



January 2010 Qualified Plan Corner: Roth Deferral Opportunity inside 401(k) Plans

With 2010 upon us and considerable focus directed toward the opportunity presented this year for taxpayers to convert traditional IRA's to Roth IRA's regardless of the taxpayer's income, it seems an opportune time to review another opportunity (now four years old,) namely that of making Roth deferrals into 401(k) plans.

This opportunity was created through EGTRRA 2001 for plan years commencing on or after 1/1/2006 and made permanent by the Pension Protection Act of 2006.

Roth deferrals are:

- Funded through employee payroll deductions just like traditional pre-tax deferrals
- Subject to the same limit of \$16,500 (\$22,000 including catch-up contributions for participants age 50 or older) during 2010 as are traditional pre-tax deferrals.
- Contributed on an after-tax basis.
- Although contributions are made on an after-tax basis, *qualified distributions* (generally, those made to a participant at least 59 ½ years old and at least five taxable years from the first Roth deferral) are not included in the recipient's income.
- The net effect is that the earnings on *qualified distributions* are never taxed.
- *Available to all participants in the 401(k) plan regardless of income*

With respect to the 5-year seasoning requirement for qualified distributions, Roth money rolled from the 401(k) plan to a Roth IRA will take the "age" of the Roth IRA. Therefore, it can be beneficial to start a Roth IRA as soon as possible even if funded with a minimal one-time contribution. That said, certain high income taxpayers may not be eligible to open a Roth IRA. Consult with your tax advisor to determine eligibility.

The 401(k) plan document must provide for Roth deferrals in order for participants to make them. If your plan does not provide for Roth, now can be a good time to include the provision in conjunction with the EGTRRA required restatement applicable to most plans.

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