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The American Taxpayer Relief Act of 2012: In Plan Roth Transfers

The American Taxpayer Relief Act of 2012 was signed into law by President Obama on January 2, 2013. One particular provision included in this Act that affects 401(k) plans is the new option to allow “in-plan” Roth transfers. This provision would allow employees to convert prior pre-tax monies to Roth monies without the requirement for a distributable event to have occurred.

While an interim amendment to implement in-Plan Roth transfers is not yet available, it will be available in sufficient time to satisfy the amendment deadline. The IRS has extended the deadline for adding this provision to the later of the last day of the Plan Year in which the amendment is effective or December 31, 2013. The extension deadline does not apply to plans that currently do not already have a 401(k) CODA (Cash or Deferred Arrangement).

At this time, we are suggesting that plan sponsors delay implementation of this Plan option until the IRS has had the opportunity to comment fully and implement more detailed regulations. The following is meant to be a basic overview of the new optional provisions and is subject to change pending any new legislation.

In order for the plan to be eligible for “in-plan” Roth transfers, your plan must allow participants the option to make Roth contributions. However, the previous requirement that participants must have encountered a distributable event such as retirement, termination of employment, disability, death, or pre-retirement age as provided by your plan no longer applies to in plan Roth Transfers. Under current law, amounts converted to Roth via the “in-plan” transfer will be taxable to the participant in the year that the transfer occurs.

Please contact our office if you wish to discuss this information in more detail. This publication is intended for general information purposes only and does not and is not intended to constitute legal advice. This is not meant to be an all-inclusive summary of all components of in-plan Roth Transfers, but merely highlight significant features. The reader must consult with legal counsel to determine how laws or decisions discussed herein apply to the reader's specific circumstances.