

• November/December 2005 •

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Getting Ready For 2006: New Retirement Plan Benefit and Contribution Ceilings

Are you putting aside as much as possible for your retirement? Some of the rules have changed for 2006.

For 2006, eligible taxpayers may contribute up to a combined total of \$4,000 (the same limit as in 2005) to all Individual Retirement Accounts ("IRA"), whether traditional or Roth.


For 401(k) plans, 403(b) annuities (for employees of public schools and 501(c)(3) organizations), section 457 plans (for employees of state or local governments or tax-exempt organizations) and SARSEPs (salary reduction simplified employee pensions), the employee's 2006 contribution is \$15,000 (up from \$14,000 for 2005). For SIMPLE (Savings Incentive Match Plan for Employees) plans, the 2006 salary reduction limit is \$10,000 (which did not change from 2005).

Employer plan limits have increased. For **defined contribution** plans, the annual addition may be up to 100% of an employee's compensation, but not more than \$44,000 for 2006 (up from \$42,000 in 2005). In defined contribution plans, contributions are based on

a percentage of the participant's annual compensation.

For **defined benefit** plans, the annual benefit limit increases from \$170,000 to \$175,000 in 2006. Defined benefit plans are retirement plans where contributions are not fixed but are actuarially determined to produce a certain benefit at retirement.

For both defined contribution and defined benefit plans, the limit on compensation that may be taken into account when determining the 2006 plan contribution increases from \$210,000 to \$220,000.

Taxpayers who are at least 50 years old by the end 2006 may contribute even more to certain retirement plans. For IRAs, the extra amount for 2006 is \$1,000, resulting in a total taxpayer contribution limit of \$5,000. For SIMPLE plans, the extra amount is \$2,500, resulting in a total contribution of \$12,500. For other elective deferral plans – including 401(k)s, 403(b)s, section 457 plans and SARSEPs – the extra allowable contribution is \$5,000, resulting in a total contribution limit for 2006 of \$20,000. 

Notable and Quotable

Congratulations to:

- Partner **Andy Vuono**, who was named to the "Who's Who Among Accountants" by the *Long Island Business News*.
- Director of Marketing Communications **Flo Federman**, who was named among the "2005 Marketing Achievers" by the *Long Island Business News*.

Tax Partner **Alan E. Weiner** represented the Suffolk County Bar Association at a meeting with high level NYS tax officials at the New York State Tax Liaison Meeting in Albany. The topics included mandatory electronic filing for the 2006 tax season, new tax shelter legislation, sales tax audits, and collection procedures.

Partner **Joel Podgor** recently spoke at New York Law School on the role of the forensic accountant.

Tax Manager **Joel Ackerman** edited the "Tax Clinic" section of the October issue of *The Tax Adviser*, the national magazine of the American Institute of CPAs ("AICPA"). Senior Tax Manager

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Did you know school tuition may be a medical deduction?

To find out more, turn to page 3!

Social Security Employment Tax Update – 2006; Nanny Tax Reminder

Taxable earnings:

The Social Security Administration recently announced a \$4,200 increase in 2006 taxable earnings subject to FICA and self-employment tax. Although the total tax rates will remain unchanged, the maximum amount of taxable earnings that are subject to the Social Security tax (at 6.2% for an employee and 12.4% for a self-employed person) will increase from \$90,000 to \$94,200.

As in 2005, there is no limit on earnings subject to the Medicare tax (at 1.45% for an employee and 2.9% for a self-employed person).

In summary, the combined tax rate on the first \$94,200 of earnings will be 7.65% for employees (plus a matching 7.65% by the employer) and a 15.3% self-employment tax rate; however, self-employed individuals may deduct one-half of their self-employment tax, resulting in an effective rate of approximately 12%. For example, on a salary of \$94,200, an employee and his employer each would pay \$7,206 in Social Security and Medicare tax in 2006. For self-employed individuals, \$94,200 in net earnings would result in \$14,413 in Social Security and Medicare tax.

“Nanny” tax:

During 2005 if you paid a household employee \$1,400 or more in cash wages in the calendar year, you may withhold the employee’s share (7.65%) of social security from the household employee.

Household employees include not only “nannies,” but also housekeepers, maids, babysitters, gardeners and others who work in and around your private residence. Repairmen, plumbers and contractors are not included, as they are not considered your employees. For 2006, the wage threshold for household employers to withhold these taxes will increase to \$1,500 from \$1,400 this year. Additionally, household employers are required to pay Federal unemployment tax if they pay total cash wages of \$1,000 or more in any calendar quarter of the current or preceding year to household employees.

These taxes are paid to the IRS along with your 2005 Federal income tax return. You also must provide the employee with Form W-2 by January 31, 2006 and to the IRS by February 28, 2006.

It is also important to note that the law still requires employers who live in New York and pay wages of \$500 or more in any calendar quarter to file quarterly unemployment insurance returns.

Keep in mind that in New York, worker’s compensation and disability insurance also are required for a household employee who is employed for at least 40 hours per week by any one employer.

Caution: Other states have similar requirements.

For more information, contact Staff Accountant Ann Kaplan at 631-752-7400 x-259 or AKaplan@hrrllp.com. 

CyberNotes


50States.com

What is New York’s motto? When did Iowa become a state? What’s the capital of Texas?

Find out this and more at 50States.com. This website brings together a tremendous amount of information about the states, districts, commonwealths, and territories of the U.S. Look up the basics such as population, the state’s flag, flower or bird. You can also find more obscure facts including the State’s official soil. The site contains thousands of facts and links to many supporting websites to find out all you wanted to know – and more – about the 50 states.

(Answers: “Excelsior,” 1846; Austin)

VolunteerMatch.com

If you’d prefer to give time rather than money visit VolunteerMatch.com. The site contains many volunteer opportunities in categories like hunger, seniors, or education. It’s as simple as typing in your zip code to find nearby opportunities, including fundraiser participation, language interpretation services, and environmental data collection to monitor health. Don’t forget to sign up for the monthly newsletter to keep informed about seasonal opportunities. 

Timeliness of Employee Contributions to 401k Plans

Employee benefit plans, such as 401(k) plans, that allow employees to contribute amounts representing salary reductions from paychecks, must deposit such contributions in a timely manner. U.S. Department of Labor (“DOL”) Regulations indicate that employee withholdings become assets of a plan on the earliest date they can be reasonably segregated from the employer’s general assets, but in no event later than the 15th business day of the month following the month in which the contributions were withheld (90th day in the case of welfare benefit plans).

The DOL has indicated that compliance with the 15th business day limit is not a safe harbor, and employers who can reasonably deposit withholdings sooner must do so. The date that employee withholdings can be reasonably segregated from an employer’s general assets is partially dependent upon the controls and procedures in place at the employer. In many cases, these deposits can be segregated and deposited the day of (or shortly after) each payroll date. Accordingly, monthly deposits may not be considered timely if payroll is processed more frequently (bi-weekly, weekly, etc.).

A delinquent deposit of participant contributions is considered a nonexempt prohibited transaction under the Employee Retirement

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School Tuition May be a Deductible Medical Expense

(Note: This article, written by Kirk Sinclair, appeared in The Tax Adviser and the Journal of Accountancy, both of which are AICPA national publications.)

Tuition payments made to a school with a program for children with dyslexia qualifies as a deductible medical expense. A recent IRS ruling widens, ever so slightly, the definition of what kinds of payments qualify as medical expenses for the purposes of a tax deduction.

In the recent case, the taxpayer's two children were both diagnosed with disabilities caused by medical conditions, including dyslexia, which handicapped their ability to learn. The taxpayer enrolled the children in a school that provided each child with a program of special education designed to enable them to deal with their medical condition.

The IRS ruled that the children were attending the school principally to receive medical care in the form of special education. Therefore, the school's tuition may be deducted as a medical expense for the years the children continue to be diagnosed as medically handicapped (which, in this case, included dyslexia).

The IRS says that "normal education" is not medical care because it is not designed to overcome a medical disability. For education to be medical care, a physician or other qualified professional must diagnose a medical condition requiring special education to correct that condition. Though a school need not employ doctors, the school must have professional staff competent to design and supervise a curriculum providing medical care.

This ruling expands our notion of the types of tuition payments that may be deductible as medical expenses. It refutes the presumption that educational institutions must be "special schools" in order for their tuition payments to be deductible.

There are some inherent requirements, including:

- A principal purpose for attending the institution must be medical care
- The institution's program must be designed and administered by qualified professionals for the purposes of treating the individual's medical condition
- Regular education must be incidental, in order to claim the full amount of tuition as a medical deduction

For example, if a student is blind and he or she attends a school established for the purposes of teaching the blind to read Braille, a taxpayer would be entitled to claim a deduction for tuition payments. However, if the student is diagnosed by a doctor as having a hyperactivity disorder and attends a school for the musically talented, with only a general program for children with this kind of disability, the IRS may challenge the deductibility of those tuition payments.

Transfer-on-Death Registration ("TOD")

As a result of legislation enacted this summer, New Yorkers now will be able to pass on their brokerage firm and mutual fund investments without the necessity of Surrogate probate proceedings. This will eliminate the costs associated with the probate process on the specifically designated accounts. The effective date of this legislation is January 1, 2006. Connecticut and New Jersey previously have enacted this legislation and their residents, along with the residents of all but two states, now have the ability to utilize the TOD.

Prior to this legislation, the process of passing on these assets to your beneficiaries included complicated procedures of probating a will with the Surrogate's Court by an attorney. Now you need only re-register your accounts with your broker or mutual fund by obtaining and completing a TOD form. Upon your demise, the accounts with these registrations will automatically pass to your named beneficiaries.


CAUTION: The accounts will pass to your heirs with no strings attached, as the owner will not be able to set conditions as he/she can do with the use of a Trust or in their will. But this could also create a disadvantage. If you prefer to pass assets to your heirs with the stipulation that it should be passed to a trust for the next generation or if you want to control the age at which beneficiaries receive their inheritance, you will not be able to accomplish this with a TOD.

For an estate with only brokerage or mutual fund accounts, the savings can be considerable and the process of transfer will be immediate. If all of your assets are in accounts that are designated as TOD, the beneficiaries must know that they still have the obligation to pay any Estate Tax. This can be a problem if there are beneficiaries that are estranged from one another. However, the application contains a provision that in the event the broker or mutual fund received notification that the assets are not sufficient to pay estate taxes, distributions will be reduced by the percent to each beneficiary that the transferor designated in the TOD application.

If you think that this fits your criteria, speak to us before you fill out these forms, which are now available from your broker or mutual fund. They require that if the funds will pass to other than the spouse of the transferor, the spouse must give consent to the transfer. The TOD application can be for an individual or individuals only. Therefore, it is acceptable for joint accounts with the right of survivorship but not tenants in common, and the TOD must be signed by the joint owners.

If you have questions regarding how and whether this will affect you, contact Partner Martin J. Salzman at (212) 697-6900 or MSalzman@hrrllp.com. 

Remember that medical expenses are subject to a percentage limitation; they are deductible only to the extent they exceed 7.5% of a taxpayer's adjusted gross income.

For more information, contact Staff Tax Accountant Kirk Sinclair at 631-752-7400 x-287 or KSinclair@hrrllp.com. 

Encourage Your Employees to Create Personal Marketing Plans

By Flo Federman

The best businesses have marketing plans – the written document that focuses its efforts and helps it reach its long-term goals. Following logic, shouldn't the best business *people* also have marketing plans as well?

A business marketing plan defines long-range goals and specifies the steps it will take to get there. Ideally, a thoughtful marketing plan is the cornerstone of every business. It follows that *personal* marketing plans should be the basis for your employee's career success.



Flo Federman

Your employee should first answer some questions: Where you want to be in 20 years. Are you still working, or retired? What is your annual revenue? Do you travel? Do you work weekends? The answers to these questions will go a long way to defining personal goals.

The next step is getting there, and that is where a personal marketing plan is vital. Like a business plan, the personal marketing plan is a written document containing specific items:

Marketing Objective

The marketing objective defines what you want to accomplish. It can contain *quantifiable* goals ("I will bring in \$50,000 in new business this year") and *qualitative* goals ("I will become a recognized expert in my field"). The marketing objective is the driving force behind all of the activities you plan.

Activity Goals

Activity goals are the specific steps or accomplishments that will allow employees to achieve their marketing objective. What will they need to do to succeed? If the objective is to increase your annual revenue, the goal could be to meet three new potential business referral sources.

My Services (or Products)

This is simply a listing of the primary

services or products that your employee can offer to the marketplace.

Target Market

A complete personal marketing plan includes a listing of potential clients. If you could "google" the kinds of individuals or companies that could use the services or products you can provide, what would you type in the search box?

Action Plan

Now that you have a list of goals, what will you do to achieve them? This is where your employee determines how to spend his/her time and efforts. To help meet objectives, list out the specific number of phone calls, meetings, speeches or interviews that you will strive for, on a weekly, monthly, or quarterly basis. Refer back to the target market and determine the best strategy to contact them.

Contacts List. Exactly who is it that can help achieve your marketing goals? These are the people who should be on your contact list – those in your industry, friends, neighbors, relatives, former classmates, fellow board members, and anyone else who can lead to new business.

Once the employee has a list, he/she should rate the *quality* of his/her relationship with each. Those with whom you are very familiar, and who have already brought you new business or advanced your goals would be your highest-rated contact – an "A." "B" contacts are those you are friendly with, who have the potential to advance your goals. "C" contacts are those who show some potential, and whose relationship you wish to develop further. "D" contacts are those with whom you have only a passing acquaintance. Use technology (Microsoft Outlook, PDAs, etc.) to set reminders for yourself to meet regularly with your contacts, so that ultimately you can turn a "D" contact into an "A."

Networking. Scanning a crowded room for a familiar face is *not* the best way to network. If you are sending your employee to a networking event, have them do some advanced legwork. Decide who you want to meet (or the *kinds* of people to meet) in advance. Don't devote too much time speaking with someone who will not advance your goals in any way. The cocktail reception

is the ideal time to network. Once the dinner/program/presentation begins, the mingling ends. Encourage employees not to sit at the same table as co-workers. And once the evening is over, throw out useless business cards. Commit to setting up a follow-up meeting with current or potential contacts.

Seminars, Speeches, Presentations.

There is no better way to prove your expertise than to actually demonstrate what you know. Once the session is over, send follow-up information to attendees, since you know they are interested in what you can provide to them.

Articles, Newsletters, Books, Blogs.

This is another way to prove your expertise as well as reach out to your target audience, increase name recognition, and develop new business contacts.

Media Relations. How many times have you seen an industry expert quoted in a newspaper article and thought, "I could have done that." Your action plan could include a commitment to improving your relationship (or setting up an initial meeting) with the print, TV, radio, and internet journalists who cover your business.

Timeline

For every goal in your Action Plan, include a deadline to achieve it. Introducing a time element to your action plan will allow your employees to become more organized, prevent procrastination, and commit to achieving their objectives.

Evaluation

The final piece of a good personal marketing plan is the evaluation. How well did the employee do in meeting his/her objectives? You might find that your goals aimed too low, and that you underestimated yourself. Or, you could determine that you tried to do too much and convert your one-year plan into a three-year plan. Your best employees should devise a method of monitoring results and adjust the plan where necessary.

Encourage personal growth in your employees and you encourage in them company gratitude and loyalty. For more information, contact Director of Marketing Communications Flo Federman at 631-752-7400 x-212 or FFederman@hrrllp.com

Tax Trap! Year-End Purchase of Mutual Funds

This December, mutual funds are expected to make their largest year-end capital-gains payouts since 2000; therefore, many people should be careful before purchasing mutual funds for taxable accounts between now and the end of the year.


Fund companies usually distribute all of their capital gains and dividends at year-end, and you could be taxed on the payout without enjoying any increase in the value of your investment.

Generally, the gains are taxable unless you are investing for an individual retirement account or some other tax-deferred account. Before investing, call the fund and ask about its payout dates. If a large distribution is coming soon, consider waiting until after the record date to invest for taxable accounts.

For more information, contact Tax Manager Michael Chen at 212-697-6900 or MChen@hrrllp.com. 

Reminder: Form 1099-Misc

To report certain payments made in the course of your trade or business for 2005, you are required to file Form 1099-Misc by February 28, 2006.

Now is the time to start gathering information needed to prepare the form, such as names, addresses, and, most importantly, the recipient's social security number or employer identification number. 


Holtz Rubenstein Reminick: Fastest Growing Accounting Firm in America



Recently the firm was honored to learn that it was named the "Fastest Growing Accounting Firm in America."

Public Accounting Report ("PAR"), the independent newsletter of the accounting profession, singled out the firm as the nation's growth leader after an increase in revenue from the previous year of nearly 110 percent. The firm's triple-digit growth is attributable to the mergers between Holtz Rubenstein & Co. and Reminick, Aarons & Co. in 2004, and Rand Consulting in 2005, as well as organic growth within the firm.

"Being the fastest growing accounting firm in America, while a great achievement, has not changed the way we service our clients," said Managing Partner Frank Candia. "Since the mergers, we have seen a lot of growth in our firm and that growth is enabling us to continue to do what we do best, provide a level of client satisfaction that few of our competitors can match."

The firm also recently was recognized as one of the "Top 50 Best Managed Accounting Firms in America" by Inside Public Accounting and "Top 25 Largest Accounting Firms in New York" by *Crain's New York Business*. 

Attention Tenants, Landlords, Contractors: Move to Lower Manhattan!


Just recently, legislation was enacted that provides New York State sales tax incentives for businesses to locate or relocate their offices in Lower Manhattan. A New York State Department of Taxation and Finance memorandum explains the new state and local sales and use tax exemptions for certain purchases of tangible personal property and services related to newly leased Lower Manhattan commercial office space (as opposed to ground leases) of 10 years or more commencing after September 1, 2005.

Certain provisions of the tax exemptions differ based on the location of the leased premises in two specific eligible areas. The first area (Eligible Area A) consists of a broad area of Lower Manhattan below City Hall. The second area (Eligible Area B) consists of the World Trade Center site, the World Financial Center and the Battery Park City area. The exemptions provided for in Eligible Area B are broader in scope and longer in duration than those provided for in Eligible Area A.

The exemptions apply to the state and local sales and use taxes imposed in New York City, including the additional tax imposed by the state within the Metropolitan Commuter Transportation District (MCTD), or 8 3/8%.



Note: Not all lower Manhattan areas are eligible.

If you would like more information pertaining to the type of property and installation service exempt from sales and use tax and the procedures to follow, please contact Senior Tax Manager Sid Leibowitz at 631-752-7400 x-265, or at SLeibowitz@hrrllp.com. 

More and More Taxpayers Will Succumb to the AMT

The Alternative Minimum Tax (“AMT”) was designed to prevent taxpayers from obtaining an excessive benefit from special exemptions, deductions, credits, and similar items available under the “regular” income tax rules. At the time, the intent by Congress was to ensure that taxpayers paid their fair share of income tax. However, the AMT was not indexed for inflation, as were the regular-tax brackets, standard deductions, and personal exemptions. Unfortunately, more and more taxpayers will become subject to the AMT if legislation is not passed to correct this oversight. In 2004, only 3 million taxpayers were subject to the AMT. In 2006 that number is estimated to rise to 21 million.


The taxpayers most likely to be subject to the AMT are married taxpayers filing joint returns primarily because prior legislation has given them more reductions in their income tax liabilities than other taxpayers. Taxpayers with large families also will become increasingly subject to the AMT because the AMT disallows personal exemptions. Also, taxpayers who reside in states with high income taxes, such as New York, New Jersey, Connecticut, and California will become subject to the AMT, as these large itemized deductions are not allowed under the AMT.

A recent Congressional Report concluded that while the AMT was designed to ensure that the wealthy pay at least a minimum amount of federal income

tax, they would not be the group hit hardest by its effects. High-income taxpayers face higher marginal tax rates than the average taxpayer does – their top marginal tax rates are 33% and 35%. The highest AMT rate is only 28%. Furthermore, personal exemptions, which are disallowed under the AMT, usually are already phased out for high-income taxpayers. Finally, high-income taxpayers generate a large portion of their income from capital gains and dividend income, which are taxed at a maximum 15% rate.

One of Congress’ main concerns about correcting the AMT is a loss of tax revenue. President Bush has stated that he wishes to lower tax rates and reduce taxes on investment income. He promised to leave deductions for mortgage interest and charitable contributions.


The latest? In November, President Bush’s Advisory Panel on Federal Tax Reform issued a recommendation that the AMT should be repealed and rates slightly lowered on ordinary income. They also recommend limiting most deductions including those for home mortgage interest and for state and local income taxes.

Those subject to the AMT may realize no benefit of any reform if the state tax deduction were not preserved. Even more worrisome is the fact that those not subject to the AMT will lose their second largest itemized deduction. 

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Timeliness of Employee Contributions to 401k Plans

Income Security Act of 1974 (“ERISA”). Delinquent contributions may be corrected by following the procedures and corrective remedies outlined in the DOL’s Voluntary Fiduciary Correction Program (“VFCP”).

The employer will generally need to restore lost earnings for the period to the plan and may be subject to excise taxes. Under certain circumstances, relief from the excise taxes may be available under the VFCP. 

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Notable and Quotable

Barry Nagler and Tax Accountant **Kirk Sinclair** wrote articles included in the issue.

In addition, Joel continues his presentation tour on Cost Segregation for commercial real estate, most recently with presentations to Coldwell Banker and CW Post.

Marketing Coordinator **Christine Itwaru** models on the side, most recently during New York’s Fashion Week, and in a show in San Francisco.


The firm welcomes the following new staff:

To our New York office:

- **Michelle Gugliaro**, a senior auditor.
- **Maria Lazo**, a senior in the wealth management department.
- And on the entry-level, auditors **Denise DaCosta**, **Richard Goldenberg**, **Eduardo Rodriguez**, and **Frank Rullo** and tax staffer **Cindy Sang**.

To our Long Island office:

- **Melissa Portelli**, a senior auditor.
- **Linda LaBarbera**, a semi-senior auditor.
- Entry-level auditors **Thomas Bisceglie**, **Jennifer Calabrese**, **Lisa Castro**, **Bobbianne Gennaro**, **Ionut Ghira**, **Christine Kern**, and **Hector Vasquez**, and tax staffer **Veronica Valdez**.
- From the Litigation and Valuation Consulting group, para-professional **Lisa Perez** and administrative assistants **Edith Dixon** and **Tracey Sommerville**.

Staff members in the NY and LI offices traded in their business casual-wear for jeans during a Dress Down Day that raised over \$1,200 for the Salvation Army’s Katrina Relief Fund. 

To change contact information for the HRR Adviser, please contact us at info@hrrllp.com.

DFK Firm Spotlight: Kopitz Schätz Hasenclever + Partner

DFK International is the worldwide association of independent accounting and business advisory firms in which Holtz Rubenstein Reminick is actively involved. Through our affiliation, we are able to provide enhanced services to you and to other clients throughout the United States and the world.

This issue we spotlight a member firm in Stuttgart, Germany. We invite you to visit them at www.kshp.de/english. 