

Publications

“In-Plan” Roth Conversions

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SERVICES

On September 27, 2010, President Obama signed into law the “Small Business Jobs and Credit Act of 2010” (H.R. 5297; Pub. L. No. 111-240) (the “Act”). The Act contains an important feature to allow Roth 401(k) and 403(b) plans to offer an “in plan” Roth conversion option that will allow participants who are eligible to receive a plan distribution to convert their non-Roth account balances to Roth accounts within the tax-qualified plan.

Specifically, effective for eligible rollover distributions after September 27, 2010, a 401(k) or 403(b) plan sponsor may elect to offer an “in-plan” Roth conversion. If the conversion is made by year-end, it will be eligible for a special tax election to pay tax on the conversion in two equal installments in 2011 and 2012.

This new conversion feature raises a number of open issues — which include the scope/timing of the plan amendment, the applicable sourcing and basis allocation rules, the application of the 5 year holding period for tax-free treatment, reporting and withholding rules, and investment direction issues — just to name a few. As guidance is necessary to properly implement this provision, and the timeframe for action is tight, we are forming a comment group that will seek guidance on the various open issues. To learn more about the Roth Conversion Group, [click here](#). We will plan to hold an initial conference call next week for interested members to collect comments/questions to address in the comment letter. We anticipate the cost to participate in the group will range from \$1,500-\$2,000, depending on the size of the group.