HAYNES BENEFITS GUIDE TO SURVIVE

Fiscal Cliff Legislation

Fiscal Cliff Legislation Expands the Opportunity for In-Plan Roth Conversions

The American Taxpayer Relief Act of 2012, which the President signed on January 2, 2013 includes an expansion of the option of sponsors of 401(k), 403(b) and 457(b) governmental plans to transfer any vested account in the plan to an In-Plan Roth Rollover account, sometimes referred to as an In-Plan Roth Conversion.

General: Prior to this legislation In-Plan Roth Conversions only applied if a participant's vested account was distributable as an eligible rollover distribution and the plan provided for Roth deferrals. This meant that the only plan accounts that were eligible for a Roth conversion were the vested accounts of participants age 59-1/2 or older and terminated vested participants. Now, In-Plan Roth Conversions are permitted (a) for *any* vested account even if it is not distributable as an eligible rollover distribution, provided that (b) the plan otherwise provides for deferrals into Roth accounts and (c) the plan document is amended to provide for In-Plan Roth Conversions.

Effective Date: The effective date of this provision is "transfers (to In-Plan Roth Conversion accounts) after December 31, 2012 in taxable years ending after such date." Therefore, this provision is immediately effective.

Roth Conversions Includable in Gross Income: In-Plan Roth Conversions are includable in gross income for federal income tax purposes in the year of the transfer, but are exempt from the 10% early withdrawal excise tax.

Qualified Roth Distributions are Tax-Free: A qualified distribution from either a designated Roth Account in a plan or an In-Plan Roth Conversion Account is a payment made after you are age 59-1/2 (or after your death or disability) and after you have had a designated Roth Account in the plan for at least five years. In applying the five-year rule you count from January 1 of the first year you had a designated Roth Account in the plan (or another plan if you transferred a designated Roth Account from another plan). Withdrawals are subject to a 10% excise tax if the In-Plan Roth conversion is distributed to the participants within five years after the transfer.

Who should be interested in an In-Plan Roth Conversions? Any participant who has sufficient assets outside of the plan to pay the immediate federal (and, perhaps, state) income taxes that will be triggered by an In-Plan Roth Conversion may be interested in an In-Plan Roth Conversion. Additionally any participant who expects his or her marginal federal income tax rate to be higher at retirement should consider an In-Plan Roth Conversion.

Please let us know if you have any questions or if we can be of assistance.

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