Bloomberg BNA

Pension & Benefits Reporter™

Rollovers

IRS Rollover Guidance Eases Process, Improves Benefit Portability, Analysts Say

When changing employers, individuals and their new retirement plan administrators have faced a time-consuming administrative process in proving the tax status of a plan rollover. And instead of dealing with the hurdles to validate a rollover, many individuals would transfer savings into individual retirement accounts or cash out the balance.

''That has been the common practice up until now,'' said Jan Jacobson, senior counsel for retirement policy for the American Benefits Council in Washington, but now, that may change, she and other retirement policy observers told Bloomberg BNA on April 8.

In an effort to reduce administrative burdens, the Treasury Department and Internal Revenue Service released Revenue Ruling 2014-9, which provides procedures a plan administrator can use to conclude whether a potential rollover contribution is valid (65 PBD, 4/4/14; 41 BPR 770, 4/8/14).

The ruling, released April 3, provides guidance for plan administrators to access the EFAST2 database maintained by the Department of Labor to search for a sending plan's recent Form 5500, Annual Return/Report of Employee Benefit Plan, or Form 5500-SF, Short Form Annual Return/Report of Small Employee Benefit Plan.

Removes Barrier. In the past, plan administrators and participants would conduct a series of requests for a determination letter or further evidence to prove a plan's status to satisfy Treasury and IRS regulations.

''Now they're making it easier,'' said Karen Ferguson, director of the Pension Rights Center. ''You now basically make sure the right box is checked on a form. It just removes an administrative barrier.''

With the simpler process, plan administrators could look at codes on the form and determine the status of the plan, Jacobson said.

Plan administrators must enter codes on Line 8a of Form 5500 or on Line 9a of Form 5500-SF that identify characteristics of the plan's status, the guidance said. If a plan isn't intended to be qualified under tax code Section 401, 403 or 408, the plan administrator would use code 3C, the guidance said.

The new procedure is likely the agencies' effort to encourage plan administrators to conduct individual rollovers to new plans, Jacobson said.

''I suspect there will probably be more use of the plan-to-plan rollover than to IRAs,'' she said.

Increased Portability. The new procedure will make it easier for plan administrators to deal with incoming rollovers, and it will enhance individual market mobility, said Craig Burke, a partner in the employee benefits group at Ice Miller LLP in Indianapolis.

''I think this will facilitate a more easy rollover, which is more important for portability,'' Burke said. ''It's a sort of a theme these days.''

The guidance falls in line with past rulings and policy changes that the agencies have released that have enhanced portability with health-care coverage and retirement accounts, he said.

''There is this sort of idea that portability is part of life and American culture,'' he said. ''People change jobs, and they should have their plans move with them.''

And now retirement systems, relieved of a time-consuming hurdle in determining whether a rollover is a qualified one, may now facilitate greater ease of asset management with that lifestyle, he said.

It is also clear that Treasury and the IRS realize they have resources available that could help streamline and simplify processes to allow for greater mobility, he said.

''I do think the Treasury is making it clear that they are not going to be an obstacle in portability,'' he said.

But Burke said the next possible step would be for the agencies to amend related regulations so that they match what has been released.

''I think it's good to update regulations for greater portability,'' he said.

Invalid Rollovers. The guidance also addresses the possibility of accepting an invalid rollover, a situation plan administrators feared could ''taint'' assets, Burke said.

Reluctance to accept rollovers may persist for some plan administrators, said Karen Field, a principal at KPMG LLP's Washington national tax practice.

''The IRS used to say if you took a rollover and it turned out to be from a disqualified plan or had a massive problem, you had the same problem,'' Field said. ''There was just lingering worry that the IRS could come in and question everything.''

The problem was more of an issue when accepting rollovers from smaller companies, she said.

But the guidance may ease those worries in providing plans with guidelines for how to deal with invalid rollovers without ''tainting their assets,'' Field said.

The guidance said that when accepting a rollover contribution, the plan administrator for the receiving plan must reasonably conclude that the contribution is a valid rollover contribution. But if the plan administrator for the receiving plan later determines that the con-

tribution was an invalid rollover contribution, the plan administrator must distribute the amount of the invalid rollover contribution, plus any attributable earnings, to the employee within a reasonable time after such determination.

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  BPR ISSN 1069-5117