

Retirement News for Employers

Tax Information for Sponsors of Retirement Plans
Internal Revenue Service Tax Exempt and Government Entities

Volume 6, Fall 2009

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Roth & Roll: 2010 Roth IRAs & Rollovers

Beginning on January 1, 2010, regardless of your income or filing status, you will be able to roll over (convert) to a [Roth IRA](#):

- your [traditional individual retirement arrangement](#) (IRA), [SEP IRA](#) or [SIMPLE IRA](#); or
- an [eligible rollover distribution](#) (ERD) from your or your deceased spouse's employer-sponsored retirement plan (for example, a [401\(k\)](#) or a [403\(b\)](#) plan).

Also, in 2010, if you are the nonspouse beneficiary of an employer sponsored retirement plan, you can do a direct trustee-to-trustee transfer of an ERD from the plan into an inherited Roth IRA regardless of your income or filing status.

A special 2-year option will apply for conversions and rollovers in 2010 only. Under this 2-year option, you will report half the taxable portion of your rollover in your gross income for 2011 and half in 2012, unless you elect to include the entire amount in gross income for 2010.

Current Rules

Under the current rules, you can roll over your traditional IRA or an ERD from your retirement plan to a Roth IRA **only if** you meet both the following income and filing status requirements:

- your modified adjusted gross income ([modified AGI](#)) for Roth IRA purposes is \$100,000 or less; and
- you are **not** married filing a separate return.

Note: These requirements do not apply to a rollover from either a [designated Roth account](#) to a Roth IRA or to a rollover from one Roth IRA to another.

When you roll over to a Roth IRA (or convert a traditional IRA to a Roth IRA), you must include any previously untaxed amounts and earnings in your gross income in the year they are distributed or transferred from the plan or non-Roth IRA.

What is a Roth IRA?

A Roth IRA is either an individual retirement account or an [annuity](#) that is designated as a Roth IRA when established. A [deemed IRA](#) can be a Roth IRA, but neither a SEP IRA nor a SIMPLE IRA can be designated as a Roth IRA. Unlike a traditional IRA, contributions

to a Roth IRA are not deductible; however, [qualified distributions](#) from a Roth IRA are tax-free. Roth IRAs are not subject to [required minimum distributions](#) during the owner's life and contributions can continue after age 70 ½.

Contributions may be made to your Roth IRA if you have [taxable compensation](#) and, for 2009, your modified AGI for Roth IRA purposes is less than:

- \$176,000 and your filing status is married filing jointly or qualifying widow(er);
- \$120,000 and your filing status is single, head of household, or married filing separately and you did **not** live with your spouse at any time during the year; and
- \$10,000 if you are married filing separately and you lived with your spouse at any time during the year.

The \$176,000 amount, above, increases to \$177,000 for 2010; the other amounts stay the same.

Conversions

If you convert your traditional IRA to a Roth IRA, you may be able to 'undo' the conversion by [recharacterizing](#) it. If you convert an amount from a traditional IRA to a Roth IRA and then transfer that amount back to a traditional IRA in the same year, you may not reconvert that amount from the traditional IRA to a Roth IRA before:

- the beginning of the year after the year in which the amount was converted to a Roth IRA or, if later,
- the end of the 30-day period measured from the day you recharacterized back from the Roth IRA.

Similar rules apply for rollovers from plans to Roth IRAs.

For more information on Roth IRAs, see:

- [Publication 590, Individual Retirement Arrangements \(IRAs\)](#)
- [IRA Online Resource Guide - Information About Roth IRAs](#)

5500 for 2009 and Later Required to be Filed Electronically

Starting with plan years beginning on or after January 1, 2009, the Department of Labor (DOL) will process Forms 5500 and 5500-SF exclusively through its Employee Retirement Income Security Act Filing Acceptance System (EFAST2). Paper versions of [Form 5500, Annual Return/Report of Employee Benefit Plan](#), and Form 5500-SF, *Short Form Annual Return/Report of Small Benefit Plan*, will not be available for plan years starting on or after January 1, 2009.

Also for 2009 and later plan years, all "one-participant" plans will have the option to file Form 5500-SF **electronically** in place of a paper-only Form 5500-EZ. One-participant plans that file the electronic Form 5500-SF need to only complete those questions on the Form that they would have completed had they filed the paper version of the Form 5500-EZ. The 2009 Form 5500-EZ (paper format) will be available in early 2010.

[Schedule SSA](#), (Form 5500) *Annual Registration Statement Identifying Separated Participants with Deferred Vested Benefits*, is being eliminated as a schedule to Form 5500 series and will become its own form. You cannot file the SSA electronically until the 2010 plan year. We will provide more electronic filing information for the 2009 plan year SSA data in the next few months.

Finally, for the 2009 plan year, certain retirement plans maintained outside the U.S. primarily for the benefit of nonresident aliens are instructed to file Form 5500-EZ rather than Form 5500.

If you need help completing the 2009 Form 5500 or 5500-SF or have related questions, call the EFAST2 Help Line (toll-free) at 866-463-3278, Monday through Friday from 8 a.m. to 8 p.m. ET, or, visit the [EFAST2](#) Web site.

Establishing a SEP or SIMPLE IRA Plan

SEP or SIMPLE IRA plans allow an employer to contribute directly to individual retirement arrangements (IRAs) for all eligible employees (including the employer). An employer can establish a SEP or a SIMPLE IRA plan by adopting an IRS model Form or a prototype plan. As an alternative to these pre-approved plans, an employer can use an individually designed plan.

Adopting a SEP Plan

An employer may establish a SEP plan in one of three ways.

First, an employer can complete [Form 5305-SEP](#), *Simplified Employee Pension – Individual Retirement Accounts Contribution Agreement*. However, the Form 5305-SEP can't be used by an employer who:

1. has any other qualified plans (other than another SEP plan);
2. wants a plan year other than the calendar plan year;
3. has leased employees;
4. is a member of a controlled group, affiliated service group or trade or business under common control (unless all eligible employees participate in the SEP plan); or
5. wants an allocation formula other than a same-percentage-of-compensation formula.

Second, the employer can purchase and adopt a prototype SEP plan. Mutual fund companies, insurance companies, banks, credit unions and certain other businesses offer prototype SEP plans. Prototype plans have been reviewed by the IRS. An employer that adopts a prototype plan can rely on the opinion letter issued to the prototype plan sponsor as evidence that the prototype plan's terms meet the tax-qualification requirements of the Internal Revenue Code (Code).

Third, the employer can adopt an individually designed plan that is usually drafted for the employer by a benefits practitioner. Unlike a model Form plan or a prototype plan, an individually designed plan cannot be relied upon to meet the requirements of the Code unless the plan receives a favorable determination letter from IRS.

Adopting a SIMPLE IRA Plan

When establishing a SIMPLE IRA plan, an employer may:

- choose one of the IRS model SIMPLE IRA Plans by completing:
 - [Form 5304-SIMPLE](#), *Savings Incentive Match Plan for Employees of Small Employers (SIMPLE) - Not for Use With a Designated Financial Institution*, or
 - [Form 5305-SIMPLE](#), *Savings Incentive Match Plan for Employees of Small Employers (SIMPLE) - for Use With a Designated Financial Institution*.
- purchase and adopt a SIMPLE IRA prototype plan and rely on the opinion letter issued to the prototype plan sponsor as evidence that the prototype plan's terms meet the Code's tax-qualification requirements; or
- adopt an individually designed SIMPLE IRA plan and apply for a determination letter from the IRS in order to ensure that the plan's terms meet the Code's tax-qualification requirements.

For more information on SEP and SIMPLE IRA plans, see:

- [Publication 590](#), *Individual Retirement Arrangements (IRAs)*
- [Publication 560](#), *Retirement Plans for Small Business*
- [IRA Online Resource Guide - IRA-Funded Plans - SEP Plans - How to Set Up a SEP Plan](#)
- [IRA Online Resource Guide - IRA-Funded Plans - SIMPLE IRA Plans - How to Set Up a SIMPLE IRA Plan](#)
- [IRA FAQs](#)

IRA Investments

Especially with the current financial situation, many people are concerned about making the right investment decisions for their [individual retirement accounts](#) (IRAs). While the IRS never gives investment advice, we can tell you that the law does not allow IRAs (including Roth IRAs) to make certain types of investments or engage in certain transactions involving self-dealing.

The law does not permit IRAs to invest in life insurance contracts. Also, under Code [§408\(m\)](#), IRAs cannot generally invest in many types of collectibles, such as:

- artwork;
- stamps;
- most types of coins;
- rugs;
- antiques;
- metals;
- gems; or
- alcoholic beverages.

The law also does not permit an IRA owner or his or her beneficiary to use any IRA assets to purchase life, health, accident or other insurance.

An IRA owner or any disqualified person may not engage in prohibited transactions with the IRA. Disqualified persons include the owner's beneficiary, the [fiduciary](#) and the owner's family members (spouse, ancestor, lineal descendant and any spouse of a lineal descendant). There are many prohibited transactions listed in the Code, including:

- using the IRA as security for a loan;
- selling, exchanging or leasing assets of the IRA;
- furnishing goods or services to the IRA; or
- borrowing or lending from it.

See Code [§408](#) and [§4975](#) for a complete list of investment restrictions and prohibited transaction rules, as well as their exceptions.

When an IRA invests in any collectible, that collectible's cost is treated as distributed to the IRA owner and may be subject to the additional [10% early withdrawal tax](#). In the case of an IRA owner or beneficiary who does not follow prohibited transaction rules, the IRA is considered to be distributed to its owner, at its fair market value, on the first day of the year in which the prohibited transaction occurs. The distributed amount is includible in income (except for the after-tax amounts in a traditional IRA and certain amounts in a Roth IRA) for the owner for the year and may be subject to the additional 10% early withdrawal tax. If a disqualified person engages in a prohibited transaction, that person may be liable for [certain taxes](#).

Institutions that hold IRAs may impose additional restrictions on investments. For example, many institutions do not permit IRAs to invest in real estate, even though the law does not prohibit it.

Since the funding vehicle for SEP plans is a traditional IRA, and for SIMPLE IRA plans, a SIMPLE IRA, contributions, once deposited to these plans, become IRA assets. This means that these IRA assets are subject to the IRA investment and prohibited transaction rules discussed above. With a SEP or SIMPLE IRA plan, although the employer establishes and maintains the plan, it is the institution holding the IRAs for these plans that determines the investment choices available to those IRAs. Therefore, an employer's or an employee's search for a financial institution should consider the IRA investment options it offers.

For more information, see:

- [Publication 590](#), *Individual Retirement Arrangements (IRAs)*
- [Publication 3125](#), *The IRS Does Not Approve IRA Investments*
- [Retirement Plans FAQs regarding IRAs](#)
- [Savings Fitness: A Guide to Your Money and Your Financial Future](#)
- [Managing Your IRA Video](#)

New Web Tool for SARSEP Plans

The [SARSEP Fix-It-Guide](#) helps SARSEP plan sponsors identify potential errors. If an employer finds they have made a mistake, the guide leads them to an explanation of how to correct it using IRS's Employee Plans Compliance Resolution System. By answering 10 questions, a SARSEP plan sponsor can quickly spot some common mistakes. The Fix-It-Guide also provides tips for current and future plan compliance. Examples of some of the issues addressed are:

1. *Was your SARSEP established prior to January 1, 1997, and subsequently amended for current law?*

SARSEPS were no longer permitted to be established as of January 1, 1997, and, like any qualified plan, they must be amended for law changes.

2. *Do you have 25 or fewer eligible employees?*

If an employer has more than 25 **eligible employees** (see next question) in the prior year, then no employee may make contributions to his or her SARSEP IRA.

3. *Are all eligible employees, who are at least age 21, worked in 3 out of the 5 prior years and received at least \$550 in compensation during the current year, participating in the plan?*

All employees, even part-time, seasonal and temporary, who meet the above requirements must be given an opportunity to participate in the SARSEP plan.

4. *Are you determining each eligible employee's compensation using the definition in your SARSEP document?*

Since an employee's elective deferrals to the SARSEP plan are based on his or her compensation, it is important to use the correct amount of compensation before withholding and depositing elective deferrals to his or her IRA. Use the plan's definition of "compensation" and limit it to the [annual dollar amount](#), which is \$245,000 for 2009 and 2010, and subject to cost-of-living adjustments in future years.

5. *Are all employee elective deferrals within the appropriate limit as defined under Code §402(g) for the calendar year and have any excess deferrals been distributed?*

An employee's elective deferrals to all plans cannot exceed an annual limit. For 2009 and 2010, this limit is the lesser of \$16,500 or 25% of his or her compensation. If the limit is exceeded, the plan must distribute the excess contributions to the employee by the following April 15th or he or she will be subject to [additional taxes](#).

There's more.... See the [SARSEP Fix-It-Guide](#) for questions 6-10.

We're Glad You Asked!

Each issue of the *RNE* looks at a common question we receive and provides an answer and additional resources in response to the question.

Our 401(k) plan uses an automatic enrollment feature. Some employees have indicated they do not want to participate in the automatic enrollment. Are these employees still considered plan participants?

Yes. Choosing not to defer at the plan's automatic enrollment default percentage by affirmatively electing a different amount, including zero, simply means that the employees have opted out of the 401(k) plan's automatic enrollment feature. An automatic enrollment feature allows the employer to reduce an employee's wages by a default percentage stated in the plan and contribute that amount to the employee's plan account. If the employee is unhappy with the plan's default percentage, he or she may affirmatively choose to contribute a different amount or no amount at all.

Employees who meet your plan's eligibility requirements must be allowed to participate in the plan even if they affirmatively decline to participate in the plan's automatic enrollment feature. Your 401(k) plan may have other types of contributions, such as:

- employer discretionary contributions;
- employer matching contributions; or
- employer nonelective contributions.

Employees who decline to participate in the plan's automatic enrollment feature must still receive any employer contributions they would be eligible to receive under the plan's terms. Similarly, these employees' accounts would be entitled to receive any forfeiture allocations, as determined under the plan's terms.

Additional Resources:

[Publication 4674, Automatic Enrollment 401\(k\) Plans for Small Businesses](#)

[FAQs Regarding Automatic Contribution Arrangements \(Automatic Enrollment Arrangements\) in Retirement Plans](#)

What are the requirements for distributing a deceased participant's account balance to someone other than his or her surviving spouse?

For plan years beginning after December 31, 2009, retirement plan distributions to a nonspouse beneficiary are subject to many of the same rules that apply to other [eligible rollover distributions](#) (ERDs). Plans must offer a nonspouse beneficiary the option to do a direct rollover (a [trustee-to-trustee transfer](#)) of an ERD to an inherited [individual retirement arrangement](#) (IRA).

As the plan administrator, you are required to give all nonspouse beneficiaries a written [notice](#) explaining the:

- direct rollover rules; and
- mandatory 20% income tax withholding rules for distributions not directly rolled over.

You should give this explanation to the nonspouse beneficiary no *earlier* than 180 days and no *later* than 30 days before making the distribution. [Notice 2009-68](#) contains two sample notices that plans may give to nonspouse beneficiaries.

A nonspouse beneficiary can only roll over the distribution of an inherited amount into an inherited IRA. As an inherited IRA, the designated nonspouse beneficiary:

- cannot make any contributions to the inherited IRA;
- cannot roll over any amounts into or out of the inherited IRA, but may do a trustee-to-trustee transfer into another inherited IRA in the original deceased account owner's name with the same beneficiary;

- has the same [basis](#) in the inherited traditional IRA assets as of the original deceased account owner;
- may not combine the basis in this inherited IRA with the basis in his or her own traditional IRAs, or any of his or her other inherited IRAs;
- will not owe taxes on the inherited traditional IRA assets until he or she receives distributions from the IRA; and
- must begin receiving distributions under the [beneficiary distribution rules](#).

Additional Resources:

[Publication 590, Individual Retirement Arrangements \(IRAs\)](#)

[Pension Protection Act of 2006](#) - §829

[Worker, Retiree, and Employer Recovery Act of 2008](#) - §108(f)

New on the Web

Here are the latest updates to the [Retirement Plans Community](#) Web page:

- The 2010 annual dollar limit [Cost-of-Living](#) Increases.
- The [2010 IRA Contribution and Deduction Limits](#).
- [Retirement & Savings Initiatives](#) page has the latest news for employers and employees on issues like automatic plan enrollment, major [life events](#) that affect your retirement planning and [rollover](#) information.
- The [Retirement Plans Navigator](#), a Web guide to encourage small business owners to establish employee retirement plans. This guide will help employers choose a retirement plan, maintain it and correct plan errors.
- Updated [401\(k\) Checklist and Fix-It Guide](#) with revisions, including participant loan issues. The revised checklist asks plan sponsors “yes” or “no” questions. If users answer “no” they may have a mistake in their plan’s operation. If they select “(More),” they will find further information on how to find, fix and avoid the mistake.



Employee Plans Published Guidance

Announcements

[Announcement 2009-82, 2009-48 I.R.B.](#)

Provides relief for sponsors of statutory hybrid plans that must amend their interest crediting rate.

Regulations

[T.D. 9459, 74 Fed. Reg. 45993](#)

Permits governmental plans (including governmental 403(b) contracts and governmental 457(b) plans) to continue using the required minimum distribution rules by using a good faith interpretation of the statute.

[T.D. 9467, 74 Fed. Reg. 53004](#)

Contains guidance for single employer defined benefit plans on the measurement of assets and liabilities for pension funding, benefit restrictions for underfunded pension plans and benefit restriction notices.

[REG-159704-03 74 Fed. Reg. 48030](#)

Updates the eligibility requirements for performing actuarial services for ERISA-covered employee pension benefit plans and includes their continuing education requirements and standards.

Revenue Rulings

[Rev. Rul. 2009-30, 2009-39 I.R.B. 391](#)

Gives two examples of how a 401(k) plan sponsor may automatically increase an eligible employee's default contribution percentage.

[Rev. Rul. 2009-31, 2009-39 I.R.B. 395](#)

States that qualified plans may be amended to permit certain annual contributions of the dollar equivalent of unused paid time off as employer contributions or elective 401(k) contributions.

[Rev. Rul. 2009-32, 2009-39 I.R.B. 398](#)

States that qualified plans may, under certain circumstances, allow employees upon termination of employment to contribute the dollar equivalent of unused paid time off to the plan.

Revenue Procedures

[Rev. Proc. 2009-36, 2009-35 I.R.B. 304](#)

States that a §414(d) governmental plan's remedial amendment cycle will not end before the end of the 91st day after the close of the first legislative session that begins more than 120 days after the plan's determination letter based on a timely submission to the IRS. The sponsor of an individually designed governmental plan may elect Cycle E (instead of Cycle C) as the plan's initial (EGTRRA) remedial amendment cycle.

[Rev. Proc. 2009-43, 2009-40 I.R.B. 460](#)

Provides for automatic IRS approval of a revocation request under WRERA §204. This revokes an election to treat the plan as being funded at the prior year's certified level with IRS's approval if certain requirements are met. This Rev. Proc. also states special rules for automatic IRS approval of revocation requests made pursuant to the resolution of arbitration and that the IRS will consider revocation requests that do not satisfy the standard for automatic approval if these requests are submitted in accordance with IRS's normal ruling letter procedures.

Notices

[Notice 2009-65, 2009-39 I.R.B. 413](#)

Provides sample automatic enrollment plan language that a 401(k) plan sponsor can adopt with automatic IRS approval.

[Notice 2009-66, 2009-39 I.R.B. 418](#)

Includes guidance to help small employers use automatic enrollment for their SIMPLE IRA plans.

[Notice 2009-67, 2009-39 I.R.B. 420](#)

Provides sample automatic enrollment plan language that a SIMPLE IRA plan sponsor can adopt with automatic IRS approval.

[Notice 2009-68, 2009-39 I.R.B. 436](#)

Contains two updated safe harbor 402(f) notices plans may give to recipients of an eligible rollover distribution. These updated notices reflect law changes (such as information on a distribution from a designated Roth account under an employer plan) and explain rules that apply in special situations (such as when a distribution is made to a surviving spouse or other beneficiary).

[Notice 2009-71, 2009-35 I.R.B. 262](#)

Announces the IRS's plan to issue guidance for eligible combined plans under §414(x) and requests comments on issues related to these combined plans.

[Notice 2009-75, 2009-39 I.R.B. 436](#)

Describes the federal income tax consequences of rolling over an eligible rollover distribution from qualified plans, 403(a) annuities, 403(b) plans or eligible 457(b) governmental plans to a Roth IRA.

[Notice 2009-82, 2009-41 I.R.B. 491](#)

Allows transition relief for the waiver of 2009 required minimum distributions (RMDs) under WRERA. It also contains two sample amendments that plans may adopt to give recipients a choice to either waive or receive the 2009 RMDs. The sample amendments can be used by plan sponsors to conform the terms of their plan with the operation of their plan related to the 2009 RMDs.

[Notice 2009-86, 2009-46 I.R.B. 629](#)

Announces the extension of the final effective date for pension distributions at Normal Retirement Age from governmental plans.

Contributors

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Desk Side Chat...With Monika Templeman

The Importance of Internal Controls and Plan Self-Correction

In each issue, Monika Templeman, Director of EP Examinations, responds to questions and offers insights on retirement plan topics uncovered during audits. You may provide feedback or suggest future topics for discussion by e-mailing her at: RetirementPlanComments@irs.gov.

In your presentations, you always briefly discuss internal controls and the IRS's self-correction and voluntary correction programs.

I include this topic in my speeches because I think it is very important for plan sponsors and practitioners to understand the importance of having effective internal controls. I also inform them about the web-based tools that are available on www.irs.gov/ep which help them find and fix mistakes in their plans.

Why are internal controls important for a small business's retirement plan?

Effective retirement plan internal control implies that the organization generates reliable financial reporting and substantially complies with the plan document. Internal controls also play an important role in the prevention and detection of fraud. For example, a business owner, with two employees can easily administer his retirement plan. As the business grows, the owner may hire outside companies to handle plan administration. This is when errors and possibly fraud could occur. It is imperative to have internal control procedures in place to reduce the errors and the chance of fraudulent activity.

In what areas of the plan should the employer set up internal controls?

I would suggest starting at the beginning. Internal controls for payroll data are essential to figure a plan's eligibility and coverage. From there, set up controls for the plan's vesting, contributions, contribution limitations, distributions and so on.

Can you give some specific examples?

I'll use "vesting" as an example. There should be a system to recognize that any **employee** contributions are always fully, or 100%, vested. For most employer contributions, the plan should have procedures to determine who earned a year of service per the plan's definition. This will assure that vesting is properly calculated. There should also be procedures on how forfeitures are handled in the plan.

Does the IRS Web site provide assistance for employers who want to establish or improve their internal controls?

We maintain an *Examination Process Guide* which helps our customers through our audit process. [Section 2](#) of this guide provides tools, such as examination tips, audit techniques, and "check-ups" for plan sponsors to establish or improve their internal controls. We also maintain a set of four internal control [questionnaires](#); items my agents use to determine a company's level of internal controls when they examine a plan. Small business owners can benefit from the questionnaires as a guide to improving their internal controls.

When employers find a mistake in the plan, what action should they take?

I highly recommend taking advantage of our [Self-Correction Program](#) (SCP) or, if the error cannot be resolved using SCP, the [Voluntary Correction Program](#) (VCP). We have [Fix-It Guides](#) for SEPs, SIMPLE IRA plans, SARSEPs and 401(k) plans that describe potential plan mistakes and provide descriptions of how to correct them using one of these programs.

What are the advantages of using these programs?

SCP involves no fee to and no contact with the IRS. VCP involves a fee, that is a lot less than if the error is found during examination. The impact of non-compliance left unchecked can be costly. Not only will the plan sponsor incur the cost of correcting the plan error, but the company will also be responsible for paying a sanction to the IRS. Lack of internal controls ultimately leads to plan errors that present a real risk to plan sponsors and plan participants.

Your response brings us back to the start – good internal controls will eliminate or greatly reduce the amount of plan errors, and if an error is found, it can possibly be corrected without any IRS contact and without paying a fee.



DOL News

The Department of Labor's Employee Benefits Security Administration (DOL/EBSA) announced new guidance as featured below. You can subscribe to [DOL/EBSA's](#) homepage for updates.

Additional Guidance on Schedule C Reporting for 2009 Form 5500

On October 23, DOL/EBSA issued additional guidance to help plan administrators and service providers comply with the expanded requirements for reporting service provider fee and compensation information on the Form 5500. The expanded requirements apply for plan years beginning on or after January 1, 2009.

The new guidance is provided in the form of [25 supplemental frequently asked questions \(FAQs\)](#) on the new Schedule C requirements. Some of the issues covered in the new FAQs include reporting of:

- gifts, entertainment and other non-monetary compensation;
- compensation to hedge fund investment manager;
- "Look-through" investment funds;
- mutual fund redemption fees; and
- ERISA fee recapture accounts.

The supplemental FAQs also provide clarification regarding the 2009 plan year transition relief for service providers by explaining that the transition relief also covers plan administrators and Form 5500 preparers who rely on those service providers for information needed to complete the Schedule C. The details about the transition relief are explained in an [earlier set of FAQs](#) published in July 2008.

Use of Summary Prospectus Requirements

On September 8, DOL/EBSA issued [Field Assistance Bulletin \(FAB\) 2009-03](#) describing the circumstances under which a participant-directed individual account plan may satisfy the prospectus delivery requirements of ERISA §404(c) by furnishing a "Summary Prospectus" pursuant to requirements established by the Securities and Exchange Commission (SEC).

Under new SEC rules, the Summary Prospectus is a short-form document, written in a plain English and user-friendly format. It provides a summary of key information about a mutual fund that is useful to participants and beneficiaries in evaluating and comparing their plan investment options. In addition, if a participant or beneficiary wishes additional information, the Summary Prospectus lists an Internet address that leads directly to the broader statutory prospectus as well as a telephone number and email address for obtaining free of charge the paper version or electronic version of the statutory prospectus and other information.

The guidance provided by the FAB enables plans to take advantage of updated prospectus disclosure changes adopted by the SEC to improve investor disclosure materials.

Getting Ready for the 2009 Form 5500 and Electronic Filing

DOL/EBSA is continuing to make filers and other plan officials aware of the upcoming changes to the Form 5500 and the filing process beginning with the 2009 plan year filings. Information on the new EFAST2 system has been posted on the [EFAST](#) Web site. The EFAST2 system will be available on January 1, 2010. Three archived DOL/EBSA webcasts are also available. The most recent webcast, held on November 5, included a discussion of the Schedule C FAQs noted above and 403(b) guidance noted in the [Summer RNE "DOL Corner."](#) [Subscribe](#) to DOL/EBSA's homepage for notification of upcoming webcasts on the changes to filing the Form 5500. See related article on page 2.

Free Compliance Assistance Events: For dates and locations of free compliance assistance events sponsored by EBSA for both retirement and health benefit plans, visit [EBSA's](#) homepage.

Retirement News for Employers

Retirement News for Employers is a free, quarterly newsletter aimed at keeping employers informed about retirement plan sponsorship. RNE is prepared by the IRS's Employee Plans (Tax Exempt and Government Entities) office.

For your convenience, RNE includes Internet links – identified by the blue underlined text – to referenced materials.

How to Subscribe

RNE is distributed exclusively through IRS e-mail. Sign up for your free subscription by going to the [Retirement Plans Community](#) Web page and selecting “Newsletters” in the left pane. Prior editions of the RNE are also archived there.

Send Comments/Suggestions to:

EP Customer Education & Outreach
SE:T:EP:CEO
1111 Constitution Ave., N.W., PE-4C3
Washington, DC 20224
FAX: (202) 283-9525
E-Mail: RetirementPlanComments@irs.gov

Have a Question?

For taxpayer assistance with retirement plans technical and procedural questions:

Please call (877) 829-5500 or visit the “Contact EP/Services” section at www.irs.gov/ep.

For questions relating to retirement income, IRAs, Roth IRAs, educational IRAs, medical savings accounts and §125 cafeteria plans:

Please call (800) 829-1040.

Mark Your Calendar

Stay on top of your retirement plan's mandatory deadlines! Here are some important dates in the upcoming months. Please note that the filing dates are for calendar-year plans. Non-calendar-year plans must adjust these dates.

Dec. 2: Deadline to give the notice to eligible employees for safe harbor 401(k) plans and safe harbor auto enroll plans and plans containing an eligible automatic contribution agreement in order to automatically satisfy the timing requirements of these notices for the 2010 plan year.

Dec. 8: [DOL's Fiduciary Education Seminar](#) – St. Louis, MO.

Dec. 31: Deadline for distributing 2008 401(k) excess contributions (including income or losses) without jeopardizing a plan's tax-qualified status.

Jan. 15: Fourth quarterly contribution due date for 2009 defined benefit plans.

Jan. 28: [DOL's Fiduciary Education Seminar](#) – Pasadena, CA.

Feb. 1: Deadline for: filing **Form 945**, *Annual Return of Withheld Federal Income Tax*; and giving recipients of 2009 retirement plan distributions **Form 1099-R**, *Distributions From Pensions, Annuities, Retirement or Profit-Sharing Plans, IRAs, Insurance Contracts, etc.*

For a complete list of upcoming EP Educational Events, visit the [Retirement Plans Community](#) Web page.



Timing is Everything



Saver's Credit: A Bonus for Saving in Tough Economic Times

Many people are rethinking their spending habits and cutting back these days. However, your retirement savings may be the wrong place to cut back. More money in your pocket now means less money when you and your family may need it later. Try making the most of your salary deferrals. Remember, the more of your pre-tax wages that you contribute to your retirement plan, the less your taxable income will be for the year.

Low- and moderate-income taxpayers can save even more on their taxes by saving for retirement. The [Saver's Credit](#) is a tax credit of up to \$1,000 (\$2,000 if married filing jointly) if you contribute to a traditional or Roth IRA, 401(k), 403(b), governmental 457, SARSEP or SIMPLE IRA plan.

The credit is equal to 50%, 20% or 10% of your contribution depending on your adjusted gross income reported on Form 1040 or 1040A (federal income tax return). The maximum annual contribution for determining the credit is limited to \$2,000 per person. The credit you may claim against your 2009 taxes is shown in the following table:

Credit Rate	Married Filing Jointly	Head of Household	All Other Filers*
50% of Contribution	not more than \$33,000	not more than \$24,750	not more than \$16,500
20% of Contribution	\$33,001 - \$36,000	\$24,751 - \$27,000	\$16,500 - \$18,000
10% of Contribution	\$36,001 - \$55,500	\$27,001 - \$41,625	\$18,001 - \$27,750
0% of Contribution	more than \$55,500	more than \$41,625	more than \$27,750

**single, married filing separately or qualifying widow(er).*

For 2010, the income limits to claim the credit at the 50% rate are increased to: \$33,500 for married filing jointly; \$25,125 for head of household; and \$16,750 for all other filers. The starting income limits to claim the 20% rate are increased to: \$33,501 for married filing jointly; \$25,126 for head of household; and \$16,751 for all other filers. All other income limits remain the same for 2010.

Claim the 2009 Saver's Credit by filing [Form 8880](#), *Credit for Qualified Retirement Savings Contributions*.

See [Publication 590](#), *Individual Retirement Arrangements (IRAs)*, for additional information.