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ROUTE TO:

To: Friends of RMS

BENEFITS, BENCHMARKS & MORE

Immediate Regulation Regarding Timing of Contribution Deposits

By Anne Keehn, QKA

The Department of Labor requires that elective deferrals and loan repayments must be deposited to the plan on the earliest date on which they can be segregated from the employer's assets. In the past, it has been unclear how quickly that deposit had to occur. In 2008, the DOL issued proposed regulations that indicated that participant contributions and loan repayments would be considered to have been timely deposited to a plan if they were deposited within seven business days following the day they would have been paid in cash. This "seven-business-day safe harbor" was designed to provide more certainty to employers and only applied to employers that had fewer than 100 participants (larger employers have not been given a safe harbor but generally may anticipate being held to an even shorter deposit timing requirement).

On January 14, 2010, the DOL published a final regulation that adopted the seven-business-day safe harbor rule, effective immediately. The contributions will be considered to be deposited as long as they are placed in an account of the plan, even if they are not allocated to specific participants or investments. This means the employer could immediately deposit the funds into a checking account in the name of the plan and then sweep the money from time to time into the plan's assets. The key is that the plan assets must be segregated from the employer's assets within seven business days.

Failure to timely deposit contributions will result in the DOL considering that the employer has had a prohibited use of the funds and imposing penalties and interest on the amounts that were not timely deposited.

January, 2010

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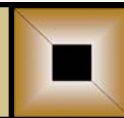
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For information of interest to employers, plan participants, and retirement advisors, visit our website at:

<http://www.consultRMS.com>

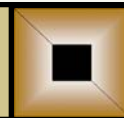
If you currently receive our Newsletter by regular mail, but would prefer to receive it by email, please contact cherbig@consultRMS.com or (502) 429-0767.



New Year's Resolutions

by Chuck Lynch, FSA, EA, MAAA

- A) **Save more** --- No matter how small an increase it may be. Few people are saving enough. If you can save for retirement through payroll withholding, then resolve to increase your savings the next time your employer's retirement plan allows it. Also consider an increase when you get a raise. Elect in terms of percentages, instead of dollars, so that when you get a raise, your contribution automatically goes up.
- B) **Rebalance** --- If you have decided, based on your age, risk tolerance, etc., what asset allocation is appropriate for you, then you need to rebalance periodically because different funds will grow at different rates, getting your assets out of balance. (The last two years were excellent examples of how the stock / bond asset allocation can get far out of line with your original allocation.) If your retirement plan offers investment options, then resolve to get your asset allocation back in line with your goals. Some plans allow you to rebalance automatically. If you have to do it manually, many advisors recommend doing so one or two times per year.
- C) **Get educated** --- Resolve to study more about at least one important retirement topic this year. Some ideas and good sites on the Internet:
- 1) Investment education: <http://money.cnn.com/magazines/moneymag/money101/>
 - 2) Early retirement: <http://www.retireearlyhomepage.com/>
 - 3) Long term care: <http://www.medicare.gov/LongTermCare/Static/Home.asp>
 - 4) Reverse mortgages: <http://www.aarp.org/revmort/>
 - 5) Social Security topics: http://retireplan.about.com/od/socialsecurity/Social_Security.htm
 - 6) Social Security benefit estimator: <http://www.socialsecurity.gov/estimator>
 - 7) Basics of mutual funds: <http://www.sec.gov/investor/pubs/inwsmf.htm>
- D) **Plan** --- Resolve to use tools to help you figure out if you are saving enough to meet your goals. If your retirement plan offers such tools, take advantage of them. Some other web sites that can help:
- 1) How much to save: <http://www.bloomberg.com/invest/calculators/retire.html>
 - 2) Asset allocation: <http://www.smartmoney.com/investing/basics/the-smartmoney-one-asset-allocation-system-17605/>



Special Concerns for HCEs

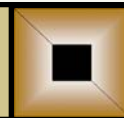
by Laura Lyvers, CPA, QKA

For the 2010 plan year, a Highly Compensated Employee (HCE) is a more-than 5% owner in 2009 or 2010 (and certain family members) or an employee who had compensation of more than \$110,000 in the 2009 plan year. For 2009, the compensation threshold was \$105,000 earned in 2008.

HCEs have a number of limits and special considerations that apply to them. There are also general limits that apply to all participants but are more likely to affect HCEs due to their higher compensation:

- The maximum compensation that can be counted for plan purposes is \$245,000 for the 2010 plan year. While you can defer on your total salary, your compensation for purposes of calculating any company contributions is limited to \$245,000.
- For 2010, salary deferrals are limited to \$16,500 which is unchanged from 2009.
- Participants who will be over age 50 by the end of 2010 are able to make additional salary deferrals called catch-up contributions. For 2010, catch-up contributions are limited to \$5,500.
- There is a limit on the total contributions (employee plus employer) that can be made to the plan on behalf of a participant. For 2010, the annual limit is \$49,000. The \$5,500 allowable catch-up contribution is in addition to the \$49,000.
- The salary deferral and catch-up limits are calendar year limits regardless of the plan year. If your plan operates on a fiscal year rather than a calendar year, your deferrals must be structured so that they do not exceed the above limits in the calendar year.
- If your plan has a payroll period match and does not allow for a year end adjustment, this needs to be considered when choosing your deferral percent for the year. For example, let's assume that your plan's match formula is 50% of the first 6% deferred. If you earn \$30,000 per month and defer 15% of each paycheck, you will reach the \$16,500 deferral limit in less than 4 months. Your match for each month will be approximately \$900, so over the course of 4 months you will have a total match of about **\$3,600**. However, had you put your deferrals in more slowly, you could have earned more matching dollars. By spreading out your deferrals so that you only contribute \$1,800 per month (6%), you defer for 9 months and receive a match of approximately \$900 per month. By the 8th month, you will have almost reached the \$245,000 compensation limit so your match will stop, but by then you would have earned a total match of **\$7,200**, twice what you received in the first example.

All qualified retirement plans are required to demonstrate that the benefits or contributions provided under the plan do not discriminate significantly in favor of HCEs. Included in the required testing are ADP testing, which tests the level of employee deferrals, and ACP testing, which tests the level of employer matching contributions. If your plan is a safe harbor plan, it automatically is deemed to pass the ADP/ACP nondiscrimination testing. If your plan is not a safe harbor plan, the testing is performed by dividing the participants into two groups – Highly Compensated Employees (HCEs) and Nonhighly Compensated Employees (NHCEs) – and then determining the average deferrals for each group. The average deferrals for the HCE group cannot exceed the average deferrals of the NHCE group by more than the lesser of 2% or two times the deferral percentage of the NHCE group. For example, if the NHCE group average is 3%, the HCE group average can be no more than 5% and if the NHCE group average is 1.8%, the NHCE group average can be no more than 3.6%. This testing is done separately for deferrals and company matching contributions.



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If this testing fails, additional fully vested contributions can be made for the NHCEs or refunds can be made to the HCEs. Most often refunds are made to the HCEs because it is more cost effective. The total amount to be refunded from the plan is determined by reducing the deferral percentages of the HCEs who defer the highest percentage amounts until the average of the HCE group is brought down enough to pass the testing. When it is time to make the refunds, deferrals are returned first to the HCEs with the highest dollar amount of deferrals using a leveling method until the total dollar amount is returned.

When determining the ADP for someone who makes a catch-up contribution, the catch-up contribution can be disregarded completely from the testing. Also, if an HCE over age 50 has not yet used his full catch-up, the catch-up rules require the HCE to reclassify up to \$5,500 of potential refunds as catch-up contributions and leave them in the plan. Finally, the compensation limit comes into play in the testing. In 2010, if you earn more than \$245,000, your ADP is computed for the nondiscrimination testing as if you only earned \$245,000. For example, if you contribute 4% of your pay to the plan, and you earned \$350,000 for the year, your \$14,000 deferral will show up in the ADP testing as 5.7% ($\$14,400/\$245,000$).

For calendar year plans, nondiscrimination testing refunds need to be made by March 15th in order for the employer to avoid paying a 10% penalty. If it is necessary for you to receive a refund from the plan, the amount of the refund is reportable on your income tax return for the year in which you receive the refund.

As noted above, certain family members of HCEs may also be considered HCEs, even though their compensation does not meet the criteria. This is because the stock attribution rules require that children and spouses of employees who own more than 5% of the company are deemed to own the same percentage as the employee. So, for example, if you are a 20% owner of the company and your son works for the company and earns \$30,000 per year, he will also be considered an HCE for all plan purposes because he will be considered to own 20% of the company as well. However, if your son is married and his wife also works for the company, she will not be considered to be an owner because attribution cannot occur twice – in this case from the owner to the son and then from the son to the wife.





COMPARING RETIREMENT PLAN DESIGNS

by Chuck Lynch, FSA, EA, MAAA

We are often asked to help companies design their retirement programs, given certain goals and objectives. Usually we find the employer is willing to spend a certain amount on staff cost, assuming sufficient company profits. Then a frequent question pertains to how much can be deferred for the owners, or other highly compensated employees, on a pre-tax basis.

When we help design a plan, we look at objectives, the need for flexibility, ages of the key personnel, salaries of everyone involved, total budgeted dollars, the advantages of adding 401(k) features, etc.

Attached are the results of an analysis we prepared for one company that wanted a defined contribution plan. There were 10 people eligible for the retirement plan, including one owner.

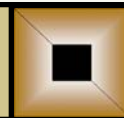
We explained that we could consider “permitted disparity.” This recognizes that the company’s Social Security tax paid on behalf of the owner is a lesser percent than it is for the other employees. Consequently, we can make up for this by having their private industry plan give a higher contribution percent to the owner.

We could also consider age-weighting since the owner was older than most, but not all, of his employees. Considering 401(k) features, we could have a catch-up contribution for the owner, since he was over age 50. Also, by looking at 401(k) safe harbor features, we could allow the owner to defer the maximum, even if his employees choose not to utilize the plan.

Also, due to ages, and the owner’s preference for giving all non-owners the same percent company contribution, we looked at “cross-testing” (also known as “new comparability”).

The owner was willing to contribute 5% of pay for his eligible staff. After looking at seven different designs, we sorted the results based on what we could do for the owner. The various designs resulted in total owner contributions that varied from \$12,250 to \$54,500, based on the compensation cap and contribution limits applicable for the year 2010. In other words, there were far more dramatic differences in the results than the owner thought possible. It’s just a matter of considering all the various rules and regulations applicable to qualified retirement plans.

Employers and their advisors should recognize that there is much more room for design enhancement than there was 10 to 20 years ago. Don’t assume that the simplest design is always the best!



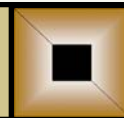
COMPARING RETIREMENT PLAN DESIGNS

Here is an example showing the results of comparing seven plans for a small business. The owner was willing to spend on staff an amount equal to 5.0% of their total combined payroll. In this case, a cross-tested plan with 401(k) safe harbor features was the best design. The results show the differences that can be obtained from various plan designs. The best design for any given situation will vary depending on employee ages and salaries, as well as company objectives.

Plan:		A	B	C	D	E	F	G
Description:			Using		401(k)		Age	Cross-
		Pro Rata	Permitted	Age-	Safe-	Cross-	Weighted	Testing
<u>Employee</u>		Comp	Disparity	Weighted	Harbor	Testing	with	with
<u>Pay</u>	<u>Age</u>	without	without	without	with	without	401(k)	401(k)
		401(k)	401(k)	401(k)	Permitted	401(k)	Safe-	Safe-
					Disparity		Harbor	Harbor
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
245,000	50	12,250	19,160	25,076	37,014	38,367	47,076	54,500
60,000	42	3,000	3,000	3,197	3,000	3,000	3,197	3,000
60,000	40	3,000	3,000	2,716	3,000	3,000	2,716	3,000
55,000	42	2,750	2,750	2,931	2,750	2,750	2,931	2,750
50,000	36	2,500	2,500	1,633	2,500	2,500	1,633	2,500
49,000	30	2,450	2,450	1,470	2,450	2,450	1,470	2,450
47,000	38	2,350	2,350	1,807	2,350	2,350	1,807	2,350
46,000	51	2,300	2,300	5,108	2,300	2,300	5,108	2,300
25,000	26	1,250	1,250	750	1,250	1,250	750	1,250
15,000	41	750	750	737	750	750	737	750
Grand totals		32,600	39,510	45,425	57,364	58,717	67,425	74,850
Percent of total to Owner		38%	48%	55%	65%	65%	70%	73%
Average contribution to non-owners as a percent of pay		5.0%	5.0%	5.0%	5.0%	5.0%	5.0%	5.0%

Assumptions

- 1 Illustration uses the 2010 comp cap of \$245,000, the contribution cap of \$49,000, and the catch-up contribution cap of \$5,500.
- 2 Plans B and D assume the integration level is the 2010 Social Security taxable wage base of \$106,800.
- 3 Illustrations conservatively assume non-owners contribute nothing to any plan with a 401(k) provision.
- 4 The plan is top-heavy, meaning over 60% of the assets are attributed to Key Employees. Consequently, there is a % top-heavy minimum contribution for each non-key employee.
- 5 The safe harbor contribution is the 3% non-elective contribution in Plans D, F, and G.



Applying for Electronic Signing Credentials using EFAST2

by Kim Reid

For plan years beginning on or after January 1, 2009, Form 5500 must be submitted to the Department of Labor (DOL) via electronic transmission. Electronic Signing credentials allow you to sign or transmit a Form 5500 electronically. You must apply for Electronic Signing credentials (beginning in January 2010) using the EFAST2 website (www.efast.dol.gov) by providing a valid email address.

There are five user types, and you may check as many as apply.

- 1) Filing Author – can complete Form 5500/5500-SF and the accompanying schedules, submit the filing, and check filing status. Filing Authors cannot sign filings unless they also have the “Filing Signer” role. RMS will be using approved Third Party software to author our client’s filings, so this box will not need to be checked.
- 2) Filing Signer – can sign Form 5500/5500-SF filings. Signers must ensure that the information is correct prior to submission to the DOL. The signer’s signature indicates that to the best of his knowledge and belief the filing is true, correct, and complete. Signers include Plan Administrators, Employers/Plan Sponsors, and Direct Filing Entities.
- 3) Schedule Author – can complete one or more of the schedules that accompany Form 5500/5500-SF. They cannot initiate, sign, or submit a filing. For example, this credential will be used for an actuary who completes a Schedule MB/SB for a client.
- 4) Transmitter – can transmit Form 5500/5500-SF filings to the EFAST2 system for processing on behalf of others. They are responsible for the security of all filing information prior to and during its transmission to the DOL.
- 5) Third-Party Software Developer – makes Form 5500 filing preparation or transmission software for use in the EFAST2 system.

Most of our clients will need to apply for the Filing Signer credential. The filing credentials you will receive include a User ID, Password, and a PIN (personal identification number). The User ID, along with the password, permits users to access their EFAST2 account and any other filing information for which they are responsible. The PIN is a unique identifier comprised of 4 numeric characters. It is used to authenticate a user when signing or transmitting a filing via EFAST2 and to retrieve filing status information. PINs must be protected and not shared with anyone, even RMS. It serves as your signature and it attests that you have reviewed the Form and to the best of your knowledge and belief it is true, correct, and complete. Be advised that the DOL has indicated that a third party administrator may not obtain plan signer credentials on behalf of the employer. Many practitioners have expressed concern that the DOL’s current position will hamper their efforts to assist clients with timely filing of Form 5500. The American Society of Pension Professionals and Actuaries (ASPPA) Government Affairs Committee is currently soliciting support in asking the DOL to reconsider this stance and allow filing signers to share their credentials with their service providers to facilitate electronic filing. However, as of this writing the DOL has not modified its position.

If the same person will sign both lines of the 5500 as both the Employer/Plan Sponsor and Plan Administrator, he can use the same credentials for both and only needs to register one time. Once you have registered for credentials you can change any of your contact information by logging into the EFAST2 website and clicking on the Profile link. If there is a change in staff and a different person will be signing the Form 5500 than in a prior year, that person will need to register for his/her own credentials under a different email address. Credentials will remain active unless they are not used for 2 years.

RMS will be in contact with all of our clients and will offer any assistance that may be needed to help with this procedure. We will provide step by step instructions to try to make this process as easy as possible.

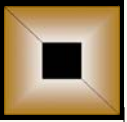


News and Retirement Tidbits

1. The Department of Labor (DOL) has created a very comprehensive website where you can save confidential information in its retirement calculator, so that when you go back to use it later, you don't have to start all over. See <http://askebsa.dol.gov/retirementcalculator/UI/general.aspx>
2. "... between 1995 and 2006 defined benefit plans outperformed defined contribution plans by an average of one percentage point per year." (Source: Watson Wyatt study summarized at <http://www.watsonwyatt.com/us/pubs/insider/showarticle.asp?ArticleID=22909>)
3. Benefit estimates from the website of the Social Security Administration (SSA) have been enhanced. After identifying yourself, you can run different scenarios, varying such factors as the age at which you quit working and the age at which you start collecting Social Security. (Those two ages need not be the same.) Using your entire working career's actual earnings on file with the SSA, the website estimates your monthly benefit under different scenarios. See <http://www.socialsecurity.gov/estimator/>
4. If you are an employer with no retirement plan but decide with hindsight you have the cash and want the deduction for the year that just ended, don't forget that some businesses can adopt a Simplified Employee Plan (SEP) as late as the due date of the tax return for the year.
5. Benchmark --- Here is the single premium cost (rounded to the nearest \$1,000) of a guaranteed, immediate annuity providing \$10,000 per year, payable for one person's lifetime, with a 3% annual increase to offset inflation, and no risk (or reward) of stock market gains or losses (on 01/04/10):

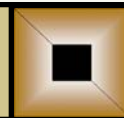
Age:	55	60	65	70
Male:	\$227,000	\$205,000	\$175,000	\$153,000
Female:	\$247,000	\$226,000	\$194,000	\$171,000

These rates vary from month to month, depending on long-term bond rates. (You can get online quotes from Vanguard at <http://www.aigretirementgold.com/vlip/VLIPController?page=RequestaQuote>)
6. Fifty seven percent of 401(k) plans offer just one bond fund, according to Hewitt Associates, LLC, in a study that expresses concerns that bond choices are too narrow. (Source: <http://www.investmentnews.com/apps/pbcs.dll/article?AID=/20091213/REG/312139986>)
7. MEDICARE --- For a retiree over age 65 there is no premium for Part A (inpatient hospital, skilled nursing facility, hospice, and certain home health care services) if the individual or spouse has had at least 40 quarters of Medicare-covered employment). For everyone else, the cost for Part A ranges from \$254 to \$461 per month per person depending on income. For most retirees the premium for Medicare Part B (coverage for doctors visits and outpatient services) varies from \$96 to \$353 per month per person, depending on modified adjusted gross income. For most fully-retired individuals, it will be the low end of this range. The average monthly premium of Part D (optional coverage for drugs) is \$30 per person (but premiums can vary quite a bit). The average cost of a Medi-Gap policy is under \$200 per month. (Sources: http://questions.medicare.gov/cgi-bin/medicare.cfg/php/enduser/std_adp.php?p_faqid=2260 and <http://www.cms.hhs.gov/apps/media/press/release.asp?Counter=3494> and <http://www.heritage.org/Research/HealthCare/wm2671.cfm>)



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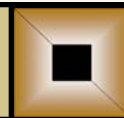
8. For one of the most comprehensive lists of Federal calendar year indexed amounts, rules, limits, tax percentages, threshold amounts, etc., see http://www.nixonpeabody.com/publications_detail3.asp?ID=3064&name=Private_Clients_Alert
9. Of the 491,000 401(k) plans in effect in 2007, 85.2% allowed participants to direct the investment of all of their assets. (Source: <http://www.dol.gov/ebsa/PDF/2007pensionplanbulletin.PDF>)
10. The portion of a retiree's Social Security benefit subject to federal income tax is generally 85% of the lesser of (a) The Social Security benefit itself, or (b) the sum of his other sources of taxable income.
11. The Profit Sharing Council of America survey on defined contribution plans found that for 2008, looking solely at profit sharing and 401(k) plans, "Company contributions average 4.1 percent of payroll, the same as in 2007." (Source: <http://psca.org/MEDIA/PressReleases/tabid/97/ctl/Detail/mid/475/Id/1050/Archive/Default.aspx>)
12. Thirty-five percent of all defined contribution plan participants are in plans covering fewer than 10 participants. (Source: <http://www.dol.gov/ebsa/PDF/2007pensionplanbulletin.PDF>)
13. "...as of mid-October 2009 the S&P 500 Index remained 30 percent below its peak level two years earlier. By delaying retirement one additional year, many mid- and late-career workers could increase their income at age 67 enough to offset some or all of their stock market losses." (Source: Urban Institute, January 2010)
14. "More than half of companies that dropped or cut their defined contribution matches in 2009 expect to reinstate the matches in 2010, according to a Callan Associates survey." (Source: Pension and Investments Daily, January 15, 2010)
15. "Eventually, the normal retirement age will have to become more proportional with the growing length of life, maybe 70 or even 75 over time within a few decades. That age might seem ridiculous to people now, but it probably won't in 20 or 30 years." (Source: So You Want to Live to 100? More of Us Will, and Here Is What Life Might Look Like, December 09, 2009 in Knowledge@Wharton)
16. According to results from two IRS compliance projects, for plans with assets between \$100,000 - \$250,000, the most common errors found on plan reviews were inadequate bonding of fiduciaries and persons who handle plan funds, failure to adopt timely amendments to comply with statutory and regulatory changes, failure to properly run the ADP test and failure to timely deposit elective deferrals into the plan's trust. <http://www.irs.gov/retirement/article/0,,id=217083,00.html>
17. "A survey last year by Deloitte for the Investment Company Institute found the average "all-in" fee for 401(k)s with fewer than 100 participants came to 2.03% of assets in the plan a year, compared with 0.49% of assets for plans with more than 10,000 participants. (The all-in fee includes administrative and investment costs borne by both the company and by workers.)" (Source: How Does Your Small Business 401(k) Stack Up?, Forbes.com)



ESOP News

1. The list of 315 projects the IRS hopes to complete by June of 2010 includes final regulations on ESOP diversification requirements.
2. The “Owners at Work” newsletter by the Ohio Employee Ownership Center is online and free. It can be found at <http://www.oeockent.org/index.php/home/owners-at-work-newsletter>.
3. In November, the IRS issued memos to certain ESOP experts addressing several areas that have needed clarification. For purposes of diversification for employees who have achieved age 55 and 10 years of participation, the informal guidance says that a plan can choose to define a “year of participation” as a plan year in which the participant is credited with a certain minimum number of hours of service as long as it does not require more than 1,000 hours. However, a plan that has been more liberal cannot switch to this more restrictive definition.
4. “The way I explain this [profits] is: think of your revenue as an 18-wheeler truck on a highway. It’s like a large truck. Then there is another truck right behind it, another 18-wheeler called expenses. Sandwiched between the two 18-wheelers — revenue and expenses — is a little Volkswagen called profit. If the revenue truck slows down and the expenses truck doesn’t, the Volkswagen gets crushed. If the expenses truck speeds up and the revenue truck doesn’t, the Volkswagen gets crushed. I love my Volkswagen. I don’t ever want it to get crushed.” -- Atul Jain, founder and CEO of TEOCO (The Employee Owned Company). His entire interview with former NCEO staffer Semil Shah is at www.knowledge.wharton.upenn.edu/india/article.cfm?articleid=4406. (Source: Employee Ownership Report, November-December, 2009)
5. According to a new NCEO survey, only 26% of ESOP companies have boards made up of employees only. Sixty percent have directors who have no ownership, employment, or family relationship with the company. (Source: <http://www.nceo.org/main/column.php/id/349>)





Roth Conversions

by Chuck Lynch, FSA, EA, MAAA

Starting in 2010, some people will first become eligible to convert regular IRAs into Roth IRAs. Consequently, many advisors and owners of retirement accounts are investigating the advantages and disadvantages of paying the taxes at the time of conversion, instead of paying those taxes many years in the future. The purpose of this outline is to touch upon the concepts, the changes, and the evaluation of Roth conversions. This is not intended to be tax advice; and we recommend that if the reader is interested in related tax advice, a competent tax advisor should be contacted.

A) Changes starting in 2010

Conversions - Prior to 2010

A conversion is permitted only if the modified adjusted gross income does not exceed \$100,000 (for individuals or married couples filing a joint return).

A conversion is not permitted for married couples who file separate returns.

Conversions - For 2010 and later

There are no income limits.

A conversion is also permitted even for married couples filing separate returns.

Paying the tax on the converted amounts

For conversion occurring in 2010 only, the taxpayer has options for paying the tax

- (i) Include entire taxable amount in gross income for 2010 (using the tax rate for 2010); or
- (ii) Include 50% of taxable amount in gross income in 2011 and the other 50% in gross income in 2012 (using the tax rates applicable for those years, even if different from the tax rate for 2010). This is the default treatment for a conversion, if the taxpayer does not choose otherwise.

Financial planners strongly recommend that any tax be paid from assets other than the assets being converted. Otherwise, you lose some of the advantage of the conversion.

B) What does *not* change in 2010

To be eligible to contribute to a Roth IRA for 2009 a person's modified adjusted gross income had to be less than \$120,000 (\$176,000 for couples filing a joint tax return).

The contribution limit is reduced for 2009 if the modified adjusted gross income is in the phase-out range of:

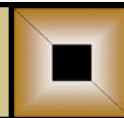
- (i) \$105,000 to \$120,000 for individuals
- (ii) \$166,000 to \$176,000 for married couples filing a joint return.

The contribution limit for 2009 is \$5,000 for most people, but \$6,000 for people who will be over age 50 by the last day of the calendar year.

A SIMPLE IRA can be converted to a Roth IRA, but only after you've participated in a SIMPLE IRA for at least two years.

You cannot convert an IRA inherited from a person other than your spouse.

There is a pro-rata rule that applies when converting to a Roth *and* the taxpayer has two or more non-Roth IRAs. You have to add all IRAs together to determine the taxable amount. In that case, the taxable portion of the conversion is calculated by first pooling all Traditional, SEP and



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SIMPLE contributions and calculating the overall percentage of tax-deferred funds. You then pay taxes on that percent of your conversion as opposed to being able to designate that it's your non-deductible contributions that you're rolling over.

If you have an IRA for which all of the contributions were non-deductible dollars and, due to the recent market drop, your IRA is worth less than your contributions to that IRA, then there is no tax when converting it. (In this case, you might even be able to claim a miscellaneous itemized deduction for the loss.) When determining if there is a loss upon the conversion, all IRAs and their bases must be aggregated.

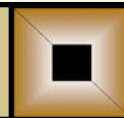
C) Reasons to consider a Roth conversion

- 1) Some conversions can result in overall higher after-tax income many years down the road.
- 2) Tax diversification --- Could enable a person to later have three types of funds from which he can withdraw in retirement: tax-deferred, tax free, and taxable. Then each year the taxpayer has more flexibility when deciding which withdrawals are best overall.
- 3) If the IRA owner believes the stock market is unusually low, then a conversion can mean locking in the tax based on that current suppressed IRA value.
- 4) Depending on timing, taxable income, and tax rates, for some people a conversion prior to retirement will lower the portion of Social Security benefits subject to taxes and might even lower the Medicare part B premium (which is a function of taxable income).
- 5) Estate planning
 - a) Roth IRAs can be passed on to heirs free of income taxes. (Roth beneficiaries must take money out of the Roth IRA at least as fast as spreading it over their life expectancies.) The heir taking money out of an inherited Roth IRA will never pay income tax on the inherited amount or any of the later investment gains on that amount.
 - b) If paying taxes in the year of a conversion, then the balance left in the year of death will usually be lower, possibly resulting in lower estate taxes. (Roth accounts themselves are still included in an estate and recognized in calculating estate taxes.)
- 6) Age 70 ½ Required Minimum Distribution – The RMD is not required for a Roth IRA.

D) Factors to take into account in deciding whether to make a Roth conversion

- 1) Current state and federal tax rates that would apply to the converted amounts.
- 2) Future state and federal tax rates that would apply for the dollars *not* converted.
- 3) Income tax rates for the state in which you reside when you make the conversion; and income tax rates for the state in which you will live during retirement. State income tax rates differ dramatically.
- 4) Whether the state you retire to has any special exemptions applicable to income for retirees. (Some states offer certain tax breaks to retirees; for example, in the state of Kentucky, the first \$41,100 of income from IRAs, employer-sponsored pensions, 401(k) plans, 403(b) plans, etc. is totally exempt from state income tax, even if the employee never paid taxes when the contributions were made in prior years.)
- 5) The portion of the taxes to be paid from funds *outside* of the IRA.
- 6) Whether the tax payer is under age 59 ½. (If paying any of the tax by taking an early withdrawal from an IRA, then a 10% penalty could apply.)

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- 7) How long until the funds will be used. (You need to keep in mind the five-year rule that applies for withdrawing funds from a Roth IRA totally tax free.)
- 8) The impact on Medicare Part B premium.
- 9) The impact on the taxation of Social Security benefits. (The portion of Social Security benefits subject to tax is dependent upon taxable income, which would not include distributions from a Roth Account since that income was taxed in a prior year.)
- 10) How other assets (used to pay the taxes) would have been invested had you not made a conversion. Would some of those gains have been taxed at capital gains rates while ordinary income tax rates are applicable to Roth conversions?
- 11) Money in an IRA, which you intend to eventually go to a charity, should not be converted. The IRA owner would be paying the conversion tax unnecessarily.
- 12) If the IRA is going to be inherited by someone in a lower tax bracket than the IRA owner, then it may not make sense for the IRA owner to go through a conversion.

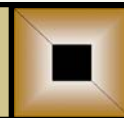
E) How some tax experts approach the problem

- 1) Project the annual after-tax retirement income with and without conversion, assuming the use of the funds is spread over the taxpayer's lifetime. (If the conversion tax is going to be paid with outside funds, then the projection must take into account both the IRA *and* the assets used to pay the conversion tax.)
- 2) If the taxpayer expects to be leaving much of these funds for the next generation, then project after-tax income to the heirs, with and without conversion.
- 3) Evaluate not just a zero conversion and 100% conversion, but also intermediate scenarios – converting *some* of the assets. (A conversion might make sense, but possibly not for 100% of the IRA value if that pushes current income into a higher tax bracket. Some experts suggest converting an amount that will take the tax payer to the top of his current tax bracket.)
- 4) A conversion will, of course, raise taxes for the year of the conversion. Consequently, the owner of the account should discuss tax withholding and quarterly estimates with his or her tax advisor. If basing tax withholding for one year on what was paid in taxes for the prior year, then the big impact may be on tax withholding in the year following the conversion.

F) Special techniques

- 1) Moving *some* IRA money into a 401(k) plan, in order to keep it out of the calculations related to the conversion.
- 2) Converting 401(k) assets into a Roth IRA while still an employee.
 - a) This process might be possible if the 401(k) plan allows for an in-service withdrawal.
 - b) It is similar to taking a distribution and rolling it into a regular IRA, and then converting the IRA into a Roth IRA.
- 3) If a person is not eligible to contribute to a Roth IRA, some advisors recommend the taxpayer consider contributing to a nondeductible IRA one year, and then converting it to a Roth in the next year.
- 4) Some advisors are saying that converting a non-deductible IRA is a no-brainer –most everyone should convert those. The most intriguing scenario calls for the following:

continued on page G-4...



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- a) The IRA owner should roll the *taxable* part of the IRA into a qualified plan rollover account. (Not all plans allow such rollovers; but many do.) This leaves an IRA with no taxable amount.
- b) Convert the remaining IRA to a Roth IRA, which will trigger no taxes or penalties.
- c) Then all future investment gains in the Roth IRA are forever tax free.

G) Taking an in-service withdrawal from 401(k) and 403(b) plans, in order to effect a Roth conversion.

A number of people are recommending that well-to-do individuals (and sometimes even others) should find a way to take an in-service distribution, roll it to an IRA, and then do a Roth conversion early in 2010 before the market goes back up much more. (And new rules actually allow a direct rollover into a Roth IRA, treated as if the rollover first went into a regular IRA, followed by a Roth conversion.) It may make sense for some people; but it will create a lot of questions pertaining to the plan. Some thoughts:

- a. Does the plan allow an in-service withdrawal?
- b. If an employer amends a plan to allow for an in-service withdrawal, it should be determined if this amendment will be deemed discriminatory in favor of Highly Compensated Employees.
- c. While these assets are in the plan, investment advisory fees can be paid for (and deducted by) the company sponsoring the plan. Once transferred to an IRA, any such fees would be paid by the individual and thus might not be deductible.
- d. Plan sponsors and participants have to comply with certain rules on in-service withdrawals. Here are some of the related rules:
 - i. Accounts attributed to profit sharing contributions or matching contributions can come out under the “2-yr rule” or the “5 yrs of participation rule”. The first rule allows an in-service withdrawal of the vested part of an account that has been in the plan for at least two years. The second rule allows an in-service distribution of the vested part of an account, after the participant has five years of participation.
 - ii. Participant elective deferrals can only come out in-service in the event of a financial hardship or after attaining age 59 ½.
 - iii. Hardship withdrawals and 70 ½ required minimum distributions cannot be rolled over.
 - iv. A participant is NOT permitted to take an in-service withdrawal, prior to age 59 ½, from accounts attributed to 401(k) safe harbor contributions, Qualified Non-Elective Contributions (QNECs), and Qualified Matching Contributions (QMACs).
 - v. Money purchase accounts must generally not be distributed in-service prior to age 62.

H) The five-year clock on Roth IRAs

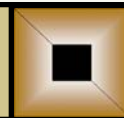
Generally, you start a new five-year clock with each conversion.

For the *converted assets*, taxes will not apply as long as they stay in the Roth until the *earlier* of 59 ½ or five years after the conversion.

For *earnings on* the converted assets, taxes won’t apply as long as they stay in the Roth until the *later* of 59 ½ or five years after the conversion.

Normally none of this is a problem since the distributions from Roth IRAs are in this order:

- (i) First from contributions;
- (ii) Second from converted amounts; and
- (iii) Third from earnings.



MUTUAL FUND PERFORMANCE FIGURES

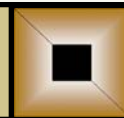
Periods Ending: **December 31, 2009**

Taken from the New York Times, Sunday 1/10/2010

Data source: Morningstar

Fund Type	Quarterly Returns			12-Month Returns			5-Year Returns		
	Bottom Quarter	Median	Top Quarter	Bottom Quarter	Median	Top Quarter	Bottom Quarter	Median	Top Quarter
Domestic General Stock Funds									
Large Growth	5.6 %	6.7 %	7.8 %	30.4 %	35.3 %	41.9 %	0.2 %	1.4 %	3.0 %
Mid-Cap Growth	4.4	5.7	6.8	32.5	40.9	46.3	0.9	2.7	4.4
Small Growth	3.8	5.0	5.8	29.4	35.7	43.0	0.0	1.5	3.1
Large Blend	5.0	5.7	6.1	25.0	27.3	31.5	-0.1	0.6	1.7
Mid-Cap Blend	4.3	5.1	5.8	31.9	35.3	39.3	1.0	2.4	3.4
Small Blend	3.9	4.6	5.4	26.3	28.6	36.3	-0.5	1.5	3.7
Large Value	3.9	4.8	6.1	18.6	23.6	27.5	-0.6	0.4	1.5
Mid-Cap Value	4.3	5.5	6.1	29.2	34.3	39.9	0.7	1.9	3.0
Small Value	3.0	4.5	5.6	24.7	30.3	36.6	0.6	1.6	4.1
Moderate Allocation	3.3	3.9	4.6	20.9	23.9	28.3	1.2	2.2	3.1
Conservative Allocation	2.4	3.0	3.8	17.3	20.8	24.1	2.5	3.2	3.7
Retirement Income	2.1	2.4	2.8	16.1	17.6	20.0	3.0	3.4	3.8
Target-Date 2000-2010	3.0	3.4	3.9	19.4	24.2	25.2	2.3	2.9	3.4
Target-Date 2011-2015	3.2	3.5	4.1	21.8	24.6	26.6	2.0	2.7	3.2
Target-Date 2016-2020	3.5	4.1	4.4	23.2	26.8	29.4	1.3	1.8	2.6
Target-Date 2021-2025	4.0	4.4	4.8	25.4	29.0	30.8	1.9	2.5	3.1
Target-Date 2026-2030	4.1	4.6	4.9	27.4	29.9	32.6	0.7	1.3	2.0
Target-Date 2031-2035	4.5	4.7	5.1	28.2	30.9	31.5	1.2	2.0	2.8
Target-Date 2036-2040	4.3	4.8	5.0	28.7	31.5	33.0	0.9	1.2	1.9
Target-Date 2041-2045	4.8	4.9	5.3	29.5	30.5	33.1	2.3	2.3	2.8
Target-Date 2050+	4.9	5.2	5.4	30.4	31.8	38.3	1.2	1.2	1.5
Total	4.0	5.1	6.1	24.1	29.2	36.2	0.2	1.5	2.9
Domestic Specialized Stock Funds									
Communication	3.2 %	4.8 %	8.8 %	51.6 %	54.4 %	68.5 %	0.8 %	2.7 %	5.4 %
Financial	-3.4	-1.5	0.1	13.9	21.8	31.0	-9.4	-4.8	-1.6
Health	5.3	6.5	7.3	21.0	25.1	27.5	3.0	3.8	6.0
Natural Resources	7.0	7.8	8.7	49.4	53.2	72.0	9.7	11.8	15.3
Equity Precious Metals	5.7	6.9	11.6	43.1	52.1	69.6	16.9	19.1	21.3
Real Estate	8.5	9.1	9.3	27.3	29.8	32.2	-0.9	0.6	1.5
Technology	7.1	8.6	9.3	51.6	58.2	68.0	1.9	3.9	6.0
Utilities	5.6	5.8	7.8	13.9	15.6	27.9	5.5	6.0	6.9
Bear Market	-7.3	-5.5	-3.8	-32.9	-19.1	-13.9	-5.6	-3.6	-0.8
Long-Short	-0.3	1.3	2.9	-0.3	7.6	17.9	1.6	3.8	4.9
Consumer Discretionary	5.2	5.3	7.0	31.6	31.6	38.1	-1.7	-0.8	2.1
Consumer Staples	3.7	3.9	4.0	19.4	19.7	20.7	3.6	3.6	7.8
Industrials	7.9	8.0	8.9	22.3	24.9	38.9	1.8	3.8	4.6
Equity Energy	4.8	5.2	5.8	39.7	45.6	63.3	9.8	11.7	13.5
Commodities Broad Bas	7.8	9.4	11.6	10.3	27.5	39.3	-6.0	1.5	2.3
Total	4.0	6.9	8.9	19.5	30.5	50.9	0.9	3.9	8.6
International Stock Funds									
Foreign Large Value	0.4 %	1.4 %	2.2 %	23.6 %	30.2 %	37.8 %	2.5 %	3.3 %	4.8 %
Foreign Large Blend	1.8	2.7	3.6	27.1	30.4	35.5	2.8	3.8	5.9
Foreign Large Growth	3.4	4.4	5.3	33.1	37.6	40.6	3.8	4.8	5.8
Foreign Small/Mid Value	0.3	0.7	2.8	33.5	41.2	55.5	4.0	6.0	6.9
Foreign Small/Mid Growth	2.8	4.2	5.5	38.5	47.3	55.7	4.5	6.7	8.7
World Stock	3.8	4.6	5.4	29.6	33.0	39.8	2.2	4.3	5.5
Europe Stock	0.8	2.7	4.8	31.7	33.1	37.6	4.0	5.1	7.3
Divers. Pacific Asia	0.5	1.8	5.1	21.3	34.1	44.8	2.9	6.3	6.8
Pacific Asia ex-Japan	7.6	8.5	11.0	62.9	72.6	92.8	13.4	15.5	18.3

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MUTUAL FUND PERFORMANCE FIGURES

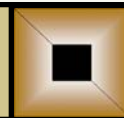
Periods Ending: **December 31, 2009**

Taken from the New York Times, Sunday 1/10/2010

Data source: Morningstar

Fund Type	Quarterly Returns			12-Month Returns			5-Year Returns		
	Bottom Quarter	Median	Top Quarter	Bottom Quarter	Median	Top Quarter	Bottom Quarter	Median	Top Quarter
International Stock Funds (continued)									
Japan Stock	-2.7	-2.6	-1.3	6.8	10.1	15.3	-5.5	-3.0	-2.9
Divers. Emerg. Mkt	6.6	8.0	8.8	68.6	74.3	78.5	12.4	13.8	14.8
Latin America Stock	13.2	13.6	13.9	92.2	114.4	120.9	21.8	22.8	26.9
World Allocation	2.4	3.4	4.1	19.6	22.5	27.0	2.5	3.6	7.3
Real Estate	2.7	4.1	4.4	33.9	36.0	38.2	0.1	0.9	2.4
Currency	-1.2	-0.3	1.0	0.6	2.4	2.6	3.6	3.6	3.9
Miscellaneous Sector	5.4	6.8	11.0	22.9	59.1	65.3	-0.8	2.1	7.3
Total	2.1	3.7	5.4	27.6	34.6	49.1	3.0	4.9	7.6
General Bond Funds									
Long-Term Bond	-0.6 %	1.2 %	3.3 %	5.6 %	17.1 %	26.4 %	3.9 %	4.5 %	6.3 %
Interm-Term Bond	0.6	1.2	1.8	9.8	13.9	18.2	3.7	4.5	5.2
Short-Term Bond	0.7	1.1	1.4	6.0	9.8	13.0	3.0	3.9	4.4
Total	0.7	1.1	1.7	8.2	12.5	16.7	3.4	4.3	5.0
Government Bond Funds									
Long Government	-9.4 %	-5.3 %	-4.4 %	-22.2 %	-12.0 %	-8.1 %	4.6 %	5.0 %	5.2 %
Interm. Government	-0.5	0.0	0.6	1.2	4.0	6.8	4.0	4.5	5.1
Short Government	0.0	0.1	0.4	1.5	2.9	4.9	3.7	4.1	4.5
Inflation-Protected Bond	1.5	1.8	1.9	9.6	10.4	12.2	3.8	4.2	4.5
Total	-0.3	0.2	1.2	1.4	4.6	9.1	3.8	4.4	4.9
Specialized Bond Funds									
Convertibles	4.2 %	5.6 %	6.2 %	34.3 %	41.3 %	45.0 %	2.7 %	3.4 %	4.2 %
Ultrashort Bond	0.4	0.7	0.9	3.9	5.8	9.0	2.5	3.3	3.6
High Yield Bond	4.9	5.6	6.2	41.6	48.1	54.2	4.2	4.9	5.5
Multisector Bond	2.6	3.0	4.1	22.2	29.7	34.8	4.2	5.1	5.8
World Bond	-0.6	0.1	1.4	9.8	12.1	18.5	3.7	4.4	5.1
Emerging Market Bond	1.7	1.9	2.4	28.9	33.1	42.3	7.4	8.1	9.0
Bank Loan	2.6	3.2	3.9	32.4	42.6	46.7	1.6	2.3	3.0
Total	1.9	3.7	5.4	20.4	35.8	47.3	3.5	4.4	5.5
Municipal Bond Funds									
Muni National Long	-1.5 %	-1.3 %	-1.0 %	13.5 %	16.3 %	22.1 %	2.8 %	3.4 %	3.9 %
Muni National Int.	-1.0	-0.7	-0.5	9.7	11.2	14.0	3.3	3.7	3.9
Muni Single St. Long	-1.0	-0.8	-0.6	13.8	15.3	18.0	3.2	3.6	3.8
Muni Single St. Int.	-0.8	-0.7	-0.4	9.2	10.6	13.8	3.3	3.5	3.7
Muni Single St. Shrt.	-0.8	-0.4	-0.3	3.8	5.2	6.5	2.9	3.1	3.3
Muni National Shrt.	0.2	0.4	0.5	4.4	5.9	7.0	2.9	3.2	3.5
Muni New York Long	-1.2	-1.1	-0.8	13.2	14.9	19.6	3.1	3.5	3.9
Muni California Long	-2.6	-2.2	-1.8	13.8	15.8	18.8	2.8	3.2	3.5
Muni New York Int/Sh	-1.1	-0.9	-0.4	8.0	9.6	14.9	3.0	3.4	3.7
Muni California Int/Sh	-1.6	-1.3	-0.3	7.6	9.4	12.3	2.8	3.3	3.4
Muni Pennsylvania	-1.1	-0.8	-0.6	11.9	15.2	19.5	3.2	3.6	3.9
Muni Massachusetts	-1.2	-0.9	-0.8	11.0	13.9	18.3	3.6	3.7	4.0
Muni New Jersey	-1.5	-1.2	-1.1	12.6	14.5	18.0	3.4	3.8	4.0
Muni Ohio	-1.0	-0.8	-0.7	8.0	11.9	13.5	3.6	3.7	3.8
Muni Minnesota	-0.8	-0.6	-0.4	10.6	12.7	20.3	3.6	3.8	4.0
High Yield Muni	-1.3	-1.1	-0.7	27.5	29.6	34.9	-0.3	1.9	3.1
Total	-1.3	-0.9	-0.5	10.2	13.8	18.3	3.0	3.5	3.8

The tables include Nasdaq funds with at least \$30 million in assets. Return figures assume the reinvestment of all dividends. Figures for five-year returns are annualized. The top-quarter figures show the return needed for a fund to rank in the top 25%



RMS is Growing!



from left: Hannah, Rhonda, Diana, and Susan

In the past few months, we have expanded our staff to include four new members.

Hannah Slodki joined the firm as a Plan Specialist on September 1, 2009. Prior to joining RMS, she worked as an Account Manager for a TPA firm in Lexington for over five years. Hannah is an Accredited Pension Administrator and graduated from Transylvania University with a Bachelor of Arts in Accounting and a minor in Computer Science. Mrs. Slodki lives in Shelby County with her husband and two little boys. In her time off, she enjoys spending time with family, interface programming, and sewing.

Rhonda Henry joined RMS as an Account Executive in January, 2010. She is a graduate of the University of Louisville, a Certified Public Accountant, and an Accredited Pension Administrator. Rhonda has over 15 years experience with defined contribution plan administration and has worked on all types of retirement plans, including both qualified and non-qualified plans. She is a member of the Louisville Employee Benefits Council and the National Institute of Pension Administrators. In her free time, Rhonda enjoys reading, spending time with her family, and cheering on the Louisville Cardinals.

Diana Lindauer joined RMS as a Plan Specialist in January, 2010. Diana is a CPA with four years experience in public accounting, including retirement plan audits. She graduated from the University of Louisville with a Bachelor of Arts in Music and a concentration in Mathematics, went on to study for two years at the Chicago School of Violin Making, and then returned to Louisville and held the mid-day host position on WUOL 90.5 FM for eight years. In her free time Diana enjoys gardening, baking, and playing the fiddle and guitar.

Susan Macy joined RMS in December, 2009 as a Plan Specialist. A graduate of Indiana Wesleyan, she is currently working toward her Qualified 401(k) Administrator (QKA) designation and has six years of experience in retirement plan administration. Susan is currently a resident of Lexington, but plans to move back to her hometown of Louisville with her husband and son in the near future. Susan enjoys reading and cheering for the Kentucky Wildcats when she is not hard at work at RMS.