

FOLEY BENEFITS GROUP, LLC

Tax Information 2009-2010

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A WORD FROM DAVID FOLEY



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- **Plan Limits for 2010**
- **Plan Design**
- **Profit Sharing**
- **Plan Audits**
- **Fiduciary**

WHAT'S NEW

The government has released plan limits for 2010. These limits are unchanged for 2010 from 2009. They are as follows:

- **Retirement Plan Limits Set for 2010:**

	<u>2010</u>	<u>2009</u>
Salary Deferrals (401k) Maximum	16,500	16,500
Catch-up Deferrals (Over Age 50)	5,500	5,500
Maximum Defined Contribution Deposit (All Sources)	49,000	49,000
Limit on Annual Compensation For Plan Calculations	245,000	245,000
Highly Compensated Employee	110,000	110,000

- **Plan Design – Safe Harbor 401(k):**

If you have been required to remove money for owner employees in the past or if you have had to put additional money into the plan because of the plan being top heavy, you should change your plan design to Safe Harbor (no discrimination testing and no top heavy test).

These are two Safe Harbor funding methods:

1. Non-elective – This requires the employer to put 3% of pay into the plan for all eligible employees.
2. Match – The matching formula is a \$/\$ match up to 4% of pay. If the employee does not invest, they get nothing from the employer.

The benefit of Safe Harbor is that all employees including the owners can defer the maximum (16,500 or 22,000 if over 50 years old) without fear of having to take money out for over contributing.

- **Profit Sharing:**

Don't forget that your company can add additional tax deductible deposits to the plan up to next year's tax filing date and claim the deposit for a 2009 tax deduction.

If your company would like to investigate this yearend tax planning tool, call us. We will be happy to run proposals for various deposits. Then you can decide whether to put additional money into the plan.

This is one of a few tax deductions that can be held up to 9 months after the tax year and claimed as a current (prior year) deduction.

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**We are here to
serve you.....**

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- **Plan Audits:**

It appears that the IRS is stepping up its random audit program. Several of our customers were audited during the last 12 months. The following seems to be the areas of interest:

1. Plan document and amendments.
2. Timely deposits of salary deferrals (7 days after pay period).
3. Proper plan testing.
4. Filing the 5500 form correctly.

In the client audits that we have had, we recommend that the audit take place here at our office. At present, we do not charge for this service.

So, if you are notified by the IRS or Department of Labor that your plan will be audited, call us immediately.

I am proud to say that we have not had a major problem with any of the audits on our customers.

- **Who is a Fiduciary? What should a Fiduciary do?:**

A fiduciary is a person that has control over someone else's money. A fiduciary's responsibility is to treat someone else's money in a prudent manner. The company owner and plan trustees are fiduciaries.

A fiduciary should remit payroll deductions promptly (7 days).

A fiduciary should sign and process employee withdrawal forms promptly.

Failure to do either of the above can create fines and sanctions. Please don't put yourself at risk. Pay the money into the plan and don't hold up employee's right to get money out.

-----Summary-----

2009 has been a challenge for all of us. Business is not as easy in tough times.

Please keep in mind:

Tough times don't last, tough people do!

Have a great 2010! Call us if we can help.

Dave Foley