



Financial Distress and Retirement Plan Distributions

Tax Exempt and Government Entities

Employee Plans

2009 IRS Nationwide Tax Forum

Plan Loans

- Not all plans are created equal
 - Loans in IRA-based plans = no
 - Loans in qualified plans = maybe
- Basic loan provisions
- Taxability issues
- Employer “borrowing” plan assets
- Late deposits of EE contributions



Hardship Distributions

- Hardship defined
 - 401(k), 403(b), 457 plans
 - Beneficiaries
- Hardship limits
 - Basic limits
 - Effect of designated Roth account



Pre-Retirement Distributions Tax Consequences

- Take it or leave it – things to consider
- 10% early distribution additional tax
 - Exceptions
 - Age 59 ½
 - Separation from service and age 55
 - Substantially equal payments
 - Disability or death

Rollover of Pre-Retirement Distributions

- Rollover or not?
- Direct rollover rules
- Automatic rollovers
- Roth 401(k)/IRA
- Withholding requirements
- 60-day rollover waiver – PLR



Partial Terminations

- Deemed to occur if:
 - Employer-initiated action
 - Reduces plan participation $\geq 20\%$
 - Facts and circumstances
- 100% vesting required



Plan Losses

- Funding
 - Excise tax if required contributions are not made
- Plan Losses – Deductible?
- Required Minimum Distributions
 - WRERA provides some relief
 - No RMD for 2009

Divorce

- Qualified Domestic Relations Order (QDRO)
 - Permitted distribution options per plan
 - Not subject to 10% early withdrawal additional tax



ROBS

- Rollovers as Business Start-ups
 - Establish C corp and retirement plan
 - Rolls over retirement assets to new plan
 - 100% of rollover invested in ER stock
 - Funds used to purchase franchise or start-up business



What if a Mistake is Made?

- IRS Correction Programs -
 - Self-Correction, Voluntary or Audit
- Correction Examples
 - Failure of 60-day rollover rule
 - Failure to make RMD
- Fix-It Guides Available
- The Fix is In



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Retirement Plan Assistance

- www.irs.gov/ep
 - Includes pages dedicated to Fix-It Guides and Correcting Plan Errors
- (877) 829-5500
 - Customer Account Services
- RetirementPlanQuestions@irs.gov
- Newsletters



- Be sure to attend our session on SEP Plan Pitfalls (Use the IRS SEP Plan Fix-It Guide To Keep Your Clients Out Of Trouble)
- Questions

