

# EGTRRA

## Economic Growth and Tax Relief Reconciliation Act of 2001

### Limit changes

	2001	2002	2003	2004	2005	2006	2007	2008	2009
401(a)(17) - annual compensation	170,000	200,000	200,000	indexed in \$5,000 increments thereafter					
402(g) – elective deferral limits	10,500	11,000	12,000	13,000	14,000	15,000	15,500	indexed in \$500 increments thereafter	
415(c) – maximum annual additions	35,000	40,000	40,000	indexed in \$1,000 increments thereafter					
lesser of \$35,000 or 25% of comp.	25%	100%	100%	100%	100%	100%	100%	100%	
SIMPLE	6,500	7,000	8,000	9,000	10,000	10,500	indexed in \$500 increments thereafter		

### Loans

- Sole proprietors, partners and "S" Corp. owners can now take a loan. Effective 1/01/2002.

### Top Heavy

- Match can now satisfy top-heavy minimums;
- One year look back on distributions instead of five (retain 5-year look back for in-service distributions);
- Eliminate account balances of terminated employees who didn't have any service during the 1-year period ending on the determination date;
- Eliminate the 4-year look back rule for identifying key employees;
- Eliminate the "top 10 owner" rule for identifying key employees;
- Revision to definition of key employee;
- New rules apply to the 12/31/2001-determination date.
- Identify key participants using current year only;
  - Officers with comp. > \$130,000 for 2001, increased in \$5,000 increments (was \$70,000 (DB limit) prior to EGTRRA)
  - >5% owners.
  - Family members of >5% owners.
  - 1% - 5% owners with comp. > \$150,000.

### 404 Deduction

- Limit increased from 15% to 25% of gross compensation;
- Elective deferrals no longer reduced from gross compensation;
- Elective deferrals are separately deductible from 25% limit;
- "Paired plans" no longer needed.

#### Example:

Gross compensation all participants	\$1,000,000
Salary Reduction	\$75,000
Employer Match @ 100%	\$75,000
Employer Profit Sharing	\$150,000

The entire \$300,000 is fully deductible. The 25% deduction limit is \$250,000 (25% of \$1,000,000), which supports the deduction for the \$225,000 employer matching and profit sharing contributions. The \$75,000 in 401(k) contributions are also fully deductible as an ordinary and necessary business expense, without regard to the 25% limit, and does not reduce the \$250,000 deduction limit applicable to the matching and profit sharing contributions.

**Plan Document**

- Determination letter fee waived for employers with less than 100 employees if requests made during the first 5 plan years.

**Catch up Contributions Introduced**

- Individuals age 50 or older will be allowed to make additional contributions;
- Not subject to contribution limits or ADP testing;
- Employers may make matching contributions with respect to catch-up contributions. Matching contributions would be subject to the normally applicable rules.

**Multiple Use Test Eliminated**

- The multiple use of the alternative limit test is no longer required.

**Vesting Accelerated for Employer Matching Contributions**

- Matching contributions will need to vest under a maximum 3-year cliff or, 6-year graded schedule;
- Under the 6-year schedule, vesting will have to begin with the employee's second year of service;
- Applies to contributions for plan years beginning 1/01/2002.

**Contribution Restriction after Hardship Withdrawal**

- The 12-month contribution suspension after hardship withdrawal is reduced to 6 months;
- Also applies to hardship distributions made in 2001.

**IRA Add-On Contributions**

- Effective for plan years beginning 1/01/2003, plans may facilitate IRA contributions by eligible employees as an "add-on" to their qualified retirement plan;
- Not subject to reporting and disclosure, participation, vesting, testing or any of the other code rules for qualified plans;
- Reporting requirements that apply to traditional and Roth IRAs will apply.

**Roth 401(k)/403(b) Plan Contributions**

- Effective for plan years beginning 1/01/2006, plans may permit participants to elect a tax treatment for their deferrals similar to Roth IRA contributions;
- Such after-tax contributions will be tested with pre-tax deferrals as part of the ADP test;
- The 402(g) limit will apply to the combined pre-tax and after-tax Roth 401(k) contributions;
- Due to their special tax treatment for distributions, these contributions will need to be considered in a separate source. However, in order to receive the special tax treatment, 5 years must elapse from when a participant first makes a Roth 401(k) contribution to when a distribution is made.
- Roth 401(k) contributions can be rolled over to a Roth IRA.

**Rollovers between Retirement Plans and IRAs**

- Rollovers between the various types of DC arrangements are permitted without restriction;
- 403(b) and 457 plans will be obligated to provide participants a notice of rollover rights;
- After-tax contributions can be included in an eligible rollover distribution to a qualified plan or IRA;
- Taxable IRA amounts can be rolled over to a qualified plan;
- Surviving spouses are permitted to roll over distributions to qualified plans;
- The 60-day rollover period may be extended if failure to comply is due to a casualty, disaster, or other event beyond the reasonable control of the individual.

**Elimination of Protected Benefit Under the "Anti-Cutback Rule"**

- Transferee plan no longer required to preserve optional forms of benefit;

- The transfer must be a direct transfer;
- The transfer must be authorized under the terms of both plans;
- The participant's must be given notice of the transfer;
- The participants must be given the option of electing the transfer or a lump sum distribution.

#### **Elimination of "Same Desk Rule"**

- Participants may be allowed a distribution if they continue performing the same functions for a successor employer due to severance from employment;
- Effective 1/01/2002 regardless of when the severance from employment actually occurred.

#### **Deferred Benefits**

- A plan is permitted to ignore amounts attributable to rollover contributions when determining if the cash-out amount exceeds \$5,000.

#### **Automatic Rollover of Involuntary Distributions**

- Involuntary distributions in excess of \$1,000, but less than \$5,000 will have to be directly rolled over to an IRA designated by the employer;
- Not effective until final regulations regarding fiduciary responsibility in investment selection is issued.

#### **204(h) Notice Requirements for DB and Money Purchase Plans**

- Participants must be given a notice of plan amendment that significantly reduces future benefit accruals before the amendment takes effect;
- This provision is effective on the date of enactment. Good faith reliance is expected until Treasury regulations are issued.

#### **Considered Compensation for DB and Target Benefit Plans**

- The 2002 compensation cap of \$200,000 can be used to determine the average compensation for current benefit accruals;
- The \$200,000 compensation limit can be applied to the four years prior to 2002. Therefore, plans using the high 3- consecutive year average can automatically default to \$200,000 if applicable.

#### **Miscellaneous Incentive Items**

In addition to the tax deduction already associated with contributions, eligible persons will receive a tax credit of up to 50% or \$2,000 in contributions to an IRA, 401(k), 403(b) or SIMPLE plan.

Effective only for years beginning 1/01/2002 – 12/31/2006.

#### **Eligible Persons**

- Joint Filers
  - Gross income of less than \$30,000, are eligible for a 50% credit;
  - Gross income between \$30,000 and \$32,500, are eligible for 20% credit;
  - Gross income between \$32,500 and \$50,000, are eligible for 10% credit;
- Individual Filers
  - The income threshold for single filers is one-half the threshold for joint filers.

Employers with 100 employees or less will be eligible for an annual tax credit of 50% on up to \$1,000 of administrative costs for the first three years of a new plan.

- Only available if at least one NHCE is participating.