

HICKS NOTES

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ROTH CONVERSIONS AVAILABLE TO EVERYONE

The fiscal cliff deal now allows money in a pre-tax 401(k) account to be converted into a Roth 401(k) account. Many employers will likely want to add this feature to their retirement plans as an added employee benefit, and many employees will likely want to do conversions. These new rules apply equally to 401(k)s, 403(b)s, thrift saving plans and 457(b) plans.

Previously, an In-Plan Roth conversion was available for only 401(k) money that was "distributable" and dependent upon the parameters of the plan document. Most employer plans permitted in-service distributions of your vested account balance once you reached 59½ or later, and in some cases employer contributions may be subject to vesting. Some companies raced to allow this, but most figured it was so limited it wasn't worth amending their retirement plans to allow it. By contrast, the new rules basically let you convert everything in a traditional 401(k), including pre-tax salary deferrals, at any age, into a Roth 401(k). This means it's more likely employees will demand it and employers will go along with it.

The strategy is much like converting a traditional pre-tax IRA to a Roth IRA (a move savvy taxpayers make who think it's worth paying taxes now at a lower rate than later). You pay income tax on the amount you convert. The Roth grows tax free and eventual distributions are tax free. A Roth conversion makes sense if you expect your tax rate to be the same or higher in retirement and won't need the funds for a decade or more. It's also an attractive way to leave a tax-free inheritance to your kids or grandkids.

A huge amount of money is at stake. According to the Investment Company Institute, \$3.5 trillion was held in 401(k) plans as of September 30, 2012.

When Congress opened up the window for IRA to Roth IRA conversions for everyone in 2010, the law allowed you to split the income hit over two years. The new rules don't have that feature. Nor do they allow you to undo the conversion in the following calendar year if you change your mind.

Additional reasons for you to keep your retirement nest egg in your 401(k) by doing an in-plan conversion, beyond tax savings, include access to lower institutional class funds and for better creditor protection. A 401(k) plan is governed under ERISA which provides additional asset protection.

Employers will have to amend their plans to first allow for Roth contributions, then amend to allow for the in-plan conversions and finally disclose will be amendments to participants. Need help? [Click here to contact us for amendments, forms and more details.](#)

CORRECTION PROGRAMS GET UPDATED

The IRS released Revenue Procedure 2013-12 on December 31, 2012. It makes significant changes to the Employee Plans Compliance Resolution System (EPCRS) including:

- Expanded corrections for 403(b) plan failures
- Revised submission procedures for the Voluntary Correction Program (VCP)
- Changes to safe harbor correction methods and fee structures.

403(b) plan sponsors can now correct failures arising from noncompliance with the form and operational requirements of the 403(b) final regulations and other guidance issued by the IRS. The changes generally permit 403(b) plan sponsors to correct failures affecting their plans in the same manner as a qualified plan with the same failure. In addition, a plan sponsor may use the Voluntary Correction Program to correct a failure to timely adopt a written 403(b) plan.

As of August 31, 2012, the IRS Letter Forwarding Program is no longer available as a search method for locating lost plan participants who are owed retirement benefits. The new procedure revises the reasonable actions that a plan sponsor must take to locate lost plan participants, and provides a limited extension of the SCP and VCP correction periods for certain plan sponsors taking action to locate lost participants.

Safe Harbor correction methods include consistent safe harbor correction methods for certain missed deferrals in 403(b), SIMPLE IRA and safe harbor 401(k) plans. In addition, it clarifies the definition of QNEC when used to correct a failed ADP, ACP, or multiple-use test under the safe harbor correction method. This means that forfeitures can't be used to fund QNEC contributions.

Do you have clients with non-complying plans? [Select a link below to view our fees and programs to help as well as Revenue Procedure 2013-12 and the new IRS EPCRS chart.](#)

[HICKS Help](#)

[Rev Proc 2013-12](#)

[EPCRS Chart](#)

TIME TO SET UP NEW 401(k) PLANS

If you have clients who may be interested in setting up a 401(k) Plan for 2013, now is the time. Employers will want to give participants time to defer into their accounts for the entire 2013 plan year. Visit our website to request a free proposal and planning ideas or [click here.](#)

Call or email us with any questions or pension administration needs.