Catch-Up Contributions	\$7,500	\$6,500	\$6,500
Annual Defined Contribution Limit	\$66,000	\$61,000	\$58,000
Annual Defined Benefit Limit	\$265,000	\$245,000	\$230,000
IRAs			
IRA Contribution Limit	\$6,500	\$6,000	\$6,000
IRA Catch-Up Contributions	\$1,000	\$1,000	\$1,000
Traditional IRA AGI Deduction Phase-Out Starting At			
Joint Return	\$116,000	\$109,000	\$105,000
Single or Head of Household	\$73,000	\$68,000	\$66,000
SEPs			
SEP Minimum Compensation	\$750	\$650	\$650
SEP Maximum Compensation	\$330,000	\$305,000	\$290,000
SIMPLE Plans			
SIMPLE Maximum Contributions	\$15,500	\$14,000	\$13,500
SIMPLE Catch-Up Contributions	\$3,500	\$3,000	\$3,000
Section 409A Nonqualified Deferred Compensation			
Specified Employee	\$215,000	\$200,000	\$185,000
Maximum Severance Pay under "Two-Times Exception"	\$660,000	\$610,000	\$580,000
Limit on Aggregate General Post-Termination Payments Exempt from Code Section 409A	\$22,500	\$20,500	\$19,500
Discretionary Cash-Out of Deferred Compensation	\$22,500	\$20,500	\$19,500
Other			
Highly Compensated Employee Threshold	\$150,000	\$135,000	\$130,000
Key Employee	\$215,000	\$200,000	\$185,000
Code Section 457 Elective Deferrals	\$22,500	\$20,500	\$19,500
Social Security Taxable Wage Base	\$160,200	\$147,000	\$142,800