

INTERNAL REVENUE SERVICE

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Dear [REDACTED]

This is in response to your inquiry dated July 22, 2001, regarding the maximum annual contribution to a section 457 plan and 401(k) plan under the recently passed Economic Growth and Tax Relief Reconciliation Act of 2001 (the "Act").

The Act will increase the employee contribution limit for section 457 plans and 401(k) plans. The annual contribution limit for 401(k) plans will gradually increase from \$10,500 (for taxable year 2001) to \$15,000 (for taxable year 2006). The contribution limit for section 457 plans, used by state and local government employees, will also increase to \$15,000 (by taxable year 2006), from \$8,500 (for taxable year 2001). The increase for tax years beginning in calendar year 2002 will be the following:

Year	Employee contribution limit for 401(k), 403(b) and 457 plans
2002	\$11,000
2003	\$12,000
2004	\$13,000
2005	\$14,000
2006	\$15,000

After 2006, the limit is adjusted for inflation in \$500 increments, with any increase that is not a multiple of \$500 rounded down to the next lowest multiple of \$500.

For years beginning before January 1, 2002, amounts excluded from income under certain types of plans must be treated as amounts deferred under section 457, and therefore count against the annual limitation or catch-up limitation. These plans are other section 457 plans, section 401(k) CODAs, section 402(h)(1)(B) SEPs, section 403(b) TSAs, and plans for which deduction is allowed because of a contribution to an organization described in section 501(c)(18). Thus, an individual who defers compensation in both an eligible section 457 plan and in another plan such as a section 401(k) plan is limited to a total combined deferral of \$8,500 annually (for 2001) if the individual is to enjoy tax deferral on the combined amounts. If the combined deferral

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exceeds \$8,500 for tax year 2001, the amounts treated as excess in the eligible section 457 plan are taxable currently under section 457.

For years beginning after December 31, 2001, the provision requiring that section 457 deferrals be coordinated with contributions to other plans in determining if the deferral limit was exceeded is repealed by the Act. Thus, for the year beginning January 1, 2002, an individual may be able to contribute up to \$11,000 to a section 457 plan and also contribute \$11,000 to a 401(k) plan, provided the individual meets the eligibility requirements.

Example: In 2002, Mr. X works for a tax-exempt organization offering its employees a section 457 plan. Mr. X also works for a company that offers a 401(k) plan. In determining how much can be deferred to the section 457 plan without exceeding the deferral limit, Mr. X no longer has to reduce his otherwise allowable deferral by the amounts contributed to the section 401(k) plan. His maximum section 457 plan deferral would be the applicable dollar amount for 2002 (i.e., \$11,000). If he is eligible, he could also elect to defer the maximum applicable amount for 2002 (i.e., \$11,000) to the section 401(k) plan.

Therefore, from the information you furnished, the pamphlet you received seems to be correct. You and your colleagues could be eligible to contribute in 2002 up to \$11,000 to the section 457 plan and up to \$11,000 to a 401(k) plan, provided you meet all the other necessary eligibility requirements.

If you have any further questions, please call Vernon S. Carter, of this office, at (202) 622-6060.

Sincerely,

Robert Patchell
Assistant Branch Chief,
Qualified Plans Branch 2
Office of Division Counsel/Associate
Chief Counsel (Tax Exempt and
Government Entities)