



## 403(b) Plan News Update

### Small Business Jobs Act of 2010 May Impact Your 403(b) and 457(b) Plan

On September 27, 2010, President Obama signed into law the Small Business Jobs Act of 2010 (SBJA). Though not apparent in its title, this new law expands current Roth contribution and conversion rules for 403(b), 457(b) and 401(k) plans.

#### *Roth and 457(b) Plans*

Prior to the signing of the SBJA, only 401(k) and 403(b) plans could offer Roth accounts for participants. Effective January 1, 2011, 457(b) plan sponsors may allow participants to make elective deferrals as Roth contributions. In order to make this optional plan feature available, governmental employers will first need to amend their plan documents. In addition, it is recommended that you contact your plan's approved providers to determine if their insurance or investment contracts accept Roth contributions. Systems and payroll interfaces may also need to be adjusted.

#### *In-Plan Roth Conversions*

Rules that went into effect January 1, 2010 allowed those participants who were eligible for a plan distribution to roll over pre-tax amounts from their 403(b), 457(b) and 401(k) plans into a Roth IRA. SBJA now allows a participant to roll their pre-tax account balances into a Roth account under the plan, provided the plan document permits Roth accounts and the participant had a distribution event under the terms of the plan. The amount of the rollover would be includible as taxable income for the year in which it occurred, except to the extent it is considered the return of after-tax contributions. Special tax rules apply to rollovers which occur in 2010.

### 2011 Retirement Plan Contribution Limitations

	2011	2010	2009	2008	2007
Elective Deferrals §402(g)(3) for §401(k) and §403(b) Plans	\$16,500	\$16,500	\$16,500	\$15,500	\$15,500
Defined Contribution Plans §415(c)(1)(A)	\$49,000	\$49,000	\$49,000	\$46,000	\$45,000
Age 50 Catch-up Contributions §414(v)(2)(B)(i)	\$5,500	\$5,500	\$5,500	\$5,000	\$5,000
Annual Compensation Limit §401(a)(17), §408(k)(6)(D)(ii), §408(k)(3)(C)	\$245,000	\$245,000	\$245,000	\$230,000	\$225,000
Deferrals §457(e)(15), §457(b)(2) and §457(c)(1) Plans	\$16,500	\$16,500	\$16,500	\$15,500	\$15,500
Catch-up Deferral Limit §457(b)(3)(A) <sup>1</sup>	\$33,000	\$33,000	\$33,000	\$31,000	\$31,000

For a complete list of the 2011 Contribution Limits, please contact MetLife by calling 1-877-638-7526.

<sup>1</sup> Age 50 Catch-up and Catch-up Deferral Limit cannot be combined.

### SPARK Institute Shares 403(b) Best Practices

The SPARK Institute has posted a series of answers to questions relating to 403(b) plan administration, information sharing and remittance procedures for multiple vendor plans.

The posted material deals with a range of topics, including loans, hardship withdrawals, distributions, and data transmission standards. You can view the questions and answers on the Institute's Web site at <http://sparkinstitute.org/comments-and-materials.php>

**DOL Issues Final Rule On Timing of Qualified Domestic Relations Orders (QDROS)**

The U.S. Department of Labor (DOL) recently issued a final rule concerning the timing of qualified domestic relations orders (QDROs). The final rule clarifies that a domestic relations order can still qualify as a QDRO even if issued after certain events (for example, if a domestic relations order is issued after the death of the plan participant). The final rule took effect on August 9, 2010.

In response to a directive contained in the Pension Protection Act of 2006 (PPA)<sup>1</sup> in 2007, the DOL published an “interim final” rule clarifying certain timing issues concerning domestic relations orders and QDROs under the Employee Retirement Income Security Act of 1974 (ERISA).<sup>2</sup> The interim final rule provided guidance to plan administrators, service providers, participants and alternate payees on QDRO requirements under ERISA. On June 10, 2010, the DOL issued a “final” rule which clarifies several examples that were included in the interim final rule.<sup>3</sup> To learn more, visit [www.dol.gov](http://www.dol.gov).

<sup>1</sup> Pub. Law 109-280.

<sup>2</sup> Pub. Law 93-406, 88 Stat. 829.

<sup>3</sup> See 75 FR 32846-32852.

**Fee Disclosure: Interim Final Regulations Released**

On July 16, 2010, the Department of Labor (DOL) issued long-awaited interim final regulation on fee disclosure by service providers to plan fiduciaries. The goal of the regulation is to assist plan fiduciaries in determining both the reasonableness of compensation that is paid to plan service providers and any conflicts of interest that may impact a service provider's performance under a service contract or arrangement. The interim final regulation will enhance disclosure to pension plan fiduciaries by requiring the disclosure of the direct and indirect compensation certain service providers receive in connection with the services they provide.

The final regulation is effective for contracts or arrangements between plans and service providers as of July 16, 2011. Below is an overview of the interim final regulation and the requirements for disclosure of information.

**Overview of Interim Final Service Provider Disclosure Regulation**

- The interim final regulation applies only to defined contribution and defined benefit pension plans and focuses on the disclosure of the direct and indirect compensation certain service providers receive.
- The interim final regulation applies to plan service providers that expect to receive at least \$1,000 in compensation in connection with their services and that provide:
  - certain fiduciary or registered investment advisory services;
  - recordkeeping or brokerage services to a participant-directed individual account plan in connection with the investment options made available under the plan; or
  - certain other services for which indirect compensation is received.
- The rule focuses on service providers and compensation arrangements that are most likely to raise questions for plan fiduciaries with respect to the amount of compensation being received by a service provider for plan-related services and potential conflicts of interests that might compromise the quality of those services.
- The interim final regulation also includes a class exemption from the prohibited transaction provisions of ERISA for a plan fiduciary who enters into a contract without knowing that the service provider has failed to comply with its disclosure obligations.

**Disclosure Requirements**

*Disclosure of Services and Compensation*

- Information required to be disclosed by plan service providers must be furnished in writing to the plan fiduciary. The rule does not require a formal written contract delineating the disclosure obligations.
- Information that must be disclosed includes a description of the services to be provided and all direct and indirect compensation to be received by the service provider, its affiliates or subcontractors. Direct compensation is compensation received directly from the plan. Indirect compensation generally is compensation received from any source other than the plan sponsor, the covered service provider, an affiliate, or subcontractor.
- Because certain services and costs are so significant or present the potential for conflicts of interest, information concerning those services and costs must be disclosed without regard to whether services are furnished as part of a bundle or package. For example, service providers must disclose whether they are providing recordkeeping services and the compensation attributable to such services, even when no explicit charge for recordkeeping is identified as part of the service contract.
- Service providers must disclose whether they are providing any services as a fiduciary to the plan.

- Information also must be disclosed about plan investments and investment options. These disclosure obligations are placed on the fiduciaries to investment vehicles that hold plan assets and on recordkeepers and brokers who, through a platform or other mechanism, facilitate the investment in various options by participants in individual account plans, such as 401(k) plans.

*Ongoing Disclosure Obligations*

- **Changes:** A service provider generally must disclose a change to the initial information required to be disclosed as soon as practicable, but no later than 60 days from the date on which the covered service provider is informed of such change.
- **Reporting and Disclosure Requirements:** Service providers also must, upon request, disclose compensation or other information related to their service arrangements that is requested by the responsible plan fiduciary or plan administrator in order to comply with ERISA's reporting and disclosure requirements.

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