

Roll It To A Roth



Recently, the financial press has been filled with discussion of the merits of **Roth 401(k)**. Plan participants with significant Traditional 401(k) account balances fear that they have missed out on the potential benefits presented by the **Roth 401(k)**.

New Tax Planning Opportunity

Participants eligible for distributions from their retirement plans may find an opportunity to take advantage of the benefits of Roth provided by recent tax law changes.

Individuals can convert their Traditional 401(k) dollars to Roth IRA dollars and pay taxes today, at today's rates, receiving a tax free distribution down the road, as opposed to paying taxes at potentially higher rates on the accumulated balance in the future.

Rules, Rules, Rules

Similar to the conversion of a Traditional IRA to a Roth IRA the transaction requires paying ordinary income taxes on the dollars converted to the Roth IRA. The 10% early distribution penalty is waived. Of course, additional rules and restrictions apply:

1. An individual must be eligible to receive a retirement plan distribution due to their termination of employment, disability or retirement, and
2. Their modified adjusted gross income cannot be more than \$100,000, and
3. They may not file tax returns as a "married individual filing separately".

Refer to IRS Publication 575 for the complete set of official rules regarding these transactions.

(<http://www.irs.gov/pub/irs-pdf/p575.pdf>)

Administrative Alert!

Plan Sponsors have the responsibility to point out the major tax implications involving this type of rollover by providing a complete distribution package containing the required tax notices.

DOL Alert!

Proposed 7 Day Safe-Harbor for Remitting Salary Deferral Contributions

How quickly do you deposit the funds withheld from employees' paychecks into the plan? Maybe not as soon as you should.



The Department of Labor (DOL) has proposed changes to its original rules which state that contributions must be deposited into a plan account as soon as possible but never later than the 15th day of the month following the end of the month it was withheld from a participant's pay. For example, 401(k) deferrals withheld on the 12th of July could be deposited as late as the 15th of August - or at least that is how many thought the rule worked. The loose interpretation of the law led the DOL to ask, "What happened to the 'as soon as possible' part"? In light of this, the DOL has focused significant resources on companies who are a bit delinquent in depositing participant 401(k) deferrals.

The opportunity for interpretational liberties probably drove the DOL to retool their rules. **The new proposed standard contains a 7 Day Safe Harbor.** Plans with fewer than 100 participants that remit salary deferral contributions and loan repayments by the 7th business day following the payroll date would satisfy the new proposed regulations. Although the regulations are not yet final, employers are able to rely on them now.

Late 401(k) deferral deposits are reportable on IRS Form 5500. Corrections involve calculating and repaying lost earnings to participants due on late deposits, filing IRS Form 5330 and paying a prohibited transaction excise tax on the amount involved.

We strongly encourage our clients to deposit participant contributions within the 7 day safe harbor period. Doing so will provide increased certainty that remittances are timely deposited and are in compliance with regulatory requirements.

<http://www.dol.gov/opa/media/press/ebsa/ebsa20080269.htm>

News and Views Around the Corner

- **403(b) plans - good changes and great opportunities**
- **DOL launches efforts which may require Plan Sponsors to summarize fees and expenses**

To suggest a topic of interest please email:

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