



Compliance Advisory

December 2008

Annual limits increase for Puerto Rico plans

On August 7, 2008, the governor of Puerto Rico signed into law Act 186 to increase annual limits on employee pre-tax deferrals to plans qualified under the Puerto Rico Internal Revenue Code (PRIRC). These developments impact “dual-qualified plans” (plans that are qualified under both the PRIRC and the United States Internal Revenue Code), as well as plans qualified solely under the PRIRC. These developments do not affect plans that are qualified solely under the United States Internal Revenue Code (U.S.-qualified plans) that have Puerto Rican participants.

Change effective for 2008

For the past 11 years, the basic Puerto Rico pre-tax deferral limit has remained at the lesser of 10% of a participant's compensation for the taxable year, or \$8,000.

Effective immediately, the law eliminates the 10% of compensation limit, leaving the pre-tax contribution limit of \$8,000 for 2008.

Pre-tax contribution limits for future years

For future plan years, the law makes a couple of additional increases to the pre-tax deferral limit.

- For 2009 and 2010 taxable years, the pre-tax deferral limit will be \$9,000.
- For 2011 and 2012 taxable years, the pre-tax deferral limit will be \$10,000.
- For 2013 and later taxable years, the pre-tax deferral limit will be \$11,000.

These limits are reduced by any amounts the participant contributed to a Puerto Rico IRA or another Puerto Rico qualified plan for the year.

In addition to making pre-tax deferrals up to the above stated limits, participants age 50 or older may be able to contribute catch-up contributions, if the plan allows. In May 2006, the Puerto Rico legislature enacted a law permitting Puerto Rico qualified plans to offer catch-up contributions to Puerto Rico participants age 50 or older. The catch-up contribution limit for 2007 and later years is \$1,000.

Next Steps

Plan sponsors of dual-qualified plans and plans qualified solely under the PRIRC that wish to take advantage of the increased limits should review their plan documents and summary plan descriptions to determine if any amendments are needed. Plan sponsors of Puerto Rico qualified plans should also review their administrative procedures to ensure limits are being monitored appropriately.

This information is an overview of recent developments. It is not intended to be legal advice. Sponsors of Puerto Rico qualified plans should discuss these issues with their own legal counsel to the extent they deem appropriate.

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