

FEBRUARY 6, 2013**CONGRESS EXPANDS AND SIMPLIFIES IN-PLAN ROTH CONVERSIONS**

Congress has actually passed a law that makes something simpler! That's good news if most of your retirement funds are in a 401(k) plan and you would like to convert the pre-tax portion of those funds to Roth contributions.

Up until now, "in-plan" conversions could be done, but only as to certain types of contributions and only in certain circumstances. Because these rules were so restrictive and so complicated and so difficult to explain to employees, relatively few employers chose to take advantage of them. Click [here](#) to see our April 18, 2011 Alert to see for yourself.

The new rules are much easier to understand and to explain. Under the new rules, an employer may permit participants in its 401(k) plan to have "any amount" transferred to a "designated Roth account."

Here is a brief summary of some key aspects of the new rules:

1. An in-plan Roth conversion can be offered inside 401(k) plans, 403(b) plans, and 457(b) plans.
2. As a condition of offering an in-plan Roth conversion, the plan must permit Roth contributions – in other words, a plan can't permit in-plan Roth conversions unless it also permits Roth contributions.
3. A plan amendment will need to be adopted to permit in-plan Roth conversions.
4. An employer that is sponsoring one of these plans may choose to offer in-plan Roth conversions, but is not required to do so.
5. An in-plan Roth conversion will work much the same way as a Roth conversion involving an individual retirement account (IRA); however, unlike a Roth IRA conversion, a participant who chooses to make an in-plan Roth conversion will not be able to "undo" that conversion if the market drops or if the participant simply changes his/her mind later on.
6. An in-plan Roth conversion can be offered beginning this year.

We anticipate that in-plan Roth conversions under the new rules will be popular with both employers and with the employees who are participating in their plans. The new rules are much simpler and easier to understand than the old rules. They are likely to be particularly popular with long-term employees and business owners who have not been able to undertake a Roth conversion in the past because substantially all of their retirement savings was inside a 401(k) plan. Up until now, it would have been difficult, and perhaps impossible, for people in this situation to convert their retirement money to Roth contributions. That has changed.

If we draft your 401(k) plan documents for you and would like to explore adding an in-plan Roth conversion option to your plan, please feel free to contact us at any time.

If you have questions regarding the new in-plan Roth conversion rules or any other aspect of your qualified plan, please feel free to call Eric Namee, Steven Smith, or Brad Schlozman at (316) 267-2000.

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