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Fiscal Cliff Resolution Provides Pension Planning Options

by Christopher A. Karachale

The fiscal cliff deal opens up new tax planning for all members of 401(k), 403(b) and 457 plans. The American Taxpayer Relief Act of 2012 provides that taxpayers can convert *any part* of their regular 401(k), 403(b) or government plan 457 accounts to a Roth account, *without limit*. All income earned in the account after conversion is completely free from income tax.

With this change, each member can determine which part of his/her regular plan account should be in a Roth and elect to convert that amount to a Roth. Income tax is due on the amount converted, but there is no 10% early distribution penalty. The amount converted plus earnings then becomes tax-free if distributed in accordance with the Roth rules.

Under prior law, a conversion to a Roth account could occur only if the money was otherwise distributable to the participant. Essentially, this meant that conversion was only available to older members (who had reached age 59½) or to those who terminated employment. Under the new law, anyone can make the conversion. The new law opens up tax planning for younger participants who probably have much more to gain from the tax exemption on Roth earnings because of the magic of compound interest.

To allow plan members take advantage of this opportunity, plans must be amended. Please contact Hanson Bridgett if you are interested in the potential pension planning opportunities provided by the American Taxpayer Relief Act of 2012.

For more information, please contact:

Christopher A. Karachale, Partner
415-995-5863
ckarachale@hansonbridgett.com