

### Subject

## Internal Revenue Service Announces Retirement and Savings Initiatives

### Summary

The Internal Revenue Service recently issued substantial guidance designed to boost retirement savings, including:

- Changes to automatic retirement plan contributions;
- Contributions of unused paid time off to be contributed to a retirement plan; and
- A detailed explanation of tax-free rollover options.

The guidance is found in several rulings identified below. You can access the rulings through the following link:

<http://www.irs.gov/retirement/article/0,,id=212061,00.html>

### Summary of Changes

#### 1. Automatic Contribution Increases under Automatic Contribution Arrangements

In February 2009, the Service and Treasury issued final regulations explaining 401(k) automatic contribution arrangements. In furtherance of these regulations, the Service issued Rev. Rul. 2009-30. In this ruling, the Service clarified two matters with respect to automatic, or default, contributions. First, the ruling makes it clear that default contributions to a profit-sharing plan may provide that an eligible employee's default contribution percentage automatically increases in plan years after the first plan year of participation in the automatic contribution arrangement based in part on increases in his plan compensation. Second, the ruling also permits the default contribution percentage for all eligible employees to increase on a date other than the first day of a plan year.

The Service also issued three notices relating to automatic enrollment in qualified plans, as follows:

- **Notice 2009-65, 2009-39 IRB \_\_:** Facilitates automatic enrollment by providing two sample amendments that sponsors of 401(k) plans can use to add automatic enrollment features to their plans.
- **Notice 2009-66, 2009-39 IRB \_\_:** Facilitates automatic enrollment in SIMPLE IRA plans, including questions and answers relating to the inclusion in a SIMPLE IRA plan of an automatic contribution arrangement.
- **Notice 2009-67, 2009-39 IRB \_\_:** Facilitates automatic enrollment by providing a sample plan amendment that a prototype sponsor of a SIMPLE IRA plan (using a designated financial institution) can use in drafting an amendment to add an automatic contribution arrangement to the SIMPLE IRA plan.

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### 2. Contributions of Unused Paid Time Off (PTO) to 401(k) Plans

The Service issued two rulings relating to contribution of unused PTO to 401(k) plans. In Rev. Rul. 2009-31, the Service concluded that a 401(k) plan may require or permit the dollar equivalent of unused paid time off at year end to be contributed to the plan. In Rev. Rul. 2009-32, the Service held that a tax-qualified retirement plan may permit contribution of the dollar equivalent of unused paid time off at termination of employment.

### 3. Tax-Free Rollover Options

In response to concerns that a key risk to lifetime savings occurs when employees spend a lump-sum retirement plan payout, instead of electing to roll it over to an IRA or other retirement plan, the Service issued Notice 2009-68 to provide rollover guidance. The Notice:

- Provides two safe harbor explanations (one for payments from a designated Roth account and one for payments not from a designated Roth account) that plans can provide for eligible rollover distributions in order to satisfy the required notice provisions of section 402(f); and
- Explains choices available to employees receiving an eligible rollover distribution.

**Note:** *The Administration also pressed for Congress to adopt proposals calling for automatic IRAs, namely, two retirement savings proposals included in the President's 2010 budget proposal for employers who does not offer retirement plans, along with matched retirement savings for lower income workers.*

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