



In-Plan Roth Rollovers

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Notice 2013-74 expands the guidance provided in Notice 2010-84, explaining how in-plan Roth rollovers operate following the 2012 statutory change that allows all plan funds to be converted.

The Evolution of In-Plan Roth Rollovers:

- **2006:** Roth 401(k) contributions were introduced by the Economic Growth and Tax Relief Reconciliation Act of 2001, for plan years starting after 12/31/05.
- **2010-11:** In-plan rollovers to Roth accounts were permitted by the Small Business Jobs Act of 2010, for distributions after 9/27/10.
- **Notice 2010-84:** provided guidance on in-plan Roth rollovers, including the limitation that the only amounts eligible for in-plan Roth rollovers were amounts that were immediately distributable (limiting the availability of this feature to terminated participants and participants at least age 59.5).
- **2013:** In-plan Roth rollover rules were liberalized by Congress in the American Taxpayer Relief Act of 2012, which added new subsection 402A(c)(4)(E). This legislative change expanded the availability of in-plan Roth rollovers by removing the limitation in Notice 2010-84 that the participant have reached age 59-1/2, or otherwise become eligible for a distribution. The expanded eligibility for in-plan Roth rollovers applies to transfers made after Dec. 31, 2012, in taxable years ending after that date.

New Guidance: Notice 2013-74 amplifies earlier guidance and answers several common questions affecting plan sponsors:

- Only *vested amounts* can be rolled to the in-plan Roth account.



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- In-plan Roth rollovers are *only allowed if the plan document permits* them.
- The *plan document can direct which money types* are available for in-plan Roth rollovers.
- The *plan document can limit the frequency* of in-plan Roth rollovers.
- *No withholding will be applied* to in-plan Roth rollovers. The employee making the in-plan Roth rollover owes taxes on the rollover amount and may need to increase his or her withholding or make estimated tax payments to avoid an underpayment penalty.

FOR MORE INFORMATION

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