

**ECONOMIC GROWTH
AND TAX RELIEF
RECONCILIATION ACT
OF 2001 (EGTRRA)**

Retirement Savings Provisions



Provision	Current Law	New Law	Effective Date
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Defined Contribution Plan Limits

Section 401(a)(17) Compensation Limit	\$170,000 is currently the maximum annual compensation taken into account when determining contributions or benefits under a defined contribution plan.	The compensation limit is increased to \$200,000 and is then indexed for inflation in \$5,000 increments each year.	2002
Section 402(g) Salary Deferral Limit	\$10,500 is currently the maximum annual salary deferral an employee may contribute to a 401(k) or 403(b) plan.	The 401(k) and 403(b) salary deferral limit is increased as follows: \$11,000 in 2002; \$12,000 in 2003; \$13,000 in 2004; \$14,000 in 2005; \$15,000 in 2006 and then subject to cost-of-living adjustments each year in \$500 increments.	2002
Section 457(b) Contribution Limit	\$8,500 is currently the maximum annual salary deferral an employee may contribute to a 457(b) plan. There is also a limit relating to 33⅓% of the participant's includible compensation.	The 457(b) contribution limit is increased as follows: \$11,000 in 2002; \$12,000 in 2003; \$13,000 in 2004; \$14,000 in 2005; \$15,000 in 2006 and then subject to cost-of-living adjustments each year in \$500 increments. The 33⅓% limit is eliminated.	2002
Catch-up Contributions for 401(k), 403(b), 457(b) and SIMPLE Plans	Certain 403(b) plans have a catch-up rule for participants with at least 15 years of service. No provision for catch-up contributions in 401(k) and SIMPLE plans. A limited catch-up rule in 457(b) plans allows contributions of up to \$15,000 for the last 3 years preceding the employee's normal retirement age.	For 401(k), 403(b) and 457(b) plans, individuals age 50 or older will be allowed to make an additional contribution of: \$1,000 in 2002; \$2,000 in 2003; \$3,000 in 2004; \$4,000 in 2005; \$5,000 in 2006 and then subject to cost-of-living adjustments each year in \$500 increments. The catch-up provision for SIMPLE plans is one-half of the above amounts. The existing 403(b) catch-up rule would be retained. The 457(b) plan catch-up rule would not be available if the "last 3 years" catch-up limit applies. If all participants are eligible to make a catch-up contribution, such amount will not be subject to non-discrimination testing and will not count against the employer's deduction limit or the individual's 415 annual contribution limit.	2002

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Coordination of Section 457(b) Plan Contribution Limit with Section 402(g) Salary Deferral Limit	The current 457(b) plan limit of \$8,500 is reduced by salary deferrals under a 401(k) or 403(b) plan.	The 457(b) limit will not be reduced by 401(k) or 403(b) salary deferrals.	2002
Annual Salary Deferral Limit for SIMPLE IRAs and SIMPLE 401(k)s	\$6,500 is currently the maximum annual salary deferral an employee may contribute to a SIMPLE plan.	The salary deferral limit for SIMPLE IRAs and SIMPLE 401(k)s is increased as follows: \$7,000 in 2002; \$8,000 in 2003; \$9,000 in 2004; \$10,000 in 2005 and then subject to cost-of-living adjustments each year in \$500 increments.	2002
Section 415(c) Maximum Annual Addition under a Defined Contribution Plan	For a defined contribution plan, the annual contribution limit is the lesser of \$35,000 or 25% of compensation.	The limit is the lesser of \$40,000 or 100% of compensation.	2002
Section 403(b) Plan Maximum Exclusion Allowance (MEA)	In addition to the 402(g) and 415 limits, 403(b) arrangements are subject to a set of complex maximum exclusion allowance rules.	The maximum exclusion allowance is repealed. For 2000 and 2001, defined benefit calculations would not have to be taken into account in calculating the MEA, and 415 excess contributions would reduce the MEA.	2002
“Roth” 401(k) and 403(b) Accounts	No provision.	401(k) and 403(b) plan sponsors can permit participants to elect after-tax treatment for a portion of their salary deferral contributions similar to Roth IRA contributions. Both the contributions and earnings generally would not be subject to taxation upon distribution from the plan as long as certain conditions are met.	2006

Employer Deduction Limits

Section 404(c) Deduction Limit	The maximum corporate deduction for a profit sharing plan is 15% of aggregate compensation paid to eligible employees.	The deduction limit for a profit sharing plan is increased to 25% of aggregate employees' compensation. Except as provided by regulations, money purchase plans will also be subject to this deduction limit.	2002
Exclusion of 401(k) Salary Deferrals from Deduction Limit	Salary deferrals are currently counted against the employer contribution deduction limit.	Salary deferrals are separately deductible with regard to the new 25% deduction limit and will no longer be considered employer contributions for purposes of the deduction limit.	2002

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Definition of Compensation for Purposes of Section 404(c) Deduction Limit	Salary deferrals reduce compensation for purposes of the deduction limit.	Salary deferrals will no longer reduce compensation for purposes of the deduction limit.	2002

IRA Contribution Limits

Increased IRA Contribution Limit	\$2,000 is currently the maximum annual contribution an individual may contribute to an IRA.	The IRA contribution limit is increased as follows: \$3,000 in 2002; \$3,000 in 2003; \$3,000 in 2004; \$4,000 in 2005; \$4,000 in 2006; \$4,000 in 2007; \$5,000 in 2008 and then subject to cost-of-living adjustments each year in \$500 increments.	2002
Catch-up IRA Contributions	No provision.	For IRAs, individuals age 50 or older will be allowed to make an additional contribution of: \$500 in 2002; \$500 in 2003; \$500 in 2004; \$500 in 2005; \$1,000 in 2006 and each year thereafter.	2002
IRA Accounts within Defined Contribution Plans	A qualified plan, 403(b) plan or eligible 457 plan cannot include an IRA.	Qualified plans, 403(b) plans and governmental 457(b) plans may allow participants to make IRA contributions to a separate account maintained under the plan. Such contributions must meet the requirements of either a traditional or a Roth IRA.	2003

Portability Provisions

Rollovers Among Various Types of Retirement Plans	Amounts in qualified plans or 403(b) plans generally may only be rolled over to the same type of plan or to an IRA. Amounts in 457(b) plans can only be transferred to another 457(b) plan.	The new portability rules allow distributions from qualified plans, 403(b) plans and governmental 457(b) plans to be rolled over into any defined contribution arrangement without restrictions (e.g., a qualified plan distribution can be rolled over into a 403(b) plan and a governmental 457(b) plan distribution can be rolled over into a 401(k) plan).	2002
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Rollovers of After-Tax Contributions	Rollover distributions of after-tax contributions to an IRA or qualified plan are not permitted.	Employee after-tax contributions can be included in a direct rollover to defined contribution plans or to IRAs (as long as they are separately accounted for after the rollover).	2002
Rollovers from Contributory IRAs to Qualified Plans	Rollovers of amounts originally contributed to an IRA may not be rolled over to any qualified plan, 403(b) plan or 457(b) plan.	Rollovers of deductible amounts originally contributed to an IRA generally may be rolled over to any qualified plan, 403(b) plan or 457(b) plan.	2002
Disregard Rollovers for Purposes of Cash-out Amounts	Plans may involuntarily cash-out participants with vested benefits of \$5,000 or less. All contribution types, including rollovers, are included in determining the \$5,000 limit.	A plan may disregard rollover amounts in determining the \$5,000 involuntary cash-out amount.	2002
Rollovers for Surviving Spouse	Rollovers can only be made from a qualified plan or 403(b) plan to an IRA in which the surviving spouse participates.	Rollovers can be made to an IRA as well as to a qualified plan, 403(b) plan or governmental 457(b) plan in which the surviving spouse participates.	2002
Time-frame for Rollovers	Rollovers must be made within 60 days or they are treated as a taxable distribution.	The IRS is given the authority to extend the 60-day rollover period for special circumstances.	2002
Treatment of Forms of Distributions	Under the “anti-cutback rule”, when benefits are transferred from one plan to another, the transferee plan must preserve all forms of distribution that were available under the transferor plan. The anti-cutback rule also provides that, without regard to a transfer, a plan may not eliminate forms of distribution.	<p>An employee may elect to transfer benefits from one defined contribution plan to another without requiring the transferee plan to preserve the optional forms of benefits if the transfer was a direct transfer, the transfer was authorized under the terms of both plans, the transfer was pursuant to a voluntary election by the participant upon receipt of proper notice, and the participant could have elected a lump sum.</p> <p>A form of distribution in a defined contribution plan could also be eliminated if a lump sum distribution is available and such lump sum is based on the same or greater portion of the participant’s account as the distribution form being eliminated. The IRS is directed to issue regulations by the end of 2003 to provide anti-cutback relief so that certain benefit payment options and subsidies can also be eliminated from a plan if it does not adversely affect the rights of any participant in a more than de minimis manner.</p>	2002

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Repeal of Same Desk Rule	In some cases, a distribution to a terminated employee is not allowed if the employee continues performing the same functions for a successor employer (the “same desk rule”). The same desk rule applies to 401(k), 403(b), and 457(b) plans.	The “same desk rule” would be eliminated by replacing “separation from service” in Section 401(k)(2)(B) with “severance from employment”. With respect to a business acquisition, so long as the buyer is not maintaining the seller’s plan with respect to the transferred employees, distribution from the seller’s 401(k) plan will be permitted to the transferred employees. Conforming changes are also made for 403(b) and 457(b) plans.	Applies for distributions after December 31, 2001 regardless of when the severance from employment occurred.
Automatic Rollovers for Involuntary Distributions	A qualified plan may distribute a participant’s vested accrued benefit that doesn’t exceed \$5,000 without the participant’s consent.	If a plan makes an involuntary distribution of more than \$1,000 but less than \$5,000, and the employee does not affirmatively elect to receive cash or make a direct rollover, the default method of payment must be a direct rollover to an IRA. The DOL is directed to issue safe harbor guidance no later than 3 years after the date of bill enactment with respect to the default IRA, so the plan administrator will be relieved of fiduciary liability with respect to such rollover.	Effective after the safe harbor regulations are issued.
Division of 457(b) Plan Benefits upon Divorce	No provision.	Qualified plan rules pursuant to a QDRO will apply to 457(b) plan divorce distributions.	2002
Modification of Minimum Distribution Rules	The IRS requires certain minimum distributions from retirement plans and IRAs starting at age 70 1/2 or retirement (deferral until retirement not permitted for IRAs and 5-percent owners).	The IRS is directed to update current life expectancy tables to reflect current life expectancy.	June 7, 2001
457(b) Minimum Distribution Rules	Special minimum distribution rules are applicable to 457(b) plans in addition to the standard minimum distribution rules.	457(b) plans will satisfy the minimum distribution rules as long as the plan satisfies the requirements of Section 401(a)(9). No other special rules will apply.	2002

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Nondiscrimination Testing Rules

<p>Repeal of Multiple Use Test</p>	<p>In addition to the two nondiscrimination tests applicable to 401(k) salary deferrals and employer match contributions, 401(k) and 401(m) plans must also satisfy the multiple use test, which may limit contributions on behalf of highly compensated employees (HCEs), even if the contributions meet the ADP and ACP tests.</p>	<p>The multiple use test is repealed.</p>	<p>2002</p>
<p>Coverage Test May Disregard Employees of Tax-Exempt Entities</p>	<p>In certain situations, employees of a tax-exempt entity who are covered under a 403(b) plan must be taken into account in determining whether a 401(k) plan or 401(m) plan sponsored by a related entity satisfies IRS coverage rules.</p>	<p>Employees of a tax-exempt entity who are covered under a 403(b) plan may be treated as excludable employees under a 401(k) plan of a related entity for purposes of the minimum coverage rules if (1) no employee of the tax-exempt entity is eligible to participate in such 401(k) plan or 401(m) plan, and (2) at least 95% of the nonexcludable employees who are not employees of the tax-exempt entity are eligible to participate in the 401(k) plan or 401(m) plan.</p>	<p>Plan years beginning after December 31, 1996.</p>
<p>Modification of Top Heavy Rules</p>	<p>A plan is top heavy if at least 60% of plan assets are held by key employees (includes prior distributions to key employees over the past 5 years). Key employees, determined over a 5-year lookback period, generally include officers earning over half the Section 415 defined benefit limit, 5% owners, 1% owners earning over \$150,000 and the 10 employees with the largest ownership (if compensation is in excess of \$30,000). Family members of 5% owners are deemed key employees. Top heavy plans must meet a minimum vesting schedule and make minimum (generally, 3%) top heavy contributions to non-key employees.</p>	<p>Top heavy rules are simplified:</p> <ol style="list-style-type: none"> 1. 5-year lookback to determine key employees modified to a 1-year testing period (data for 4 preceding years ignored); 2. Compensation used to determine officers is increased to \$130,000 (subject to cost-of-living adjustments, in \$5,000 multiples, starting in 2003); 3. Top 10 employee test eliminated; 4. Matching contributions will now count toward satisfying the top heavy minimum contribution requirement and are still counted in the ACP test; 5. 1-year look back instead of 5-year look back applies for adding prior distributions made after termination of service or plan termination; 6. Safe harbor 401(k) and 401(m) plans are exempt from the top heavy rules. and 7. Top heavy minimum accruals are not required under a frozen defined benefit plan. 	<p>Plan years beginning in 2002.</p>

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Repeal of Highly Compensated Employee Transitional Rule	TRA '86 modified the definition of a HCE, but provided limited grandfather relief. 1996 legislation changed the HCE definition.	The TRA '86 grandfather relief is repealed in light of the 1996 legislation changing the HCE definition.	Plan years beginning in 2002.
Excluding Certain Nonresident Aliens in Performing Nondiscrimination Tests	Wages of nonresident aliens working on ships docked in the U.S. are not subject to U.S. tax. However, employer-provided benefits, including retirement benefits, are considered wages for these nonresident aliens. Accordingly, these employees must be counted as employees in nondiscrimination tests.	The recognition of employer-provided benefits for nonresident aliens working on ships docked in the U.S. is no longer considered compensation. These nonresident aliens do not have to be included for purposes of nondiscrimination and other requirements applicable to employee benefit plans.	Plan years beginning in 2002.

Miscellaneous Provisions

Hardship Withdrawal Rules Modified	For hardship distributions that follow the "safe harbor" rules, salary deferral and after-tax contributions are restricted for a period of 12 months following the date of the hardship withdrawal. Also, distributions of 401(k) or 403(b) deferrals received on account of hardship are ineligible for rollover, so the mandatory withholding rules do not apply to such withdrawals. Other monies, such as matching contributions received on account of hardship are eligible for rollover, so the mandatory withholding rules apply.	The mandatory suspension period that follows "safe harbor" hardship distributions is reduced to six months following the date of hardship distribution. Also, all distributions on account of hardship, not just 401(k) or 403(b) deferrals, are ineligible for rollover, so the mandatory withholding rules do not apply to any withdrawals on account of hardship.	2002
Faster Vesting of Employer Matching Contributions under Non-Top Heavy Plans	Matching contributions must be fully vested after the employee has completed either: <ul style="list-style-type: none"> • 5 years of service (5-year cliff schedule), or • Vesting in increments of 20 percent for each year beginning with the third year, with full vesting after the employee has completed 7 years of service (7-year graded schedule). 	Matching contributions would be required to vest at least as quickly as under either one of the top heavy vesting schedules. The top heavy schedules require either: <ul style="list-style-type: none"> • 100% vesting after 3 years of service (3-year cliff), or • Vesting in increments of 20 percent for each year beginning with the second year, with full vesting after the employee has completed six years of service (6-year graded schedule). The accelerated vesting rule applies to someone who has at least one hour of service credited after the effective date of this rule, and applies to contributions from plan years beginning 2002.	Generally, applies to contributions for plan years beginning in 2002. Collectively bargained plan contributions may be subject to a later effective date.

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Plan Loans for Business Owners	Plans may make loans to participants but prohibited transaction rules prevent sole proprietors, partners and Subchapter S Corporation shareholders from taking participant loans.	Allows participant loans to sole proprietors, partners, and Subchapter S Corporation shareholders. Loans for this group are no longer a prohibited transaction.	2002
User Fee Waived for New Plans	IRS charges a user fee for determination letter requests by all employers.	New plans established by employers with 100 or fewer employees would not be required to pay a user fee for determination letter requests filed within the first 5 plan years (or the end of the current remedial amendment period with respect to the plan beginning within such 5 plan years, if longer).	Effective for determination letter requests filed after December 31, 2001.
Tax Credits for New Small Employer Plan Expenses	No provision.	Small businesses with 100 employees or less will be eligible for an annual tax credit of 50% up to \$1,000 of administrative costs for the first three years of a new plan. Credit is only available if at least one non-highly compensated employee is participating.	Effective for plans established after 2001.
Tax Credits for Lower Income Savers	No provision.	In addition to the tax deduction for plan contributions, eligible persons will receive a non-refundable tax credit on the first \$2,000 in contributions to an IRA, 401(k), 403(b), SIMPLE, SEP or 457 plan. Those with gross income of less than \$30,000 are eligible for a 50% credit. Joint filers with adjusted gross income between \$30,000 and \$32,500 are eligible for a 20% credit. A 10% tax credit is available for joint filers with income between \$32,500 and \$50,000. The income threshold for single filers is 1/2 the threshold for joint filers.	Effective in 2002 and expires in 2006.
Modification of Section 204(h) Notice Requirements	Participants in a defined benefit or money purchase plan must be notified in writing of a plan amendment reducing future benefit accruals at least 15 days before such amendment takes effect.	Participants in such plans must be given a written notice of any plan amendment significantly reducing future benefit accruals within a reasonable period of time before the amendment takes effect. The notice can be provided before the amendment is actually adopted by the employer if no material modification of the amendment occurs before it is adopted. Failure to provide the notice will subject the employer to an excise tax equal to \$100 per day per omitted participant. For failures where reasonable diligence was exercised, the excise tax will not exceed \$500,000 in any given year.	Effective for amendments following the date of the enactment of the new law. Notice effective date is 3 months after new law enactment date.

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Pension Coverage for Domestic Workers	Employers of household workers can establish pension plans for their workers but contributions are not deductible and are subject to an excise tax.	The 10% excise tax on nondeductible contributions will not apply to contributions to a SIMPLE plan or a SIMPLE IRA that are nondeductible solely because the contributions are not made in connection with an employer's trade or business.	2002
Investment of Salary Deferral Contributions in 401(k) plans	Certain 401(k) plans are required to limit the investment of salary deferral contributions in employer stock or real property of the employer to no more than 10% of plan assets.	The provision preventing no more than 10% of salary deferrals from being invested in employer securities or real property is clarified as not applying to salary deferrals invested in qualifying employer securities or qualifying real property if the assets were acquired before January 1, 1999.	Effective retroactively.
Prohibited Allocation of Stock in an ESOP of an S Corporation.	An S Corporation may establish an ESOP. The income of an S Corporation allocable to an ESOP is not subject to tax.	If there is a "prohibited allocation" of stock in an ESOP sponsored by an S Corporation, an excise tax would be imposed on the corporation, and the value of the stock allocated would be includible in the gross income of the employee receiving the allocation. For purposes of this rule, a prohibited allocation generally would be an allocation to an individual who owns at least 10% (20% in some cases) of the outstanding stock of the S Corporation.	Effective for plan years after 2004 with earlier effective dates for certain plans.
ESOP Dividend Reinvestment	Dividend deductions are generally allowed on dividends paid on employer stock held by an ESOP if dividends are paid in cash. The deduction is denied if the dividends remain in the ESOP for reinvestment.	Employers can 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 qualified employer securities.	Effective for taxable years beginning in 2002.
Treatment of Employer-Provided Retirement Advice	Employer-provided retirement advice is generally not considered income to the employees, although uncertainty currently exists.	Clarifies that retirement advice provided to employees on an annual basis will be a nontaxable fringe benefit to the extent such services are made available on substantially equivalent terms to a reasonable classification of employees.	2002

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Defined Benefit Plan Provisions

Section 415(b) Maximum Dollar Limitation	The maximum annual benefit under a defined benefit plan is the lesser of 100% of the participant's 3-year high compensation or \$140,000 (or less for pre-65 retirees). The dollar limit is indexed annually for inflation in increments of \$5,000.	For ages 62-65, the maximum dollar limit is \$160,000 per year, and is then indexed in \$5,000 increments each year. No annual benefit reduction for retirement ages 62-65. Reduction to the limit will only apply before age 62 and an increase in the limit will apply to benefit commencements after age 65.	2002
Repeal of Current 150% Liability Funding Limit	Contributions to a defined benefit plan are not tax deductible to the extent that plan assets exceed the lesser of (1) 160% of the plan's current liability or (2) 100% of the accrued liability. The current limit is scheduled to increase to 170% by 2005.	The limit will increase to 165% in 2002, and 170% in 2003. For plan years beginning after December 31, 2003, the current liability full funding limit is repealed.	Plan years beginning in 2002.
Nondeductible Excise Tax	A 10% excise tax is imposed on employers who make nondeductible contributions to qualified plans.	If the employer so elects, the 10% excise tax on nondeductible contributions will no longer apply to any contributions to a defined benefit plan up to the accrued liability full funding limit.	Plan years beginning in 2002.
Modification of Timing of Plan Valuations	The valuation date for a defined benefit plan for a plan year must generally be in the same plan year.	Defined benefit plans will be permitted to use a valuation date up to one year prior to the beginning of the plan year. This provision is not available to an underfunded plan.	Plan years beginning in 2002.
Modification to Section 415 limit for Multiemployer Plans	Under 415(b), the maximum annual benefit under a defined benefit plan is the lesser or \$140,000 or 100% of the 3-year average high compensation. Multiemployer plans are not aggregated with other multiemployer plans, but can be aggregated with a plan that is not a multiemployer plan.	Multiemployer plans are exempt from the 415(b) percentage of compensation limit (the dollar limit will still apply). Multiemployer plans will not be aggregated with single employer defined benefit plans for purposes of applying the percentage of compensation limitation.	Plan years beginning in 2002.
Purchase of Service Credit in Government Defined Benefit Plan	State and Local government employees have the option of purchasing credit for prior service. Funds in their 403(b) or 457(b) plan cannot be used to purchase service credits under governmental defined benefit plans.	State and Local government employees can use funds from their 403(b) or 457 plan to purchase service credits under their defined benefit plan.	2002

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<p>Clarification of Treatment of Employer Contributions to a Multiemployer Plan</p>	<p>Employer contributions may be deducted in the taxable year in which the contribution is actually made but a special rule also permits the employer to take a deduction for the prior taxable year for a contribution that is deemed to have been made on the last day of the preceding taxable year if the contribution is attributable to the preceding year and is made before the deadline for filing the employer's tax return (including extensions).</p>	<p>A determination regarding the taxable year for deducting a multiemployer pension plan contribution is not considered a method of accounting. The Treasury may issue regulations to clarify that no taxpayer may deduct more than it actually contributed to a multiemployer plan during a taxable year.</p>	<p>Plan years beginning in 2002.</p>



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