

ally adjust these limits for cost-of-living increases. Other limitations applicable to deferred compensation plans are also affected by these adjustments. Many of the limitations will change for 2007. For most of the limitations, the increase in the cost-of-living index met the statutory thresholds that trigger their adjustment. For example, the limitation under § 402(g)(1) on the exclusion for elective deferrals described in § 402(g)(3) is increased from \$15,000 to \$15,500. This limitation affects elective deferrals to section 401(k) plans and to the Federal Government's Thrift Savings Plan, among other plans.

Cost-of-Living limits for 2007

Effective January 1, 2007, the limitation on the annual benefit under a defined benefit plan under § 415(b)(1)(A) is increased from \$175,000 to \$180,000. For participants who separated from service before January 1, 2007, the limitation for defined benefit plans under § 415(b)(1)(B) is computed by multiplying the participant's compensation limitation, as adjusted through 2006, by 1.0334.

The limitation for defined contribution plans under § 415(c)(1)(A) is increased from \$44,000 to \$45,000.

The Code provides that various other dollar amounts are to be adjusted at the same time and in the same manner as the dollar limitation of § 415(b)(1)(A). These dollar amounts and the adjusted amounts are as follows:

The limitation under § 402(g)(1) on the exclusion for elective deferrals described in § 402(g)(3) is increased from \$15,000 to \$15,500.

The annual compensation limit under §§ 401(a)(17), 404(l), 408(k)(3)(C), and 408(k)(6)(D)(ii) is increased from \$220,000 to \$225,000.

The dollar limitation under § 416(i)(1)(A)(i) concerning the definition of key employee in a top-heavy plan is increased from \$140,000 to \$145,000.

The dollar amount under § 409(o)(1)(C)(ii) for determining the maximum account balance in an employee stock ownership plan sub-

ject to a 5-year distribution period is increased from \$885,000 to \$915,000, while the dollar amount used to determine the lengthening of the 5-year distribution period is increased from \$175,000 to \$180,000.

The limitation used in the definition of highly compensated employee under § 414(q)(1)(B) remains unchanged at \$100,000.

The dollar limitation under § 414(v)(2)(B)(i) for catch-up contributions to an applicable employer plan other than a plan described in § 401(k)(11) or 408(p) for individuals aged 50 or over remains unchanged at \$5,000. The dollar limitation under § 414(v)(2)(B)(ii) for catch-up contributions to an applicable employer plan described in § 401(k)(11) or 408(p) for individuals aged 50 or over remains unchanged at \$2,500.

The annual compensation limitation under § 401(a)(17) for eligible participants in certain governmental plans that, under the plan as in effect on July 1, 1993, allowed cost-of-living adjustments to the compensation limitation under the plan under § 401(a)(17) to be taken into account, is increased from \$325,000 to \$335,000.

The compensation amount under § 408(k)(2)(C) regarding simplified employee pensions (SEPs) is increased from \$450 to \$500.

The limitation on deferrals under § 457(e)(15) concerning deferred compensation plans of state and local governments and tax-exempt organizations is increased from \$15,000 to \$15,500.

The compensation amounts under § 1.61-21(f)(5)(i) of the Income Tax Regulations concerning the definition of "control employee" for fringe benefit valuation purposes is increased from \$85,000 to \$90,000. The compensation amount under § 1.61-21(f)(5)(iii) is increased from \$175,000 to \$180,000.

The limitation under § 408(p)(2)(E) regarding SIMPLE retirement accounts is increased from \$10,000 to \$10,500.

Administrators of defined benefit or defined contribution plans that have received favorable determination letters should not request new determination letters solely because of yearly amendments to adjust maximum limitations in the plans.

Drafting Information

The principal author of this notice is John Heil of the Employee Plans, Tax Exempt and Government Entities Division. For further information regarding the data in this notice, please contact the Employee Plans' taxpayer assistance telephone service at 1-877-829-5500 (a toll-free call) between the hours of 8:30 a.m. and 4:30 p.m. Eastern time Monday through Friday. For information regarding the methodology used in arriving at the data in this notice, please contact Mr. Heil at 1-202-283-9888 (not a toll-free call).

Guidance on Withholding and Information Reporting on Foreign Persons, Including Guidance on Certain Book-Entry Systems

Notice 2006-99

SECTION 1. PURPOSE

This notice provides guidance on withholding and information reporting on foreign persons and includes guidance on certain book-entry systems in foreign countries.

This notice provides clarification on whether bonds held through certain book-entry systems are treated as in registered or in bearer form under Treas. Reg. §§ 5f.103-1(c) and 1.871-14. It concludes that a dematerialized bond that can be held and transferred only through a book-entry system is in registered form, when a holder may only obtain a physical certificate in bearer form if the clearing organization that maintains the book-entry system goes out of business without a successor. Notwithstanding the clarification set forth in this notice, obligations that are outstanding prior to January 1, 2007, and that were issued in compliance Treas. Reg. § 1.163-5(c)(2)(i)(D) (TEFRA D)

may continue to be treated as obligations in bearer form until the obligations mature.

Further, this notice announces that the IRS and Treasury intend to issue regulations providing that section 1.871-14(e) of the regulations, dealing with foreign targeted registered obligations, will not apply to obligations issued after December 31, 2006, except in limited circumstances. The regulations will provide that the rules of section 1.871-14(e) will apply to obligations issued after December 31, 2006, and before January 1, 2009, but only if those obligations have a stated maturity of no more than 10 years from the date of issuance. Obligations issued under the rules of Treas. Reg. § 1.871-14(e) prior to January 1, 2009, will continue to be subject to those rules until those obligations mature.

Finally, this notice announces that the IRS and Treasury intend to issue regulations retroactively removing the rule in Treas. Reg. § 1.1441-1(b)(7)(iii) that would impose interest under section 6601 when no underlying tax liability has in fact been imposed. These regulations would also clarify that, like interest, penalties that are computed based on underpayments of tax will not be imposed when no tax has in fact been imposed.

SECTION 2. BACKGROUND

.01 Development of dematerialized book-entry systems

IRS and Treasury are aware of the development of dematerialized book-entry systems for holding and transferring bonds. In such systems, bonds are required to be represented only by book entries, and no physical certificates are issued or transferred. Such dematerialized book-entry systems offer significant efficiencies for securities markets, and in order to capture those efficiencies, markets in certain foreign countries have adopted such systems.

For example, Foreign Country law requires that, beginning on a certain date, bonds issued in that country must be held through the book-entry system operated by Foreign Country Clearing Organization. Foreign Country Clearing Organization is an entity which is in the business of holding obligations for member organizations and transferring obligations among such members by credit or debit to the account of a member without the necessity of physical delivery of the obligation. Within the

book-entry system, bonds are not represented by any physical certificates, but are represented only by book entries. Holders do not have the ability to withdraw bonds from the book-entry system and obtain physical certificates representing the bonds. Holders may obtain physical certificates in bearer form only if Foreign Country Clearing Organization goes out of business without a successor that will continue to operate the book-entry system. Bonds that were issued before the book-entry system became mandatory must be transferred into the system by a specified date.

.02 Obligations in registered form

Section 5f.103-1(c)(1) provides that an obligation is in registered form if the obligation is registered as to both principal and interest and the obligation may be transferred only by surrender and re-issuance of the physical certificate or through a book-entry system. Section 5f.103-1(c)(2) provides that an obligation is considered transferable through a book-entry system if the ownership of an interest in the obligation is required to be reflected in a book entry that identifies the owner of an interest in the obligation. Section 5f.103-1(e) provides that an obligation that is not in registered form is considered to be in bearer form. An obligation in registered form that is convertible into bearer form is considered to be in bearer form. Treas. Reg. § 1.871-14(c) provides that for purposes of determining the application of the portfolio interest exception, the conditions for an obligation to be in registered form are identical to the conditions described in Treas. Reg. § 5f.103-1.

SECTION 3. TREATMENT OF OBLIGATIONS HELD THROUGH A DEMATERIALIZED BOOK-ENTRY SYSTEM

.01 Obligations subject to a book-entry requirement described in section 2.01

An obligation subject to a book-entry requirement described in section 2.01 of this notice, and held through the book-entry system operated by Foreign Country Clearing Organization, is an obligation in registered form because, within the book-entry system, it may be transferred only by book entries and the holder of the obligation does not have the ability to withdraw the obligation from the book-entry system

and obtain a physical certificate in bearer form.

The cessation of operation of the book-entry system would be an extraordinary event. Holding through the book-entry system is mandatory for obligations in Foreign Country's market while the book-entry system is in existence and while Foreign Country's legal requirements remain in place. The provision for the issuance of physical certificates in bearer form in the event that the book entry system goes out of existence is not the equivalent of a provision conferring on the holder the ability to convert an obligation from registered form into bearer form in the ordinary course of business.

Notwithstanding that such obligations are in registered form, section 3.02 of this notice, below, provides a transition rule for certain obligations issued prior to January 1, 2007.

.02 Obligations issued before January 1, 2007

An obligation in bearer form that was issued before January 1, 2007, and that was issued in compliance with section 1.163-5(c)(2)(i)(D) (TEFRA D) may continue to be treated as an obligation in bearer form until its maturity, whether or not it is held within Foreign Country Clearing Organization's book-entry system described in section 2.01 of this notice.

SECTION 4. SUNSET OF FOREIGN TARGETED REGISTERED RULES

The IRS and Treasury intend to issue regulations providing that the rules of section 1.871-14(e) of the regulations, dealing with foreign targeted registered obligations, will not apply to obligations issued after December 31, 2006, except in the limited circumstances described in the next sentence. The regulations will provide that the rules of section 1.871-14(e) will apply to obligations issued after December 31, 2006, and before January 1, 2009, but only if those obligations have a stated maturity of no more than 10 years from the date of issuance. Obligations issued under the rules of Treas. Reg. § 1.871-14(e) prior to January 1, 2009, will continue to be subject to those rules until those obligations mature.

SECTION 5. INTEREST IMPOSED WHEN NO TAX DUE

Treas. Reg. § 1.1441-1(b)(7)(iii) provides that a withholding agent that has failed to withhold tax other than based on reliance on the appropriate presumptions is not relieved from liability for interest under section 6601. It further provides that such liability exists even when there is no underlying tax that is ultimately shown to be due. That is, the regulation imposes an interest charge under section 6601 on a withholding agent for an amount of tax that has not in fact been imposed. Treas. Reg. § 1.1441-1(b)(7)(v) sets forth two examples that illustrate the operation of this rule.

The IRS and Treasury intend to issue regulations retroactive to January 1, 2001, removing the rule in Treas. Reg. § 1.1441-1(b)(7)(iii), and the accompanying examples illustrating the rule in Treas. Reg. § 1.1441-1(b)(7)(v), that imposes interest under section 6601 when no underlying tax liability is imposed. Further, the IRS and Treasury intend, in the new regulations, to clarify also that, like interest, penalties that are computed based on underpayments of tax will not be imposed when no tax has in fact been imposed. Taxpayers may rely on this notice until the regulations removing the rule are finalized.

SECTION 6. COMMENTS

Comments are requested regarding the regulations to be issued under Section 4 of this notice. Specifically, comments are requested on the transition period to be provided for such rules.

SECTION 7. CONTACT INFORMATION

The principal author of this notice is Kay Holman of the Office of Associate Chief Counsel (International). For further

information regarding this notice, contact Kay Holman at (202) 622-3840 (not a toll-free call).

Social Security Contribution and Benefit Base for 2007

Notice 2006-102

Under authority contained in the Social Security Act (“the Act”), the Commissioner, Social Security Administration, has determined and announced (71 F.R. 62636, dated October 26, 2006) that the contribution and benefit base for remuneration paid in 2007, and self-employment income earned in taxable years beginning in 2007 is \$97,500.

“Old-Law” Contribution and Benefit Base

General

The “old-law” contribution and benefit base for 2007 is \$72,600. This is the base that would have been effective under the Act without the enactment of the 1977 amendments.

The “old-law” contribution and benefit base is used by:

(a) The Railroad Retirement program to determine certain tax liabilities and tier II benefits payable under that program to supplement the tier I payments which correspond to basic Social Security benefits,

(b) the Pension Benefit Guaranty Corporation to determine the maximum amount of pension guaranteed under the Employee Retirement Income Security Act (as stated in section 230(d) of the Social Security Act),

(c) Social Security to determine a year of coverage in computing the special minimum benefit, as described earlier, and

(d) Social Security to determine a year of coverage (acquired whenever earnings equal or exceed 25 percent of the “old-law” base for this purpose only) in computing benefits for persons who are also eligible to receive pensions based on employment not covered under section 210 of the Act.

Domestic Employee Coverage Threshold

General

The minimum amount a domestic worker must earn so that such earnings are covered under Social Security or Medicare is the domestic employee coverage threshold. For 2007, this threshold is \$1,500. Section 3121(x) of the Internal Revenue Code provides the formula for increasing the threshold.

Computation

Under the formula, the domestic employee coverage threshold amount for 2007 shall be equal to the 1995 amount of \$1,000 multiplied by the ratio of the national average wage index for 2005 to that for 1993. If the resulting amount is not a multiple of \$100, it shall be rounded to the next lower multiple of \$100.

Domestic Employee Coverage Threshold Amount

Multiplying the 1995 domestic employee coverage threshold amount (\$1,000) by the ratio of the national average wage index for 2005 (\$36,952.94) to that for 1993 (\$23,132.67) produces the amount of \$1,597.44. We then round this amount to \$1,500. Accordingly, the domestic employee coverage threshold amount is \$1,500 for 2007.

(Filed by the Office of the Federal Register on October 25, 2006, 8:45 a.m., and published in the issue of the Federal Register for October 26, 2006, 71 F.R. 62636)