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Employee Benefits and Compensation

April 2014

IRS Releases Safe Harbors, Intended to Promote Rollovers to Qualified Plans

The Internal Revenue Service (IRS) recently released Revenue Ruling 2014-9, which describes two new safe harbors that may be used by a plan sponsor in evaluating whether to accept an employee's rollover distribution from a qualified retirement plan or individual retirement account (IRA) into the plan sponsor's qualified retirement plan. In considering whether to accept a rollover into a qualified retirement plan, the plan administrator must determine whether the requested rollover contribution constitutes an "eligible rollover distribution." This analysis is important, as not all plan distributions are eligible rollover distributions, and distributions from an inherited IRA or nontraditional IRA cannot be rolled over into a qualified plan. A plan's acceptance of an ineligible rollover contribution could result in the disqualification of the plan, as well as adverse tax consequences to the employee rolling over the ineligible amounts. The safe harbors included in the Revenue Ruling are intended to provide plan sponsors with some comfort as to the information required to reasonably conclude an amount is an eligible rollover distribution, and should simplify the rollover process, thus encouraging greater portability of retirement savings.

The Revenue Ruling uses two examples to set forth the new safe harbor. In the first example, which involves a distribution from a qualified retirement plan, the employee provides the plan sponsor of the recipient plan with a check payable from the transferor retirement plan. The Revenue Ruling provides that it is reasonable for the plan sponsor to determine that the rollover contribution is an eligible rollover distribution based on the facts provided if (1) Form 5500 for the originating plan (publicly available at the Department of Labor's EFAST website) indicates that the originating plan is intended to be a plan qualified under Section 401, Section 403, or Section 408 of the Internal Revenue Code (that is, there is no Code 3C on Line 8a of Form 5500); and (2) the plan sponsor of the recipient plan has no information to the contrary. In the second example, the employee wants to roll over an IRA distribution into a qualified retirement plan. The check from the IRA custodian to the recipient plan is drawn on the account of an IRA in the name of the employee attempting to roll over the funds, and the employee certifies that he has not attained age 70½ (thus eliminating the possibility that the rollover includes minimum required distributions). The Revenue Ruling states that, in this case, it is reasonable for the plan sponsor to conclude that the amounts are being rolled over from a traditional, noninherited IRA and are eligible for rollover.

It is expected that these changes will facilitate rollovers, particularly in circumstances in which a plan sponsor may have been hesitant to accept rollovers in the past, such as IRA rollovers and rollovers from plans without a favorable determination letter.

If you have any questions about rollovers and the administrative impact of IRS Revenue Ruling 2014-9, please contact any of the following lawyers in Robinson & Cole's Employee Benefits and Compensation Practice Group:

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