

# employee benefits update

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# What employers should know about traditional and Roth IRAs

**M**any plan sponsors use a deferred compensation plan such as a 401(k) plan to offer their employees a retirement benefit. But another option to consider is teaching your employees about individual retirement accounts (IRAs).

With an IRA, employees take personal payroll deductions to channel funds into their accounts. Employers neither sponsor nor manage IRAs. Both the traditional and the Roth version have their pros and cons, so deciding which one is best requires planning and research on the employee's part. Here's what you, as an employer, need to know.

## Traditional IRAs

When a participant contributes to a traditional IRA, some or all of the contributions are tax deductible. The earnings grow tax deferred and are taxed at the participant's ordinary income tax rate on withdrawal.

***For both traditional and Roth IRAs, annual contribution limits for 2011 for single participants are \$5,000.***

To be eligible for a traditional IRA, a participant must be under the age of 70½ on Dec. 31 of the year in which he or she opens the account and needs to have earned income during the year. IRA contributions don't have adjusted gross income (AGI) restrictions — the AGI limit applies only to tax deductibility. The deductibility of IRA contributions depends on the participant's AGI and whether the participant or his or her spouse is covered by an employer-sponsored retirement plan.



Most withdrawals before age 59½ incur a 10% early withdrawal penalty tax, though the law allows for some withdrawals for special purposes. Participants must begin taking required minimum distributions (RMDs) at age 70½.

## Roth IRAs

When participants contribute to a Roth IRA, all contributions are made on an after-tax basis, so the contributions aren't tax deductible. But all withdrawals are tax free.

Participants can contribute to Roth IRAs as long as they have earned income. Roth IRAs set AGI limits for singles and couples filing jointly at \$107,000 for single filers, heads of household or married filing separately, and at \$169,000 for couples filing jointly.

Eligibility phases out in 2011 for single filers, heads of household or those married filing separately at

\$122,000 and for couples filing jointly at \$179,000. Participants whose income exceeds these limits aren't eligible to contribute to a Roth IRA.

Roth IRAs don't require RMDs at any age. But, after a participant's death, if that participant's estate includes Roth IRA assets, the beneficiaries must take RMDs beginning at age 70½. The beneficiaries don't have to pay income tax on the Roth IRA assets if the account was open for at least five years.

Participants can make withdrawals from principal contributions anytime tax- and penalty-free. Withdrawals on the earnings are also tax- and penalty-free beginning at age 59½ if the account is at least five years old.

## Common rules

For both traditional and Roth IRAs, annual contribution limits for 2011 for single participants are \$5,000. Participants who are 50 years of age or older by the end of the calendar year can contribute an additional \$1,000 as a "catch-up contribution." Married participants that file jointly have a \$10,000 contribution limit plus catch-up contributions of \$2,000.

Participants can make a 2011 contribution anytime between Jan. 1, 2011 and April 15, 2012. Starting in 2010, a \$100,000 income test no longer applies for converting a traditional IRA to a Roth IRA. If a participant converted his or her IRA in 2010, half of the taxable converted amount is taxed in 2011 and the other half will be taxed in 2012.

## Why IRAs matter to employers

It's important for employers to know the IRA rules. One reason why is that, if you sponsor a qualified plan, you may be able to increase participation in that plan by teaching employees that, for distributable events, qualified plan assets can be rolled into a Roth IRA.

In addition, as of this writing, participants can roll their traditional IRA assets — though not Roth IRA assets — into an employer's qualified plan. But check your plan document to see whether your plan allows for this.

Helping employees save for retirement can create better morale, instill a feeling of security and confidence, and even enhance participation in your qualified plan. Plus, IRAs with qualified plan investments help sponsors and employees have a *complete* financial retirement strategy. And, in a down year, an employer not funding a profit-sharing plan can even simply offer IRA advice to employees as part of its benefits package.

## Another valuable opportunity

Educating employees about traditional and Roth IRAs opens up another valuable opportunity to discuss retirement planning. And whether an employee is interested in one of these accounts or not, it's always well worth the time and energy to explore all of the options. 🕒

## Speaking of Roth ...

The Small Business Jobs Act of 2010 (SBJA) allows plan sponsors to add a Roth feature to their qualified plans so that participants can roll over existing plan assets to a Roth account in the plan. The IRS has released guidance to clarify the new law. Among the highlights:

- › Participants can't convert 401(k) dollars and safe harbor matches before age 59½.
- › Employer contributions can take place before an employee reaches 59½ if the contribution meets in-service rules.
- › Employers have a remedial amendment period in which to amend the plan to correct any form defects.
- › Plans must have a qualified Roth contribution program in place at the time a rollover contribution to a designated Roth account is made in an in-plan Roth rollover.
- › There's no minimum or maximum amount that participants can convert.

Remember, 401(k) and 403(b) plans could add the Roth feature starting in 2010. And, beginning in 2011, 457(b) plans can add it, too.



## Upcoming compliance deadlines:

- 4/18\*** Deadline for corrective distribution of 2010 excess deferral failures
- 4/18\*** Deadline for filing of 2010 individual and/or partnership tax returns and making contributions eligible for deductibility
- 5/15** Deadline for filing 2010 Form 990, "Return of Organization Exempt From Income Tax"

*\* In January, the IRS announced that the normal April 15 deadline would be extended to April 18 this year, to allow for observance of a District of Columbia holiday.*

# How much does that cost?

## NEW FEE DISCLOSURE RULES

Last fall, the Employee Benefits Security Administration (EBSA) released its long-anticipated and groundbreaking final rule on 401(k) plan fee disclosures. In an effort to help participants reach their long-term retirement goals without being drained by hidden fees, the rule holds more retirement plan sponsors and employers accountable for their fiduciary duties.



The rule will affect almost half a million retirement plans in the United States. And the final rule is applicable to all covered plans for plan years beginning on or after Nov. 1, 2011. It will take effect on Jan. 1, 2012.

### Information requirements

The regulation requires the plan administrator to take steps to make sure that participants and beneficiaries understand their rights and responsibilities regarding their regular and periodic investment of assets into their 401(k) accounts. You'll be required to give your plan participants three types of information for your 401(k) plan:

**1. General information.** Included here is an overview of the plan's structure, a list of investment options and a description of any "brokerage window," meaning how much the underlying assets and plan investments are costing them. Such information should help sponsors plan so there are no hidden fees and costs in the plan's funds or investments.

## 2. Information about administrative expenses.

Sponsors must inform participants about the plan's administrative expenses, including legal, accounting and recordkeeping fees.

**3. Information about individual expenses.** Plan sponsors must provide an explanation of the fees and expenses that can be charged to, or deducted from, accounts as a result of the participant's decisions. This includes the fees and expenses associated with the funds a participant chooses as well as loan and distribution fees.

## Timing and language requirements

These disclosures are required quarterly on all 401(k) statements so participants receive guidance about where their money is going. The charges for administrative expenses must be laid out in plan quarterly reports and also be made available online.

Plan sponsors must disclose fees using layman's terms. Clear explanations with a glossary of user-friendly terms must be available to the participant. The goal is to clarify the fine print that often accompanies challenging broker information — most participants don't know how to read, understand and decipher relevant fees.

The disclosure must also explain investment choices as a percentage of assets held and express them as a dollar amount for each \$1,000 invested. Advisors need to summarize fund performance to show five-, 10- and even 15-year averages to enable the participant to make investment decisions. You must provide this information on or before the day a participant makes his or her investment decision and every year thereafter.

## The consequences

The ramifications can be significant if you fail to properly disclose fees. Although the Department of Labor (DOL) hasn't disclosed specific fines and sanctions, remember that employee benefit plans with 100 or more participants must perform an audit as part of their obligation to file Form 5500.

## Who is responsible?

No matter what new rules are passed, at the end of the day, a plan sponsor is held accountable for that plan. For this reason, most plan sponsors will want the guidance of CPAs, third party administrators and financial advisors to help sort through all of the information regarding the Employee Benefits Security Administration's newly released final rule on 401(k) plan fee disclosures. (See main article.)

Consult with your benefits advisor to ensure that you're providing the proper disclosures in the reports sent to your participants. Make sure that your advisors provide this information in layman's terms to help the average participant better understand your plan fees.

Also, ask your financial advisor to review their service agreements and spell out any possible confusing areas for participants. Many plan participants don't have a clear sense of the fees and expenses charged by plan providers — and the charges can be costly over the long term, thus impacting participants' retirement savings.

All service providers will have to disclose fees consistently, including those arising from record-keeping services. This should help plan sponsors more accurately assess the numbers when comparing competing plan providers' fees. Advisors may have to examine their sources of income from investments to find out whether they're consistent with the new regulations.

Future guidance is expected to determine the outcome and ramifications.

## The future

The DOL has stated that an increase of one percentage point in fees will reduce overall retirement income by 28% over a lifetime of saving. Therefore, appropriate disclosures will help participants make appropriate investment choices. The new rule should protect the average investor and, ultimately, help hold plan sponsors up to their fiduciary responsibilities. 🕒

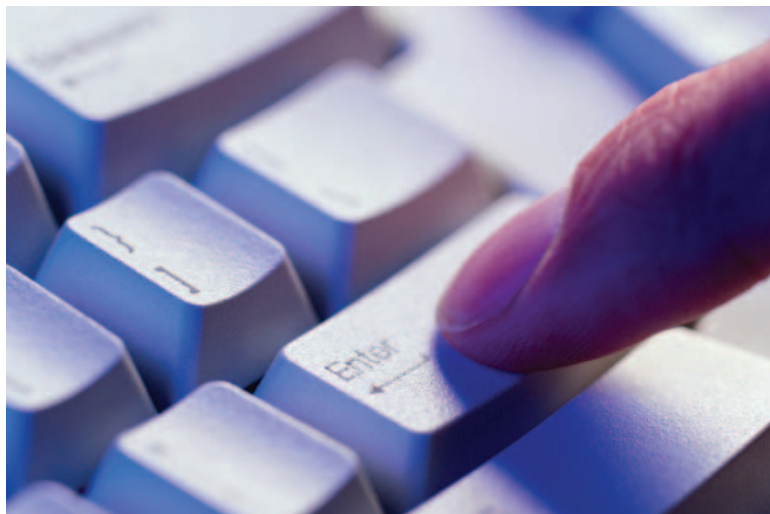
# Get ready to file

## FORM 5500 AND SCHEDULE SSA UPDATES

**A**nother IRS filing season is looming, and two major changes await those readying to prepare Form 5500 for the 2010 calendar year: 1) EFAST2 and its impact on Form 5500 filing, and 2) the making of Schedule SSA a separate filing from Form 5500. Let's take a look at each of them.

### EFAST2

The Department of Labor (DOL), IRS and Pension Benefit Guaranty Corporation (PBGC) created an all-electronic filing system, known as EFAST2, to simplify and expedite the submission, receipt and processing of Form 5500 and Form 5500-SF.



More information related to these and other EFAST2 related items is available at [efast.dol.gov](http://efast.dol.gov). If you haven't already done so, a quick review of this website can get you up and running so that you can quickly register and locate EFAST2-approved vendor software needed for filing. Sponsors can also use the DOL website, or "iFile," to prepare and submit Form 5500 or Form 5500-SF.

***For plan years beginning on or after Jan. 1, 2009, all pension plans, welfare plans and direct filing entities required to submit an annual return/report under ERISA must do so electronically.***

For plan years beginning on or after Jan. 1, 2009, all pension plans, welfare plans and direct filing entities (DFEs) required to submit an annual return/report under ERISA (Form 5500 or Form 5500-SF) must do so electronically. Since last year's filing, a few changes have occurred, including the addition of:

- › An e-Signature alternative,
- › A DOL website FAQ and clarifications page, and
- › A Quick Start Guide.

### Form 8955-SSA

The IRS's former Schedule SSA underwent an even more drastic change beginning with filings made in 2010 for the 2009 tax year and after. It was completely removed from Form 5500 filing, and plan sponsors must now file the information directly with the IRS using the new Form 8955-SSA ("Annual Registration Statement Identifying Separated Participants with Deferred Vested Benefits"). You don't, however, file this form through the EFAST2 system.

As of the publication of this article, no guidance has yet been issued on how to file Form 8955-SSA. Plan administrators aren't required to file it until the IRS issues guidance establishing a special due date, which is expected to occur this year.

After Form 8955-SSA and related instructions are available for filing, plan administrators should expect to have a reasonable amount of time to complete and file the form by the special due date. Although the information reported on the new form will be similar to the information previously required for the old Schedule SSA, a draft form hasn't yet surfaced. Keep in mind, though, that the 2009 Form 8955-SSA isn't required to be filed

until 2011; the time for filing the corresponding Form 5500 or Form 5500-SF isn't delayed.

### Keep up with the changes

Failure to properly file your plan's Form 5500 and Form 8955-SSA can trigger penalties. Make sure you keep up with the changes and the current status of your filings. Give your plan advisor a call or visit the DOL's guidance on its website. [🔗](#)

## Claiming the health insurance contribution tax credit

Although there was much ado about last year's health care legislation, a potential tax credit available to eligible small employers that provide health insurance coverage to their employees has received relatively little attention. This credit is available starting with tax years beginning in 2010, and eligibility requires:

**Full-time equivalent employees (FTEs).** The employer must have fewer than 25 FTEs, and the credit is phased out between 10 and 25. Because the credit is based on FTEs — and not the actual number of employees — employers that use part-time help may qualify even if they employ more than 25 people.

**Annual wages.** The average annual wages of your employees for the year must be less than \$50,000 per FTE. Again, the credit does include a phaseout — in this case, between \$25,000 and \$50,000.

**A qualifying arrangement.** The employer must maintain a qualifying arrangement in which it pays premiums for each employee enrolled in the employer's health insurance coverage in an amount equal to a uniform percentage (not less than 50%) of the premium cost of coverage.

For 2010 to 2013, the maximum credit is 35% of premiums paid by eligible small business employers and 25% of premiums paid by eligible employers that are tax-exempt organizations. The credit is geared to generate the maximum amount for employers employing 10 or fewer FTEs at an average annual wage of \$25,000 or less.

Plan sponsors interested in claiming this credit should review the IRS notice's examples. Eligible small employers can claim the credit as part of the general business credit starting with a 2010 income tax return filed in 2011.

