IRS Issues Updated Rollover Notices

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The Internal Revenue Service recently updated the rollover notice provided to retirement plan participants who receive distributions. The Internal Revenue Code requires administrators of qualified retirement plans to provide written explanations of the rules applicable to a recipient of an eligible rollover distribution. An IRS “safe harbor” notice may be used to satisfy this requirement. The IRS modified its safe harbor notice in September to reflect guidance issued on a waiver of the 60-day deadline for completing a rollover, certain legislative changes related to qualified plan loan offsets, and other clarifying changes.

Exceptions to 60-Day Rollover Deadline

Normally, an eligible rollover distribution from a retirement plan can only qualify for tax-free rollover treatment if it is contributed to another retirement plan or an IRA within 60 days. The IRS now offers some reprieve to individuals who receive retirement plan distributions and inadvertently miss the 60-day deadline if the individual applies for a waiver requiring a self-certification that the deadline was missed due to situations beyond the individual’s control. The safe harbor notices have been revised to refer to this waiver

Other Clarifications

The safe harbor notices also include other clarifying modifications, such as

- modifications clarifying that the 10% additional tax for early distributions applies only to amounts includable in income,
- explaining how the rollover rules apply to governmental 457(b) plans that include designated Roth accounts,
- clarifying that the general exception to the 10% additional tax for payments from a governmental plan made after a qualified public safety employee separates from service (if the employee will be at least age 50 in the year of the separation) is not available for payments from IRAs, and
- recognizing the possibility that taxpayers affected by federally declared disasters and other events may have an extended deadline for making rollovers.

Qualified Plan Loan Offsets

The Tax Cuts and Jobs Act of 2017 extended the 60-day deadline to roll over qualified plan loan offset amounts. An individual now has until the due date for his or her tax return (including extensions) for the taxable year in which the offset occurs to contribute the loan offset amount to a qualified plan or IRA. The safe harbor notices have been revised to reflect this extension.

A distribution of a plan loan offset amount occurs when the participant's distribution is reduced (offset) in order to repay an outstanding loan. This can occur when, for example, the plan requires that, in the event of an employee's termination of employment, the loan must be repaid immediately or treated as in default.

Updated Notices

There are two versions of the safe harbor notice: one notice for payments not from a designated Roth account and another notice for payments from a designated Roth account. A plan administrator may customize a safe harbor notice by omitting any information that does not apply to the plan. In addition, the plan administrator may provide additional information with a safe harbor notice or provide a notice that is different from the safe harbor notice if the information is not inconsistent with the notice requirements under Internal Revenue Code section 402(f) and is written in a manner designed to be easily understood.

Many service providers and vendors will provide plan administrators with updated notices. The safe harbor notices are also available on the IRS website as part of IRS Notice 2018-74 at https://www.irs.gov/pub/irs-drop/n-18-74.pdf. Please contact any member of Williams Mullen's Employee Benefits Section if you have questions.

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