

Part I

Section 401. -- Qualified Pension, Profit-Sharing, and Stock Bonus Plans

26 CFR 1.401(l)-1: Permitted disparity in employer-provided contributions or benefits

Rev. Rul. 2009-40

This revenue ruling provides tables of covered compensation under § 401(l)(5)(E) of the Internal Revenue Code (the “Code”) and the Income Tax Regulations, thereunder, for the 2010 plan year.

Section 401(l)(5)(E)(i) defines covered compensation with respect to an employee, as the average of the contribution and benefit bases in effect under section 230 of the Social Security Act (the “Act”) for each year in the 35-year period ending with the year in which the employee attains social security retirement age.

Section 401(l)(5)(E)(ii) of the Code states that the determination for any year preceding the year in which the employee attains social security retirement age shall be made by assuming that there is no increase in covered compensation after the determination year and before the employee attains social security retirement age.

Section 1.401(l)-1(c)(34) defines the taxable wage base as the contribution and benefit base under section 230 of the Act.

Section 1.401(l)-1(c)(7)(i) defines covered compensation for an employee as the average (without indexing) of the taxable wage bases in effect for each calendar year during the 35-year period ending with the last day of the calendar year in which the employee attains (or will attain) social security retirement age. A 35-year period is used for all individuals regardless of the year of birth of the individual. In determining an employee's covered compensation for a plan year, the taxable wage base for all calendar years beginning after the first day of the plan year is assumed to be the same as the taxable wage base in effect as of the beginning of the plan year. An employee's covered compensation for a plan year beginning after the 35-year period applicable under §1.401(l)-1(c)(7)(i) is the employee's covered compensation for a plan year during which the 35-year period ends. An employee's covered compensation for a plan year beginning before the 35-year period applicable under §1.401(l)-1(c)(7)(i) is the taxable wage base in effect as of the beginning of the plan year.

Section 1.401(l)-1(c)(7)(ii) provides that, for purposes of determining the amount of an employee's covered compensation under §1.401(l)-1(c)(7)(i), a plan may use tables, provided by the Commissioner, that are developed by rounding the actual amounts of covered compensation for different years of birth.

For purposes of determining covered compensation for the 2010 year, the taxable wage base is \$106,800.

The following tables provide covered compensation for 2010.

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2010 COVERED COMPENSATION TABLE

CALENDAR YEAR OF BIRTH	CALENDAR YEAR OF SOCIAL SECURITY RETIREMENT AGE	2010 COVERED COMPENSATION TABLE II
1907	1972	\$ 4,488
1908	1973	4,704
1909	1974	5,004
1910	1975	5,316
1911	1976	5,664
1912	1977	6,060
1913	1978	6,480
1914	1979	7,044
1915	1980	7,692
1916	1981	8,460
1917	1982	9,300
1918	1983	10,236
1919	1984	11,232
1920	1985	12,276
1921	1986	13,368
1922	1987	14,520
1923	1988	15,708
1924	1989	16,968
1925	1990	18,312
1926	1991	19,728
1927	1992	21,192
1928	1993	22,716
1929	1994	24,312
1930	1995	25,920
1931	1996	27,576
1932	1997	29,304

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2010 COVERED COMPENSATION TABLE

CALENDAR YEAR OF BIRTH	CALENDAR YEAR OF SOCIAL SECURITY RETIREMENT AGE	2010 COVERED COMPENSATION TABLE II
1933	1998	31,128
1934	1999	33,060
1935	2000	35,100
1936	2001	37,212
1937	2002	39,444
1938	2004	43,992
1939	2005	46,344
1940	2006	48,816
1941	2007	51,348
1942	2008	53,952
1943	2009	56,628
1944	2010	59,268
1945	2011	61,884
1946	2012	64,464
1947	2013	67,008
1948	2014	69,408
1949	2015	71,724
1950	2016	73,920
1951	2017	76,044
1952	2018	78,084
1953	2019	80,052
1954	2020	81,972
1955	2022	85,620
1956	2023	87,384
1957	2024	89,064
1958	2025	90,660
1959	2026	92,184
1960	2027	93,648
1961	2028	95,052
1962	2029	96,372
1963	2030	97,680
1964	2031	98,940
1965	2032	100,116
1966	2033	101,220
1967	2034	102,192
1968	2035	103,068

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2010 COVERED COMPENSATION TABLE

CALENDAR YEAR OF BIRTH	CALENDAR YEAR OF SOCIAL SECURITY RETIREMENT AGE	2010 COVERED COMPENSATION TABLE II
1969	2036	103,824
1970	2037	104,448
1971	2038	105,012
1972	2039	105,552
1973	2040	106,032
1974	2041	106,392
1975	2042	106,656
1976 and Later	2043 and Later	106,800

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2010 ROUNDED COVERED COMPENSATION TABLE

CALENDAR YEAR OF BIRTH	2010 COVERED COMPENSATION ROUNDED
1937	\$ 39,000
1938 - 1939	45,000
1940	48,000
1941	51,000
1942	54,000
1943	57,000
1944	60,000
1945 - 1946	63,000
1947	66,000
1948	69,000
1949	72,000
1950 - 1951	75,000
1952	78,000
1953 - 1954	81,000
1955 - 1956	87,000
1957 - 1958	90,000
1959 - 1960	93,000

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2010 ROUNDED COVERED COMPENSATION TABLE

CALENDAR YEAR OF BIRTH	2010 COVERED COMPENSATION ROUNDED
1961 - 1962	96,000
1963 - 1965	99,000
1966 - 1968	102,000
1969 - 1972	105,000
1973 and Later	106,800

DRAFTING INFORMATION

The principal author of this revenue ruling is Michael Spaid of the Employee Plans, Tax Exempt and Government Entities Division. For further information regarding this revenue ruling, please contact the Employee Plans taxpayer assistance telephone service at 1-877-829-5500, between the hours of 8:30 a.m. and 4:30 p.m. Eastern time, Monday through Friday (a toll-free number). Mr. Spaid may be reached via e-mail at RetirementPlanQuestions@irs.gov.