

MAJOR RETIREMENT SAVINGS PROVISIONS of “The Economic Growth & Tax Relief Reconciliation Act of 2001” *

(* This Act was signed into law by the President on June 7th, but final regulations have not been issued as of June 15, 2001. The following summary is offered simply to highlight important elements of the Act for the reader’s initial reference. All readers will need to refer to the final regulations, their accountants, and legal counsel for guidance.)

Issue	Current Law	H.R. 1836*												
<i>IRA CHANGES</i>														
IRA Contribution Limits	The maximum annual contribution permitted to IRAs (traditional or Roth) is generally the lesser of \$2,000 or 100% of the individual’s compensation.	The IRA contribution limit would be increased as follows: <table style="margin-left: 20px;"> <tr> <td style="text-align: center;"><u>Year</u></td> <td style="text-align: center;"><u>Limit</u></td> </tr> <tr> <td style="text-align: center;">2002-2004</td> <td style="text-align: center;">\$3,000</td> </tr> <tr> <td style="text-align: center;">2005-2007</td> <td style="text-align: center;">\$4,000</td> </tr> <tr> <td style="text-align: center;">2008</td> <td style="text-align: center;">\$5,000</td> </tr> </table> Thereafter, the limit would be indexed for inflation annually (in \$500 increments).	<u>Year</u>	<u>Limit</u>	2002-2004	\$3,000	2005-2007	\$4,000	2008	\$5,000				
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Catch-up Contributions	Once an individual has missed the opportunity to make an IRA contribution for a given year, the individual has no opportunity to “catch-up” in later years.	Individuals age 50 and over would be permitted to make catch-up contributions to IRAs as follows: <table style="margin-left: 20px;"> <tr> <td style="text-align: center;"><u>Year</u></td> <td style="text-align: center;"><u>Limit</u></td> </tr> <tr> <td style="text-align: center;">2002-2005</td> <td style="text-align: center;">\$ 500</td> </tr> <tr> <td style="text-align: center;">2006+</td> <td style="text-align: center;">\$1,000</td> </tr> </table>	<u>Year</u>	<u>Limit</u>	2002-2005	\$ 500	2006+	\$1,000						
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<i>LIMITS ON RETIREMENT PLAN CONTRIBUTIONS AND BENEFITS</i>														
Maximum Salary Reduction Contribution (Section 402(g))	Section 402(g) limits deferrals under most salary reduction plans, (e.g., 401(k) plans and 403(b) arrangements) to \$10,500 (in 2001).	The limit on elective deferrals would be increased to \$15,000 as follows: <table style="margin-left: 20px;"> <tr> <td style="text-align: center;"><u>Year</u></td> <td style="text-align: center;"><u>Limit</u></td> </tr> <tr> <td style="text-align: center;">2002</td> <td style="text-align: center;">\$11,000</td> </tr> <tr> <td style="text-align: center;">2003</td> <td style="text-align: center;">\$12,000</td> </tr> <tr> <td style="text-align: center;">2004</td> <td style="text-align: center;">\$13,000</td> </tr> <tr> <td style="text-align: center;">2005</td> <td style="text-align: center;">\$14,000</td> </tr> <tr> <td style="text-align: center;">2006</td> <td style="text-align: center;">\$15,000 (thereafter, indexed)</td> </tr> </table>	<u>Year</u>	<u>Limit</u>	2002	\$11,000	2003	\$12,000	2004	\$13,000	2005	\$14,000	2006	\$15,000 (thereafter, indexed)
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Defined Contribution Plan Limit (Section 415(c))	Section 415(c) currently limits maximum annual contributions to defined contribution plans on behalf of an individual to the lesser of 25% of compensation or \$35,000. The \$35,000 limit is indexed for inflation in \$5,000 increments.	The \$35,000 dollar limit in section 415(c) would be increased to \$40,000 beginning in 2002. Future indexing of this limit would be in \$1,000 increments, allowing for more frequent increases. (The 25% of compensation limit is modified as described below.)												
Defined Contribution Plan Limit (Section 415(a)(17))	Under section 401(a)(17) compensation that may be taken into account in determining benefits under qualified plans is limited to \$170,000 (in 2001), indexed in \$10,000 increments. In 1993, the limit was \$235,840.	The section 401(a)(17) compensation limit would be increased to \$200,000 beginning in 2002 (with future indexing in \$5,000 increments).												

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Defined Benefit Plan Limit (Section 415(b))	<p>Maximum annual benefits under a defined benefit plan are limited by section 415(b) to the lesser of 100% of three-year-high-average pay or \$140,000 (in 2001).</p> <p>Actuarial reduction of the limit is required if benefits start prior to Social Security normal retirement age.</p>	<p>Effective for years after 12/31/01, the \$140,000 dollar limit in section 415(b) would be increased to \$160,000. Indexing would then continue as under current law (in \$5,000 increments).</p> <p>Actuarial reduction of the section 415(b) dollar limit would be required only for benefit commencement prior to age 62.</p>																		
Plan Contribution Limit (Section 457(b))	<p>The dollar limit on contributions under eligible deferred compensation plans under section 457(b) is generally \$8,500 in 2001.</p>	<p>The limit on elective deferrals to plans governed by section 457(b) would be increased as follows:</p> <table border="0"> <thead> <tr> <th><u>Year</u></th> <th><u>Limit</u></th> </tr> </thead> <tbody> <tr> <td>2002</td> <td>\$11,000</td> </tr> <tr> <td>2003</td> <td>\$12,000</td> </tr> <tr> <td>2004</td> <td>\$13,000</td> </tr> <tr> <td>2005</td> <td>\$14,000</td> </tr> <tr> <td>2006</td> <td>\$15,000 (thereafter, indexed)</td> </tr> </tbody> </table>	<u>Year</u>	<u>Limit</u>	2002	\$11,000	2003	\$12,000	2004	\$13,000	2005	\$14,000	2006	\$15,000 (thereafter, indexed)						
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SIMPLE Plan Contribution Limit (Section 408(p))	<p>Maximum elective deferrals to SIMPLE retirement plans are limited to \$6,500 per year (in 2001), indexed for inflation in \$500 increments.</p>	<p>The limit on elective deferrals to SIMPLE plans would be increased as follows:</p> <table border="0"> <thead> <tr> <th><u>Year</u></th> <th><u>Limit</u></th> </tr> </thead> <tbody> <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 (thereafter, indexed)</td> </tr> </tbody> </table>	<u>Year</u>	<u>Limit</u>	2002	\$ 7,000	2003	\$ 8,000	2004	\$ 9,000	2005	\$10,000 (thereafter, indexed)								
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ENHANCING FAIRNESS FOR WOMEN																				
Additional Salary Reduction Catch-up Contributions	<p>The Code imposes annual limits on the maximum amount that can be contributed by an employee to a section 401(k) plan, a section 403(b) arrangement, a SIMPLE plan, and certain other salary reduction arrangements. With certain limited exceptions, once an individual has missed the opportunity to make a contribution for a given, the individual has no opportunity to “catch-up” in later years.</p>	<p>Individuals age 50 or older would be allowed to make annual catch-up contributions to salary reduction arrangement of the following amounts:</p> <table border="0"> <thead> <tr> <th><u>Year</u></th> <th><u>General</u></th> <th><u>SIMPLE</u></th> </tr> </thead> <tbody> <tr> <td>2002</td> <td>\$1,000</td> <td>\$ 500</td> </tr> <tr> <td>2003</td> <td>\$2,000</td> <td>\$1,000</td> </tr> <tr> <td>2004</td> <td>\$3,000</td> <td>\$1,500</td> </tr> <tr> <td>2005</td> <td>\$4,000</td> <td>\$2,000</td> </tr> <tr> <td>2006</td> <td>\$5,000</td> <td>\$2,500</td> </tr> </tbody> </table> <p>Amounts are indexed for inflation beginning in 2007 (in \$500 increments). Such catch-up contributions would not be subject to any other contribution limits and would be subject to any non discrimination rules, except that plan would have to allow all eligible individuals to participate in the catch-up in the same manner.</p>	<u>Year</u>	<u>General</u>	<u>SIMPLE</u>	2002	\$1,000	\$ 500	2003	\$2,000	\$1,000	2004	\$3,000	\$1,500	2005	\$4,000	\$2,000	2006	\$5,000	\$2,500
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Increase Percentage of Salary Limitations	Total annual additions to defined contribution plans for any employee is generally limited to the lesser of \$30,000 or 25% of compensation. Generally, for section 457(b) plans, total annual contributions are limited to 33a% of compensation. Section 403(b) arrangements are also subject to a set of complex maximum exclusion allowance (MEA) rules.	Beginning in 2002, the 25% of compensation limitation would be increased to 100%. The 33a% of compensation limit of section 457(b) would be increased to 100% of compensation. The MEA rules would be repealed.												
Faster Vesting of Employer Matching Contributions	Employer contributions to most retirement plans either must be fully vested after the employee has completed five years of service, or must become vested in increments of 20% for each year beginning with the employee's third year of service, with full vesting after the employee has completed seven years of service.	Beginning in 2002, employer matching contributions would be required either to be fully vested after an employee has completed three years of service or to become vested in increments of 20% for each year beginning with the employee's second year of service, with full vesting after the employee has completed six years of service.												
<i>OTHER PROPOSALS INTENDED TO EXPAND COVERAGE AND BENEFITS GENERALLY</i>														
Credit for Low- and Middle-Income Savers	No provisions.	<p>A targeted non-refundable tax credit would be provided to low- and moderate-income savers who make salary reduction contributions to eligible retirement savings plans (e.g., 401(k), 403(b), 447(b), or IRAs). The credit would be claimed on the individual's tax return and would apply to the first \$2,000 in savings contributions. The amount of the credit would generally be based on the following AGI schedule:</p> <table border="1" data-bbox="1188 902 1923 1049"> <thead> <tr> <th data-bbox="1188 902 1356 935"><u>Credit</u></th> <th data-bbox="1356 902 1650 935"><u>Individual</u></th> <th data-bbox="1650 902 1923 935"><u>Joint</u></th> </tr> </thead> <tbody> <tr> <td data-bbox="1188 935 1356 967">50%</td> <td data-bbox="1356 935 1650 967">\$0 - \$15,000</td> <td data-bbox="1650 935 1923 967">\$0 - \$30,000</td> </tr> <tr> <td data-bbox="1188 967 1356 1000">20%</td> <td data-bbox="1356 967 1650 1000">\$15,001 - \$16,250</td> <td data-bbox="1650 967 1923 1000">\$30,001 - \$32,500</td> </tr> <tr> <td data-bbox="1188 1000 1356 1049">10%</td> <td data-bbox="1356 1000 1650 1049">\$16,251 - \$25,000</td> <td data-bbox="1650 1000 1923 1049">\$32,501 - \$50,000</td> </tr> </tbody> </table> <p>Contributions to eligible retirement savings plan would continue to be deductible or excludable from income as under current law. If a potential credit recipient (or such person's spouse) receives a pre-retirement distribution in any year, the ability to receive a government match in that year or in the two subsequent years will be reduced by the amount of the distribution.</p> <p>The credit would be available only from 2002-2006.</p>	<u>Credit</u>	<u>Individual</u>	<u>Joint</u>	50%	\$0 - \$15,000	\$0 - \$30,000	20%	\$15,001 - \$16,250	\$30,001 - \$32,500	10%	\$16,251 - \$25,000	\$32,501 - \$50,000
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Issue	Current Law	H.R. 1836*
<i>PROPOSALS TARGETED PRIMARILY AT SMALL BUSINESSES</i>		
Top-Heavy Rules	Section 416 establishes testing rules for determining whether or not a plan is top-heavy (e.g., whether “key employees” are deemed to be receiving an excessive proportion of the plan benefits). Top-heavy plans are required to satisfy a special vesting schedule and make minimum contributions or accruals for “non-key” employees. Plans that are “super top-heavy” must make additional minimum contributions or accruals and are subject to a lower aggregate limitation under section 415(e).	Beginning in 2002, the top-heavy rules would be simplified in a variety of ways. Changes to be made include the following:- <ul style="list-style-type: none"> • Family aggregation rules would be modified for purposes of determining key employees, however, such rules would continue to apply for purposes of determining whether an individual is a 5% owner. • Key employee definition would be modified to include (1) an officer with compensation in excess of \$130,000; (2) a 5% owner; and (3) a 1% owner with compensation in excess of \$150,000. • Count matching contributions toward satisfying minimum contribution rules. • Look-back rules would be shortened. • Plans meeting the section 401(k); and section 401(m) design-based discrimination testing safe harbors would not be top-heavy.
Small Business Tax Credit for Administrative Expenses in Connection with New Retirement Plans	No provision.	Certain small employers would be able to claim a non-refundable tax credit in connection with new retirement plans. The credit would apply 50% of the first \$1,000 in administrative and retirement-education expenses (“start-up expenses”) for three years after establishing a new employment-based retirement plan and would be available to employers with 100 or fewer employees. No deduction would be allowed for the amount claimed as a credit. Credit would be available beginning for new plans established in 2002.
Deduction Limit for Stock Bonus and Profit Sharing	An employer’s deduction for contributions to a profit-sharing or stock bonus plan is generally limited to 15% of the taxable compensation of the plan’s participants. The limit on deductions to other types of plans is generally 25%.	The annual limitation on the amount of deductible contributions to a profit-sharing or stock bonus plan would be increased from 15% to 25% of “covered employee” compensation for the year.
<i>INCREASING PORTABILITY FOR PARTICIPANTS</i>		
Rollovers Among Various Types of Employment-Based Retirement Plans	Amounts in a section 401(a) plan or section 403(b) arrangement generally may only be rolled over to the same type of plan or arrangement, or to an IRA. Amounts in section 457(b) plans may only be transferred from one section 457(b) plan to another section 457(b) plan.	Beginning in 2002, amounts in section 401(a) plans or section 403(b) arrangements, or section 457(b) plans maintained by a state or local government generally could be rolled over to another section 401 plan, a section 403(b) arrangements, a section 457(b) plan maintained by a state or local government, or an IRA.

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Rollovers of After-Tax Contributions	Employees are allowed to make after-tax contributions to 401(k) and other plans. They are not permitted to rollover distributions of those after-tax contributions into an IRA or another plan.	Beginning in 2002, after-tax employee contributions could be rolled over to other plans and IRAs.
Rollovers From Contributory IRAs To Qualified Plans	Rollovers of amounts originally contributed directly into an IRA (“contributory IRAs”) into any type of employment-based plan generally are not allowed.	Beginning in 2002, contributory IRA amounts could be rolled over to a section 401(a) plan, a section 403(b) arrangement, a section 457(b) plan maintained by a state or local government, or another IRA.
“Same Desk Rule” Repeat	In some cases, 401(k) plan distributions are limited to separation from service with the employer. The term “separation from service” has been interpreted to not include a situation where the employee performs the same functions for a successor employer (the “same desk” rule). The same desk rule also applies to section 403(b) and 456(b) arrangements.	Beginning in 2002, the “same desk rule” would be eliminated by replacing “separation from service” in section 401(k)(2)(B) with “severance from employment.” Conforming changes would be made for 403(b) arrangements and section 457(b) plans.
Purchase of Service Credit in Government Defined Benefit Plans	Under State law, employees of State and local governments often have the option of purchasing service credits in their State defined benefit pension plans. Employees cannot use money in section 403(b) arrangements or section 456(b) plans to purchase service credits.	Beginning in 2002, State and local government employees would be able to use funds from their section 403(b) arrangements or section 457(b) plans to purchase service credits.
<i>OTHER PROPOSALS STRENGTHENING PENSION SECURITY, EDUCATION AND ENFORCEMENT</i>		
Repeal of Funding Limit	Contributions to a defined benefit benefit plan are not deductible to the extent that plan assets exceed the lesser of (1) 160% (in 2001) of the plan’s current liability, or (2) a limitation based on a reasonable projection of benefits. The 160% figure is scheduled be phased up to 170% by the year 2005.	The full funding limit would be 165% of current liability for plan years beginning in 2002, 170% in 2003, and repealed in 2004 and after.
Additional Disclosure Re: Significant Reduction in Benefit Accruals (Including Cash Balance Plan Conversions)	Under ERISA section 204(h), a defined plan or a money purchase pension plan may not be amended in a manner that results in a significant reduction in the rate of future benefit accrual unless, after the adopting the amendment (and not less than 15 days before the effective date of the amendment), the plan administrator provides a written notice to affected participants and alternate payees. The notice must (1) specify the plan amendment and its effective date, or (2) contain a summary of the amendment and effective date, written in a manner that can be understood by the average plan participant.	A defined benefit plan or money purchase pension plan would be required to provide participants with a written notice concerning a plan amendment that provides for a significant reduction in future benefit accruals under the plan (including any elimination or reduction of an early retirement benefit). The Secretary of the Treasury could exempt or provide a simplified form of notice for a plan that has fewer than 100 participants who have accrued a benefit under the plan or which offers participants the option to choose between the new benefit formula and the old benefit formula.

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		<p>The notice would be required to describe the benefit reduction caused by the plan amendment in a manner that could be understood by the average plan participant, and be provided within a reasonable time period prior to the effective date of the plan amendment.</p> <p>The penalty for failure to comply with the notice requirements would equal \$100 per day per omitted party with a maximum penalty of \$500,000 in any year (except in cases of willful neglect). The Secretary of the Treasury could waive this penalty if reasonable cause for failure is shown.</p> <p>Also, ERISA is amended to provide that plan amendment providing for a significant reduction in the rate of future benefit accruals will not be permitted where there has been an egregious failure by the plan administrator to comply with the notice requirements. The ERISA notice requirement is expanded to early retirement benefits.</p> <p>The changes with respect to notices of significant benefit reductions apply to plan amendments that take effect after the date of enactment, although transitional relief is provided. Regulations are required within 90 days of enactment. A study of cash balance conversions is required within 60 days after the date of enactment.</p>
Treatment of Multi-employer Plans Under Section 415	Under section 415(b), annual benefits payable under a defined benefit plan are limited to the lesser of \$140,000 (for 2001) or 100% of “three-year-high-average compensation.” A reduction in the dollar or percentage limit for defined benefit plans may be required if the employee has fewer than ten years of plan, participation or service. Plans maintained by state & local governments are generally exempt from the 100% of compensation limit.	Beginning in 2002, the section 415(b) limits applicable to multi-employer plans would be modified to eliminate the 100% of compensation limit (but not the dollar limit) for such plans. With respect to aggregation of multi-employer plans with other plans, multi-employer plans would not be aggregated with single-employer defined benefit plans maintained by an employer contributing to the multi-employer plan for purposes of applying the 100% of compensation limit to such single-employer plan.
ESOP Dividends May Be Reinvested Without Loss of Dividend Deductions	Dividend deductions are allowed under section 404(k) on dividend paid on employer stock to an unleveraged ESOP only if the dividends are paid to employees in cash; the deduction is denied if the dividends remain in the ESOP for reinvestment.	Beginning in 2002, an employer would be allowed to deduct dividends paid to an ESOP when its employees are allowed to elect to take the dividends in cash or leave them in the plan for reinvestment in employer stock. The Secretary of the Treasury would be able to disallow the deduction for any ESOP dividend it determines constitutes an avoidance or evasion of tax. For this purpose, the Secretary of the Treasury’s authority includes the authority to disallow dividend deduction for unreasonable dividends.

Issue	Current Law	H.R. 1836*
Automatic Rollovers of Certain Mandatory Distributions	A plan may provide for the automatic distribution (“cash-out”) of certain vested accrued benefits that do not exceed \$5,000. The plan is not required to rollover such amounts to another retirement savings vehicle.	A plan that provides mandatory “cash-outs” of vested accrued benefits would be required to directly transfer such distributions to an IRA (“default IRA”) or other qualified retirement vehicle unless the participant affirmatively elects to receive the distribution directly. The proposal would not apply to distributions of \$1,000 or less. Limited fiduciary relief is provided to plan fiduciary with respect to the selection of the default IRA. The Department of Labor (DOL) is directed to issue safe harbors with respect to the designation of an institution and investment of funds. The provision is not effective until final DOL regulations are published, and such regulations must be finalized not later than three years after the date of enactment.
Other Provisions	A number of complex and often counter-intuitive rules apply to employment-based retirement plans.	Generally, includes a variety of provisions simplifying current law.
Sunset	The Budget Act creates a supermajority point of order against provisions in a budget reconciliation bill that lose revenue after the initial 10-year period.	All provisions of the bill do not apply to taxable, plan or limitation years beginning after December 31, 2010.