

# The View from Level VII™

## EXECUTIVE BENEFITS

### *Round #1...Initial 'Guidance' Regarding New Deferred Compensation Legislation is Out!*

The much-anticipated 'guidance' regarding changes to Nonqualified Deferred Compensation planning has now been issued by the IRS. Released December 20, 2004, **Notice 2005-1** elaborates on the new Internal Revenue Code (IRC) section, §409(A). In brief, the Notice provides the following:

- With the exception of 457(b) plans, traditional (fair market value) stock option plans, and certain welfare benefit plans, §409(A) applies to all types of nonqualified plans.
- Where deferral elections for salary and other 2005 calendar year compensation must ordinarily be made by December 31, 2004, the new rules provide a bit of a reprieve allowing participants to make deferral election changes until March 15, 2005.
- For incentive-based compensation (i.e., bonuses) that are earned over at least a 12 month period, the election to defer compensation must be made at least 6 months before the end of the period service for which the bonus is earned; e.g., for a calendar year 2005 bonus plan, the election to defer compensation would have to be made before July 1, 2005.
- Participants may actually cancel previously selected deferral elections by year-end 2005.
- As previously established, distributions for grandfathered balances in existing plans (earned and vested as of December 31, 2004) will be governed under the old law. The Notice does reveal, that distribution elections subject to the new rules (i.e., post 2004 deferrals) will be allowed until the end of 2005. However, if the plan is "materially modified" after October 3, 2004, §409(A) will apply to deferrals in the 2004 tax year, or earlier.
- Plan sponsors have **until December 31, 2005** to conform their plan documents and must continue to operate plan(s) in "good faith" with Notice 2001-5 and section §409A.

The Notice states directly that it is not meant to answer all questions raised with respect to the new legislation. Further guidance will be issued during 2005. Continued coverage of these important changes to Executive Compensation and Benefits planning is covered in previous and future issues of *The View*. Furthermore, *the What's New* page at [www.WeirResources.com](http://www.WeirResources.com) provides sources if more detailed analysis of the new guidance.

This Notice allows us to begin to take action for our clients and prospective clients. In the coming weeks, WFR will be in contact to review specifically what steps are necessary for the amendment process, as well as to provide guidance with respect to distribution elections going forward. Feel free to contact us at any point, yet rest assured there is plenty of time to make the appropriate amendment.

**Weir Financial Resources, LLC** is a financial advisory firm offering information, ideas and solutions in Executive Benefits, Business Succession and Private Wealth Planning.

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## EXECUTIVE COMPENSATION

### *The Squeeze Is On, and Getting Tighter – Performance Comp. in Not For Profits*

Pressures on government – at all levels – are forecast to lead to further reduced grants and funding to most Not For Profit organizations ("NFP"). At the same time requests for NFP services and attendant cost of providing those services continue to rise. Whether it's the challenge to raise additional revenue from non-traditional sources, or "to make do with less", NFPs are having to find new solutions "to balance the budget." The need to survive has forced fiscal prudence to new levels

Customarily, such challenges fall on organizational leaders, who are being called upon to offer creative fundraising and cost-saving solutions. Accordingly, NFPs are now requiring more qualified senior managers. And to recruit them, enlightened boards, trustees and advisors must increasingly introduce competitively paid compensation packages. Performance-based bonus/incentive planning is a concept whose time has come for NFP's. Appropriately designed deferred compensation plans (combined with savings/retirement plans) are now required as well, as such tax effective designs are in the mutual interests of the NFP organizations – and their senior management.

The challenge for designers of these incentive plans is to recognize the different culture, objectives and expectations within which a NFP operates. **Harman & Associates** with its fortune 500 background and extensive national and international experience in executive compensation planning stands ready to assist in recognition and assistance of the most appropriate program for recruitment, retention and motivation of your NFP executives.

Ray Harman  
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- Human Resources
- Risk Management
- Executive Compensation
- Executive Benefits
- Employee Benefits
- Private Wealth Planning



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## EMPLOYEE BENEFITS

### *Retiree Medical Benefits – Some Good News*

Western New York employers can offer their retirees better medical benefits at lower costs than most other areas of the country. Changes in Medicare reimbursements to our local carriers have produced improvements in retiree benefits, and some reductions in premium rates.

Medicare “Advantage” programs through our local HMO’s can reduce claims paperwork requirements for retirees. These plans replace traditional Medicare benefits, and eliminate the process of coordinating benefits between traditional Medicare and “Medicare Supplement” type plans.

Following are some other points of information that apply to retiree plans available through our local carriers.

- ✓ While employers don’t have to contribute to premium costs for retirees, retirees can gain better benefits if the employer acts as the “billing agent” for retirees.
- ✓ Some plans can also be “direct-billed” to retirees, which removes the employer from the billing / collection process.
- ✓ All of our local carriers have special “Medicare Eligible” service and enrollment representatives who are available to meet individually with retirees. These representatives can also provide basic information on Medicare and the New York State EPIC Prescription Drug program.
- ✓ Retiree plans designed specifically for individuals who no longer reside in Western New York are also available from some of our local carriers. We would be happy to discuss retiree medical benefits options with you.

**Benefits Advantage, Inc.** provides consulting and insurance brokerage services for all types of employee benefits programs. Emphasizing *personal service, creative ideas, and positive results*; Benefits Advantage Inc. has 30 years of experience working with employers.

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## HUMAN RESOURCES

### *Wages Failed to Keep Pace With Inflation Over Past Year*

The inflation-adjusted weekly earnings of wage and salary workers declined 0.4 percent over the 12 months that ended in the third quarter, according to Bureau of Labor Statistics.

Before adjusting for inflation, the median usual weekly earnings of full-time wage and salary workers during July through September were 2.3 percent higher than the same quarter a year earlier. But when adjusted for the 2.7 percent rise in the consumer price index for all urban consumers over the 12 months that ended with the third quarter, real wages showed a loss of about 0.4 percent, BLS said. The decline in real median weekly earnings followed increases of 0.9 percent for the year ended with the second quarter and 0.5 percent for the first quarter.

Median weekly earnings were \$632 in the third quarter, compared with \$618 a year earlier. But accounting for inflation, median earnings were \$322 in the third quarter, down by one dollar from \$323 in 2003.

BLS derives the usual weekly earnings data from its monthly current population survey of 60,000 households. The data cover workers who receive wages, salaries, commissions, and tips, but exclude self-employed persons. The earnings gap between men and women narrowed in the second quarter; women earned wages and salaries equal to 81.1 percent of the pay for men, up from 80.1 percent in the second quarter.

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