



EMPLOYEE BENEFITS CLIENT ALERT

September 10, 2009

NEW RETIREMENT SAVINGS INITIATIVES

On September 5, 2009, the Internal Revenue Service (“IRS”) issued several pieces of guidance designed to improve Americans’ retirement savings opportunities. President Obama used his weekly radio address to announce the new initiatives. While not all of the details are finalized, a brief summary of the initiatives is discussed below.

AUTOMATIC CONTRIBUTION ARRANGEMENTS

Under an Automatic Contribution Arrangement (“ACA”), a certain percentage of each employee’s income is automatically withheld from pay and contributed to the employer’s retirement plan. The employee must be allowed to opt out of the ACA.

In the new guidance, the IRS provided model amendments and generally made it easier for employers to add an ACA to their retirement plans.

- An employer may add an ACA to a retirement plan without jeopardizing the determination or opinion letters previously issued to the plan.
- The new model amendments provide a 90-day window during which participants may opt out of the ACA.
- An ACA may also be added to a SIMPLE IRA.

AUTOMATIC ACCELERATION PROGRAM

Under an automatic acceleration program, a participant’s deferral rate automatically increases each year, unless the participant affirmatively elects otherwise. The new guidance allows an automatic acceleration program to be coordinated with employees’ annual salary or wage increases.

CONTRIBUTING UNUSED SICK LEAVE OR VACATION

Under certain circumstances, if an employer offers paid sick leave or paid vacation time, the employer may allow employees to contribute unused sick leave or vacation time to the employer’s retirement plan. The recent guidance clarifies some of the tax issues associated with these contributions.

MODEL NOTICE

If a participant receives an eligible rollover distribution, the plan administrator must give the participant a notice which meets certain specific requirements. The IRS provided a model notice in 2002, but had not updated the notice since then. In the new guidance, the IRS provides two model notices—one for Roth accounts and one for non-Roth accounts.

PRESIDENTIAL ADDRESS

In addition to announcing the initiatives discussed above, the President renewed his request to Congress to do two things:

- Establish automatic-enrollment IRAs for employees who do not have a workplace retirement plan. These IRAs would be funded by contributions automatically deducted from the employee's paycheck.
- Reform the Savers Credit so that it is no longer a tax offset. Instead, it would be a matching contribution of up to \$500 per year, provided by the federal government and deposited directly into an eligible individual's retirement plan or IRA.

SUGGESTED ACTIONS

- Consider adding an ACA or an automatic acceleration program to your company's retirement plan.
- Consider making necessary modifications to contribute or allow your participants to contribute unused sick leave or vacation time to your company's retirement plan.
- Update the notice that your company's retirement plan uses for eligible rollover distributions.

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