

LEGISLATIVE UPDATE AND TAX REMINDERS

Recent Pension Changes

Both the **Small Business Job Protection Act of 1996** and the **Taxpayer Relief Act of 1997** contained significant Pension changes.

- **Repeal of Family Aggregation Rule.** This rule treated a family group as a single person. Now each family member will be treated separately.
- **401(k) Nondiscrimination Rule Changes:**
 - If failed, refunds are made to the **highest dollar contributor**, not the highest percentage contributor.
 - Generally, last years' Non-Highly Compensated percentage must be used to test for discrimination. However, employers may formally elect to continue to use the current year's Non-Highly Compensated percentage. This election can only be changed in limited circumstances. **For 1997, the IRS will not require an election, so either method can be used.**
 - New definition of Highly Compensated
 - 5% owner in current or prior year
 - \$80,000 compensation in prior year
- Repeal of 5-year income averaging for lump sum distributions (effective 1/1/2000).
- Self-employed matching contributions are no longer treated as elective contributions.
- Delay of distribution to non-5% owners until actual retirement, even if past age 70½. As you may know, the IRS made this change difficult with transition elections through 12/31/98.
- Compensation for maximum IRS limits now includes 401(k) and 125 deferred amounts beginning after 1997. For deduction purposes these amounts still must be deducted from compensation.
- Repeal of 15% excise tax on distributions in excess of \$160,000.

401(k) Contribution Depositing Requirements

Under DOL rules, 401(k) contributions must be deposited as soon as possible, but not later than 15 working days after the end of the month during which the contributions were withheld. The DOL considers these contributions Plan assets, which would result in a prohibited transaction if not deposited within the time required by these rules.

<u>IRS Dollar Limits for Retirement Plans</u>	<u>1997</u>	<u>1998</u>	<u>1999</u>
Elective 401(k) and 403(b) deferrals	\$ 9,500	\$ 10,000	\$ 10,000
Maximum Defined Contribution limit	30,000	30,000	30,000
Maximum Defined Benefit limit	125,000	130,000	130,000
Maximum Compensation limit	160,000	160,000	160,000

Miscellaneous

- Contributions must be made by your tax filing deadline with extensions to be deductible and must be made within 8½ months of the Plan Year end if subject to Minimum Funding Standards
- Controlled Groups are treated as a single employer for pension purposes
- Loans to Proprietors, Partners or Shareholders of Sub-S Corporations are prohibited transactions.