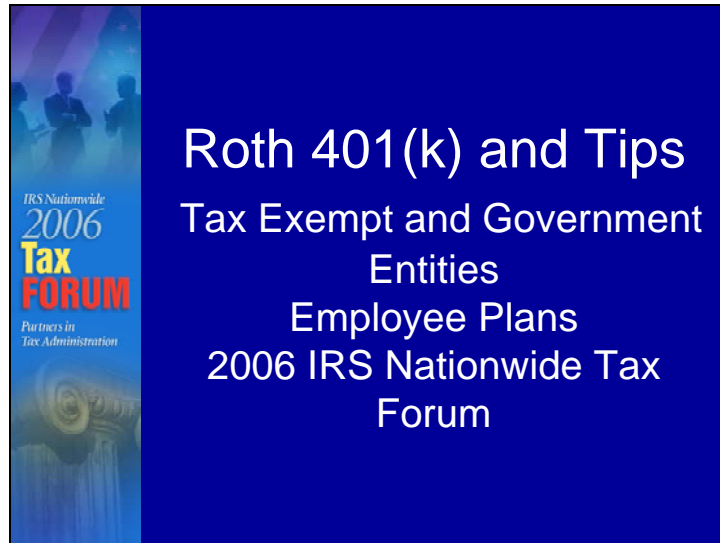


Slide 1



Good morning/afternoon.

Introduce yourself and provide your qualifications for speaking.

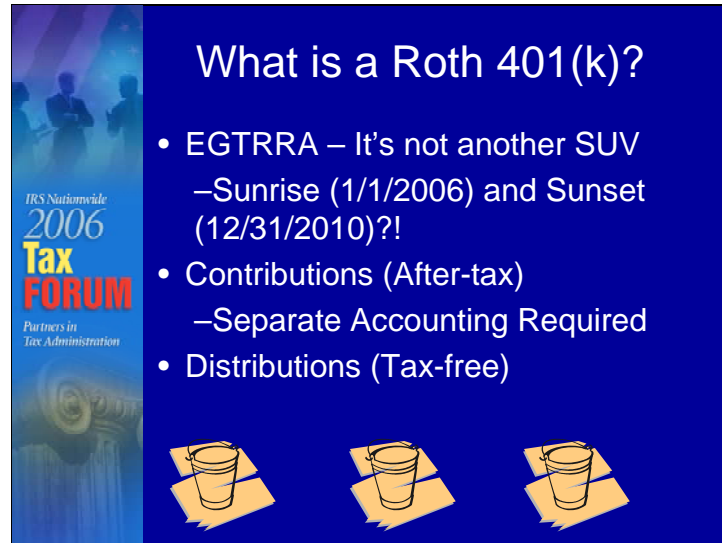
How many of you have had a client come to you and ask about the new Roth 401(k) that they have read about? Or perhaps you have read some articles on the Roth 401(k), but you aren't sure what they are. Today's presentation will provide you with the latest information on the new Roth 401(k) account. I will talk to you about the advantages and disadvantages of adding this type of feature to a new or existing 401(k) plan. I will also discuss the groups of individuals that might want to consider choosing a Roth elective deferral 401(k) vs. a traditional, pre-tax elective deferral.

Then I am going to provide you with some tips on the types of plans that your clients most often adopt: 401(k), SEP and SIMPLE IRA plans. These tips will include the areas where we find the most errors when auditing these plans, correction programs available if an error is made and where to go for additional assistance to get answers to your specific questions.

At the end of this presentation, you will be better able to assist your clients in deciding whether or not adding a Roth feature to their 401(k) plan is right for them. You will also be able to recognize errors and be familiar with the IRS correction programs for the plans that your clients most often adopt – 401(k), SEP and SIMPLE IRA plans.

This presentation, along with the notes will be posted to our web site, www.irs.gov/ep in September after the final Tax Forum in New York. So if you miss anything during my discussion, please visit our web site to view the presentation.

Slide 2



The slide features a blue background with a vertical banner on the left side that reads "IRS Nationwide 2006 Tax FORUM Partners in Tax Administration". The main title is "What is a Roth 401(k)?". Below the title is a bulleted list:

- EGTRRA – It's not another SUV
 - Sunrise (1/1/2006) and Sunset (12/31/2010)?!
- Contributions (After-tax)
 - Separate Accounting Required
- Distributions (Tax-free)

At the bottom of the slide, there are three simple line drawings of coffee cups on saucers, arranged horizontally.

So, what exactly is a Roth 401(k)? Is it a new type of plan? Is it a Roth IRA in a 401(k) plan? Do you have to learn even more new rules?

The Economic Growth and Tax Relief Reconciliation Act of 2001, also known as EGTRRA, added Code section 402A, providing for designated Roth contributions. Designated Roth contributions are defined as elective contributions under a qualified cash or deferred arrangement that are:

designated irrevocably by the employee at the time of the cash or deferred election as designated Roth contributions that are being made in lieu of all or a portion of the pre-tax elective contributions the employee is otherwise eligible to make under the plan;

treated by the employer as includible in the employee's gross income at the time the employee would have received the contribution amounts in cash if the employee had not made the cash or deferred election and maintained by the plan in a separate account.

Designated Roth contributions are allowed in a plan qualified under 401(a) (a traditional 401(k) or a safe harbor 401(k)), or a 403(b) tax-sheltered annuity arrangement, but not a SARSEP or SIMPLE IRA plan. I will limit today's discussion to a traditional 401(k) plan.

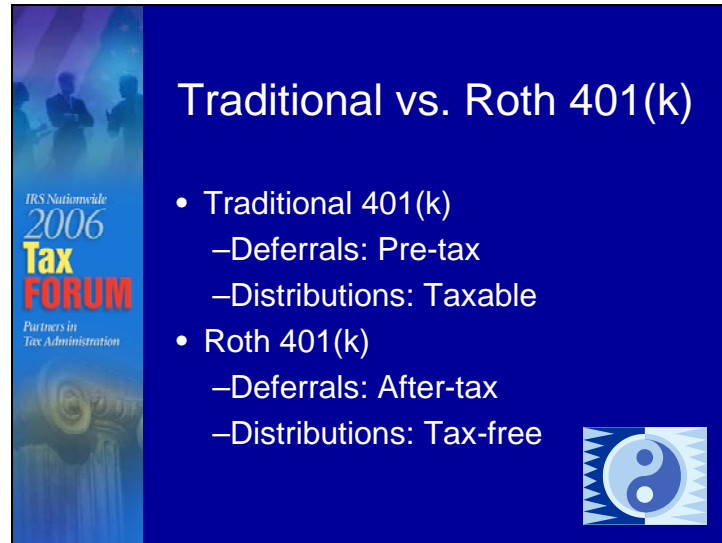
Section 402A is effective for taxable years beginning after December 31, 2005. EGTRRA also has a sunset provision. So, if Congress doesn't extend the provisions of the law, Code section 402A will not apply for any year beginning after December 31, 2010. **[Note: The Pension Protections Act of 2006 was signed into law on August 17, 2006. This law made the changes under EGTRRA permanent.]** Final Regulations under 401(k) on designated Roth contributions were published on December 30, 2005 with an effective date of 1/1/06. Proposed Regulations addressing distributions, taxation, rollovers and recordkeeping of designated Roth contributions were issued on January 26, 2006. These regulations are generally proposed to have an effective date of January 1, 2007. If you are interested in reading the final or proposed regulations, they can be found at our web site www.irs.gov/ep.

So, this is not a new type of plan, but a designation of certain elective deferrals as designated Roth contributions. Designated Roth contributions are not a Roth IRA, but are elective contributions under a qualified cash or deferred arrangement that, unlike pre-tax elective contributions, are currently includible in gross income. An employee may designate a portion or all of their elective contributions as Roth contributions. When the designation as Roth contributions is made, it is irrevocable. Roth contributions are treated the same as pre-tax elective contributions for the purposes of the Code section 415 limitations, the ADP test and the limitations on the amount of contributions that an individual can make each year (\$15,000 in 2006, with an additional \$5,000 if age 50 or over).

A qualified distribution of designated Roth contributions and earnings on such contributions is excludable from gross income. Because a 401(k) plan can now allow for contributions which are made pre-tax and are includible in income when distributed and contributions made with after-tax income and the distributions of these contributions are tax-free, there must be a separate account set up for the designated Roth contributions. The plan document must specifically provide for designated Roth contributions.

Unfortunately, yes, you are going to have to learn some new rules. But, that is why I am here.

Slide 3



The slide features a blue background. On the left side, there is a vertical banner with the text "IRS Nationwide 2006 Tax FORUM Partners in Tax Administration". The main title "Traditional vs. Roth 401(k)" is centered at the top. Below the title, there are two bullet points. In the bottom right corner, there is a yin-yang symbol.

Traditional vs. Roth 401(k)

- Traditional 401(k)
 - Deferrals: Pre-tax
 - Distributions: Taxable
- Roth 401(k)
 - Deferrals: After-tax
 - Distributions: Tax-free

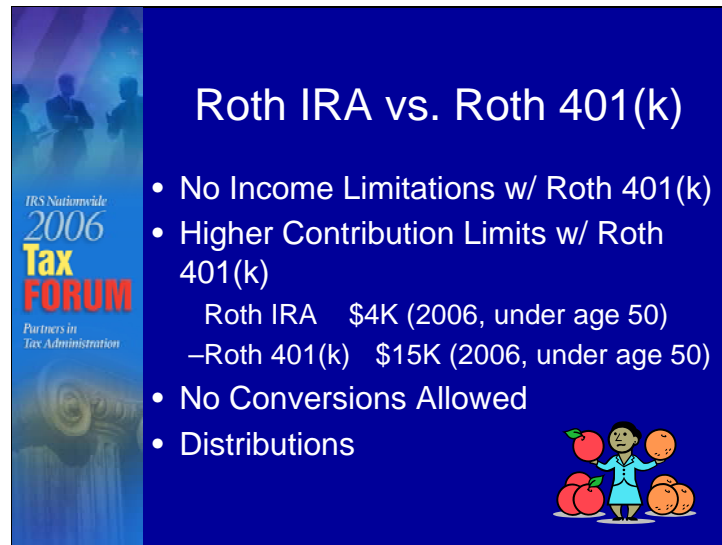
You are all familiar with a 401(k) plan. In this slide and the next slide I am going to compare and contrast the plan types that you are familiar with to the new Roth 401(k).

Under the traditional 401(k), an employee is given the option of deferring a portion of their salary into their retirement plan in lieu of receiving it in cash – this is known as a cash or deferred arrangement or CODA. There are many terms used to describe the elective deferrals. You may have heard of them called salary reduction contributions, elective deferrals, pre-tax elective deferrals or 401(k) contributions. These are all the same thing. I may use the terms interchangeably throughout the presentation. The contributed monies grow tax-deferred – this means that you do not pay tax on the earnings each year, but only when distributed. When the contributions are ultimately distributed, all amounts distributed, contributions and accumulated earnings are taxable.

A Roth 401(k) works the opposite way. If the plan provides for designated Roth contributions and the participant elects to designate a portion of his or her elective deferrals as a Roth contribution, then the designated contribution is taxed immediately and placed in a Roth 401(k) account. Earnings on the account accumulate tax-free. When the monies are distributed as part of a qualified distribution, the distribution is entirely tax-free. So the earnings on the Roth 401(k) account are never taxed if they are distributed as part of a qualified distribution.

During the course of this presentation, I may refer to designated Roth contributions as Roth 401(k) contributions or Roth contributions. These are all different terms for the same thing.

Slide 4



The slide features a blue background with a vertical banner on the left side. The banner contains the text 'IRS Nationwide 2006 Tax FORUM Partners in Tax Administration' and a small image of a person. The main content is a list of differences between Roth IRA and Roth 401(k) accounts. A cartoon character holding several oranges is positioned at the bottom right of the slide.

Roth IRA vs. Roth 401(k)

- No Income Limitations w/ Roth 401(k)
- Higher Contribution Limits w/ Roth 401(k)
 - Roth IRA \$4K (2006, under age 50)
 - Roth 401(k) \$15K (2006, under age 50)
- No Conversions Allowed
- Distributions

This sounds like a Roth IRA, doesn't it? Well so far, the rules are very similar. However, there are some notable differences.


First, and one of the most notable, the income limitations imposed on an individual's eligibility to contribute to a Roth IRA do not apply to designated Roth contributions. So a plan participant in a 401(k) may designate some or all of his or her elective deferrals as designated Roth contributions, regardless of income.

An employee will be able to contribute much more to a Roth 401(k) account than a Roth IRA account. In 2006, the most that an individual under age 50 can contribute to a Roth IRA is \$4,000. That same individual could defer up to \$15,000 to a Roth 401(k). If the individual is age 50 or over, the limits increase to \$5,000 to a Roth IRA or \$20,000 to a Roth 401(k). And contributing to a Roth 401(k) does not preclude an employee from contributing to a Roth IRA, if they do not exceed the income limitations.

Another notable difference between Roth IRA and designated Roth contributions to a 401(k) is that the Code provides for a conversion of a traditional IRA to a Roth IRA. Section 402A does not provide for a conversion of a pre-tax elective contribution account under a 401(k) to a designated Roth account. Once a contribution is designated as a Roth contribution, it is irrevocable.


Finally, Code section 408A provides specific ordering rules that apply to distributions from Roth IRAs. Section 402A does not provide a specific ordering rule for distributions from designated Roth accounts, so section 72 applies to determine the character of distributions from such account. A distribution from a Roth IRA is allowed, for example, for qualified educational expenses or to purchase a first home, without incurring the 10% additional tax on early withdrawal. A withdrawal of earnings for these expenses from a Roth 401(k) prior to age 59 ½ would result in an income tax liability on the earnings as well as a 10% additional tax.

Slide 5



Who's Considering a Roth 401(k)?
(Pay Now or Pay Later?)

- Young Employees - Maybe
- High-Income Employees - Possibly
- Low-Income Employees - Perhaps
- I see a lower or a higher tax bracket in your future
- But I don't want the money - yet



Now you have a basic idea of what a Roth 401(k) account is. So what do you tell your clients? Should they add this feature or shouldn't they? The answer is – it depends.

When you think about the differences in taxation of the earnings in a traditional vs. Roth 401(k) account, it seems obvious that young workers might benefit from the Roth 401(k) account. Remember, that the earnings on the accounts are tax-free. Young workers may have 40 years of accumulated earnings in their accounts by the time they reach age 65. Under the Roth 401(k) account, all of the accumulated earnings can be tax-free. Under the traditional 401(k) account, they are tax-deferred. A young employee who is in a low tax bracket now may be willing to pay taxes on their contributions now in exchange for a tax-free distribution in 40 years.

Other employees who may want to consider a Roth 401(k) are those whose incomes have precluded them from eligibility to contribute to a Roth IRA. Individuals filing married filing jointly with modified adjusted gross income in excess of \$160,000 are not able to contribute to a Roth IRA. They may have been able to afford to max out their traditional 401(k) in the past and would prefer the diversification of part of their retirement income being tax-free.

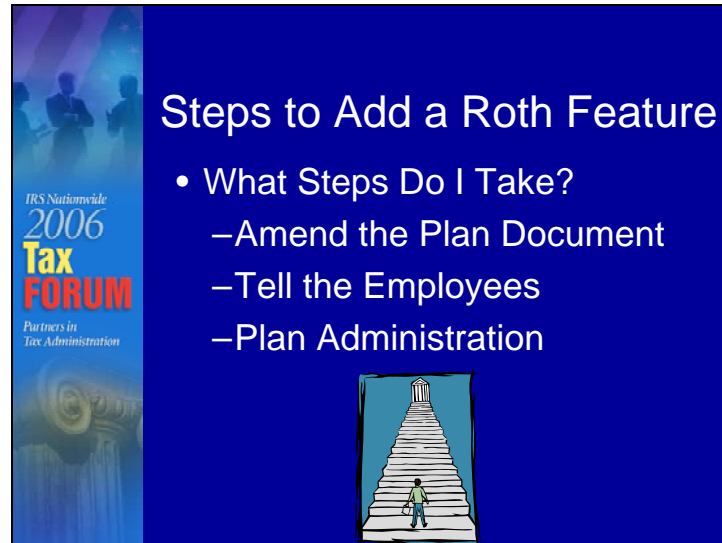
Lower income employees may also benefit from choosing designated Roth contributions over pre-tax elective contributions. Many of these individuals pay 10% or no income tax at all on their wages. These individuals may benefit from including their contributions in taxable income now and enjoying tax-free distributions down the road when they are hopefully in a higher tax bracket.

Another thing to consider is the future tax bracket of the employee. Is it better to pay taxes on the contributions now or later? For those who think that they will be in a lower tax bracket in retirement, they may want to stick it out with the traditional 401(k). If they think that they will be in a higher tax bracket in retirement they may want to consider contributing to a Roth. But, this is a gamble at best. Who knows what tax rates will be 20 or 30 years from now? Some employees may want to diversify their tax risk and put some of their contributions in a tax-deferred traditional 401(k) account and some in a Roth 401(k) account with tax-free accumulation of after-tax contributions.

While Roth 401(k) accounts are subject to the required minimum distribution rules, Roth IRAs are not. Roth 401(k) accounts may be rolled over into Roth IRAs. Employees who have enough money for retirement and would like to transfer assets to their heirs may want to consider contributing to the Roth accounts and rolling them over to a Roth IRA when they receive a qualifying distribution.

For those of you who sat in on our Tax Forum presentation last year, you learned that "One Size Does Not Fit All When Choosing a Retirement Plan." The same is true for the Roth 401(k). Each individual will have to determine which option is best for his or her individual circumstances.

Slide 6



Steps to Add a Roth Feature

- What Steps Do I Take?
 - Amend the Plan Document
 - Tell the Employees
 - Plan Administration

Your client has decided that they do want to add a Roth feature to their 401(k) plan. Now what?

The plan document must be amended to add the Roth feature. Do the amendments have to be executed prior to the plan accepting the designated Roth contributions? The answer is no. But the plan must be amended prior to the end of the plan year in which the amendment is effective. This means that if the plan is a calendar-year plan and employees were allowed to designate Roth contributions anytime during 2006, the plan must be amended to allow for the contributions by 12/31/2006. The IRS has issued a Listing of Required Modifications and Information Package for 401(k)s with the Roth feature which can be found at our web site, www.irs.gov/ep.

A plan that provides for automatic enrollment in a 401(k) plan that has both pre-tax elective contributions and designated Roth contributions must set forth the extent to which those default contributions are pre-tax elective contributions or designated Roth contributions. If the default contributions are designated Roth contributions, then an employee who has not made an affirmative election is deemed to have irrevocably designated the contributions as designated Roth contributions.

Naturally, the availability of the Roth contributions will need to be communicated to the employees. It should be made clear that if your client is offering the Roth feature to one employee, it should be made available to all participants in the plan. Also, the plan cannot only allow for Roth contributions. It must also allow for the traditional, pre-tax elective deferrals. A thing to keep in mind is that the decision whether to stick with the traditional deferral or the designated Roth contribution will depend on each individual's circumstances. Your clients will need to be prepared for a lot of questions from their employees and determine how much guidance they are willing to give them.


So far, we have been focusing on the up side of adding the Roth feature to a 401(k) plan. Now for the down side – plan administration. Adding the Roth feature will complicate things. If the plan is going to allow for designated Roth contributions, many of the forms that are used in the administration of the plan will need to be modified for the Roth feature. For example, participant election forms, distribution forms, annual statements, to name a few.

Not only do the Roth contributions and distributions need to be accounted for separately, but also gains, losses and other credits or charges must be separately allocated on a reasonable and consistent basis to the designated Roth account. Forfeitures, however, may not be allocated to a designated Roth account. And while an employer may provide for matching contributions on designated Roth contributions, these matching contributions may not be allocated to the designated Roth account.

Because the two types of deferrals are treated differently for income tax purposes, payroll systems will also have to be updated to account for the after-tax deferrals.


If your clients utilize a third-party administrator, they will need to ensure that the third-party administrator can account for the designated Roth contributions. This could result in additional administrative fees. In addition, the employer's systems will need to be modified for identification and transmission of the Roth contributions to the third-party administrator.

Slide 7



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Show Me the Money!



- The 5-Year, Not the 5-Second Rule
- Hardship Distributions
- Return of Excess Contributions
- Required Minimum Distributions

A distribution from a designated Roth account is only completely tax-free if it is a “qualified distribution.” A distribution is qualified only if it occurs at least 5 years after the participant’s first designated Roth contribution and it is made on account of the participant’s disability, or made after death or attainment of age 59 ½. If the distribution is not a qualified distribution, then the accumulated earnings will be subject to tax, and additional taxes may apply.

I would like to make a couple of notes about the 5-year rule. First, this is going to require some additional accounting for the plan administrator. They are going to have to track the date of the first designated Roth contribution. Next, it is not as bad as it could be. If a designated Roth contribution is made at any time during the calendar year, it is deemed to have been made on January 1 of that year. Also, only the first contribution needs to be tracked; the plan administrator will not be required to track every contribution for every year.

A plan that makes a hardship distribution under a 401(k) plan from elective deferrals that include designated Roth contributions must separately determine the amount of elective deferrals available for hardship and the amount of investment in the contract attributable to designated Roth contributions. The entire amount of the hardship distribution is treated as reducing the otherwise distributable amount for purposes of applying the rules that generally limit hardship distributions to the principal amount of elective deferrals made less the amount of elective deferrals previously distributed from the plan.

Designated Roth contributions are treated the same as pre-tax elective deferrals for purposes of non-discrimination (ADP) testing. What happens if it is determined that there is an excess contribution that needs to be returned in order to pass the ADP test and the affected highly compensated employee had both designated Roth contributions and pre-tax elective deferrals? Is the excess pre-tax elective deferrals, designated Roth contributions or a combination? The final regulations provide that the HCE can elect whether the excess contributions are to be pre-tax elective deferrals or designated Roth contributions. There is no requirement that the plan provide this option of allowing an HCE to make such an election. If the distribution of excess contributions is a distribution of designated Roth contributions, it is not includible in income – it has already been taxed. The income allocable to a corrective distribution of excess contributions is includible in gross

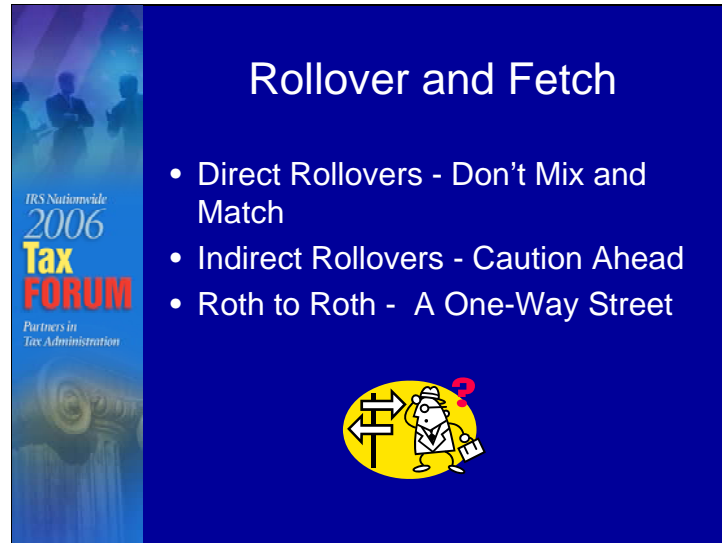
income regardless of whether the corrective distribution is due to pre-tax elective deferrals or designated Roth contributions.

While we are on the topic of excesses, there are certain distributions that can never be considered qualified distributions and are currently includible in income. They are:

- Corrective distributions of elective deferrals in excess of the 415 limitations,
- Corrective distributions of excess deferrals under section 402(g),
- Corrective distributions of excess contributions (ADP test) or excess aggregate contributions (ACP test),
- Deemed distributions under section 72(p) or the cost of current life insurance protection, and
- Dividends paid on employer stock under section 404(k) (unless they are reinvested in the plan).

Designated Roth contributions are subject to the required minimum distribution rules just as traditional 401(k) contributions are.

Slide 8



The slide features a blue background with a vertical banner on the left side. The banner contains the text "IRS Nationwide 2006 Tax FORUM Partners in Tax Administration" and a silhouette of a person. The main title "Rollover and Fetch" is centered at the top in white. Below the title is a bulleted list of three items. At the bottom center is a cartoon character wearing a hat and holding a briefcase, standing next to a signpost with a question mark above it.

Rollover and Fetch

- Direct Rollovers - Don't Mix and Match
- Indirect Rollovers - Caution Ahead
- Roth to Roth - A One-Way Street

The proposed regulations address several different rollover situations. While the proposed regulations are generally not effective until January 1, 2007, they may now be relied upon, and the rules relating to rollovers are proposed to be effective on January 1, 2006. If, and to the extent, future guidance is more restrictive than the guidance in the proposed regulations, the future guidance will not be applied retroactively.

A direct rollover from a designated Roth account under a 401(k) plan may only be made to another designated Roth account under an applicable retirement plan or to a Roth IRA and only to the extent the direct rollover is permitted under the rules of section 402(c).

So let's take a look at the first bullet on the slide – Direct Rollovers – Don't Mix and Match. This means that a designated Roth account can only be rolled over into another Roth-type account, not to a traditional, pre-tax 401(k) account. So if an employee has a Roth 401(k) account, terminates employment and is hired by an employer with a 401(k) plan that does not permit designated Roth contributions, the employee will not be able to roll over his Roth account from his old employer's plan to the new employer's plan. The employee's only options would be to roll the Roth account into a Roth IRA or keep it in the former employer's plan.

If the new employer also had a Roth 401(k), then the employee would be able to roll over from his designated Roth account in the old plan to the new plan, assuming the new plan permitted rollovers. The rollover needs to be a direct trustee-to-trustee rollover. It cannot be paid to the employee and then the employee pays, within 60-days of receipt, to the new employer's Roth 401(k). I'll talk about that more in a minute. If it is rolled directly into the new employer's Roth 401(k), the number of years the funds were in the former employer's Roth account can be counted in determining the 5-year period for qualified distributions from the new account. The old employer's plan is required to report to the new employer's plan the amount of the employee's designated Roth contributions and the first year the employee made designated Roth contributions or that the distribution is a qualified distribution (that means that it already meets the rules for a tax-free distribution).

What happens if the employee receives the distribution, rather than rolling it over in a direct trustee-to-trustee transfer - our second bullet on the slide? The employee can still roll over the entire distribution, both contributions and earnings, to a Roth IRA within 60 days of receipt.

What if the employee decides to only roll over part of the distribution? This gets really tricky. That's why we say "Caution Ahead." If only a portion of the distribution is rolled over, the portion that is rolled over is treated as consisting first of the amount of the distribution that would be includible in income. The employee is permitted to roll over the taxable portion of the distribution to a designated Roth account within the 60-day period. Additional reporting will be required from the new plan and the employee's period of participation is not carried over from the old plan, for purposes of satisfying the 5-year period under the new plan.

It is not permissible to roll over a Roth IRA account into a Roth 401(k) – this is our one-way street.

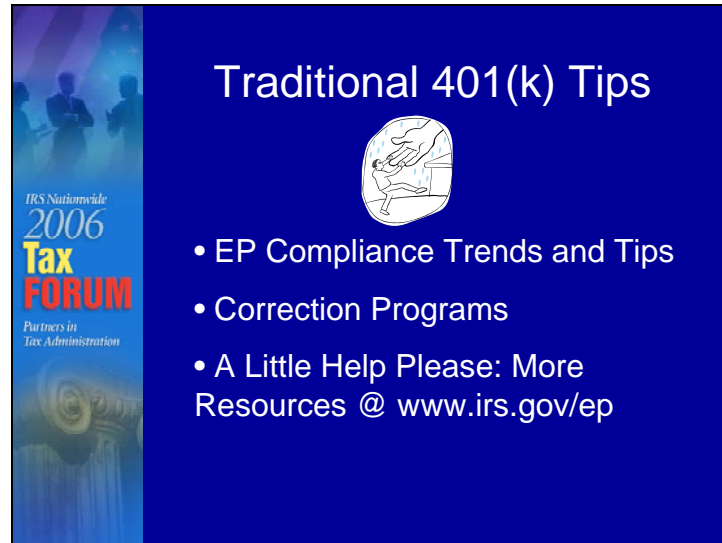
It is, however, permissible to roll over a distribution from a Roth 401(k) into a Roth IRA. The period that the rolled-over funds were in the designated Roth 401(k) account does not count towards the 5-year period for determining qualified distributions from the Roth IRA. However, if an individual had established a Roth IRA in a prior year, the 5-year period for determining qualified distributions from a Roth IRA that began as a result of that earlier Roth IRA contribution applies to any distributions from the Roth IRA (including a distribution of an amount attributable to a rollover contribution from a designated Roth account). So let me give you an example of how this would work. In order to illustrate the point, we will have to assume that the employee started making designated Roth contributions in 2006 and for this example it is now 2007. If the employee that we have been talking about has a designated Roth 401(k) account that was set up in 2006, because it is now 2007, he has 1 year toward the required 5 years for a qualified distribution. The new employer, in this case, doesn't allow rollovers from designated Roth 401(k) accounts, so the employee sets up a new Roth IRA and rolls his designated Roth account from the old employer into the new Roth IRA. The year that he had does not move with the funds to the Roth IRA. He is starting over with year one.

Now let's look at the second situation where the employee rolls the distribution into an established Roth IRA. Let's say it was set up in 2000, so a distribution from it will meet the 5-year rule for a qualified distribution. So again, in this situation, it is 2007 and the employee has 1 year in the designated Roth 401(k) account. If the money from the Roth 401(k) is rolled into the Roth IRA that was set up in 2000 and is subsequently distributed in 2007, all of the funds in the Roth IRA (original contributions and rolled over amount) would meet the 5-year rule for a qualified distribution.

We have been receiving a lot of questions on the proposed regulations and hope to answer them in the final regulations.

The proposed regulations and Roth Frequently Asked Questions dealing with these issues can be found on our web site www.irs.gov/ep.

Slide 9



The slide features a blue background with a vertical banner on the left side. The banner contains the text "IRS Nationwide 2006 Tax FORUM Partners in Tax Administration" and a small illustration of a person. The main title "Traditional 401(k) Tips" is centered at the top. Below the title is a circular logo depicting a hand holding a pen over a document. A bulleted list of topics is positioned to the right of the logo.

Traditional 401(k) Tips

- EP Compliance Trends and Tips
- Correction Programs
- A Little Help Please: More Resources @ www.irs.gov/ep

Up to this point, I have been talking about the Roth 401(k). As you can imagine, there are going to be some missteps made due to the increased complexity of adding this feature. We won't be examining these plans for a couple of years. We will let you know what we are finding in our examination of these plans at a future Tax Forum presentation.

Now I would like to spend a little time talking to you about our 401(k) plan examination results. For those of you who are familiar with our web site, www.irs.gov/ep, we have posted EP Compliance Trends and Tips for several different types of plans, including 401(k)s. The 401(k) trends and tips include the top 10 issues identified by EP Examiners and tips on how to avoid these errors. I will not have the time to go over all 10 during today's presentation. I encourage you to go to our web site and check them out.

A common thread that seems to occur with several of the top 10 issues is failure to follow the terms of the plan. For example, the #3 issue is "Failure to Use Correct Compensation." Typically what the examiner finds is that the plan's definition of compensation is not being used in operation. This may result in a highly compensated employee not being properly identified, which may then result in a failed ADP test. It could also result in the failure to properly limit compensation as required by the Code. The limit for 2006 is \$220,000. For example, an employee earned \$250,000 in 2006. The employer match was based on \$250,000 in compensation, rather than \$220,000, as limited by the Code.

Another frequent error seen on examination is the improper exclusion of eligible employees for purposes of ADP and/or ACP testing. This is when an employee has met the eligibility requirements of the plan document, but chooses not to participate in the plan and is not included in the non-discrimination testing as a \$0 deferral. The employee only has to meet the eligibility requirements for one day to be included in the testing. Many times, the information on these employees is never sent to the third-party administrators and they have no idea that the employee should be included in the testing.

Another area of frequent problems is the 402(g) limits. This is the \$15,000 limit for an employee under age 50 for 2006. Many are unaware that this is an individual limit, not a plan limit. It is based on the individual's tax year, not the plan's.

Other areas discussed in the Top 10 are:

Late Deposit of 401(k) Deferrals

Improper 401(k) Accelerated Deductions

Misclassification of Highly and Non-highly Compensated Employees for Purposes of ADP and/or ACP Testing

Failure to Correct or Timely-Correct ADP and/or ACP Failures

Incorrect Employer Matching Contributions

Failsafe Provisions in a 401(k) Safe Harbor Plan

Failure to Meet Hardship Distribution Requirements

For a complete explanation of these types of errors and tips on how to avoid them, please check out our web site.

Now, based on my discussion today, you are certain that there is an error in your client's 401(k) plan, what do you do? The plan may be eligible for relief under the IRS's EP Compliance Resolution System (EPCRS) program. This program allows an employer, in certain circumstances, to self-correct an error without ever notifying the IRS. In other circumstances, the employer may need to enter into our voluntary correction program, which requires the employer to make a submission to the IRS, pay a user fee and the IRS will issue a compliance statement to the plan sponsor. Finally, if the IRS finds the error, the plan is still eligible to correct the error, it is just more costly.

If you would like additional resources on the IRS correction programs, or 401(k) plans, please visit our web site or stop by our booth in the Exhibit Hall. We have lots of free plain-language publications to give to you.



The slide features a blue background with white text. On the left side, there is a vertical banner for the 'IRS Nationwide 2006 Tax FORUM' with the tagline 'Partners in Tax Administration'. The main title 'SEP and SIMPLE IRA Tips' is centered at the top. Below the title is a small illustration of a person sitting on a scale. A bulleted list of topics is positioned to the right of the illustration.

SEP and SIMPLE IRA Tips

- EP Compliance Trends and Tips
 - Special Limited Relief for SIMPLE IRA Non-Amenders
- Correction Programs
- A Little Help Please: More Resources @ www.irs.gov/ep

Now I would like to talk to you about SEP and SIMPLE IRAs. We have just begun an examination program on SEPs this year, so I don't have any examination results for you. We will keep you posted on exam results as they come in on our web site, in our newsletters and in future Tax Forum presentations.

We have a lot of information on SEPs on our web site. Specifically, I would like to point out our SEP checklist. It is a quick tool for your clients' use to help them keep their plan in compliance with many of the important tax rules. It is not a comprehensive list, but 10 questions with yes/no answers that we think are the most problematic. If any of the questions are answered "no," then there may be a problem and further review should be completed. We have hard copies of the checklist in our booth. However, I encourage you to go to our website and review the on-line version. It contains hyperlinks to key terms which provide an expanded explanation of those terms. For example, an eligible employee for a SEP is quite different from an eligible employee for a 401(k) plan. When in the on-line version of the SEP checklist, if the user clicks on "eligible employee" they will be taken to a definition of "eligible employee" for SEP plans.

We have completed SIMPLE IRA examinations and I do have some audit results for you with respect to those plans. The number one issue we have encountered with these plans is that SIMPLE IRA plans were required to be amended for the changes made by EGTRRA. **This failure deserves special attention as we are finding on exam that over 50% of all plans reviewed have not timely updated the plans for EGTRRA.**

Employee Plans has decided to offer limited relief to these SIMPLE IRA plans to update for the provisions of the Economic Growth and Tax Relief Reconciliation Act of 2001 (EGTRRA). The relief period is open until December 31, 2006. Employee Plans is allowing SIMPLE IRA plans found on examination with the EGTRRA failure to adopt the updated versions of the IRS Model SIMPLE IRA plan (March 2002 or August 2005) or adopt an updated EGTRRA version of their financial institution prototype plan for correction under SCP procedures as provided for in our Correction Program. We have a lot of additional information on this limited relief program on our web site, www.irs.gov/ep.

Other issues identified as the top errors encountered in the examination of SIMPLE IRA plans are:

Late deposit of salary deferral payments to IRA accounts for participants.

Not making the proper matching contributions for participants either by making incorrect matching contributions or not at all.

Not meeting plan eligibility requirements by not including employees that are eligible (who have earned \$5,000 or more during the year) and should be participating in the plan or by including employees that are not yet eligible.

Failing to include bonus payments as compensation for the matching employer contribution.

Failure to allow employees to make elective salary deferrals when eligible.

Failure to make the 2% employer non-elective contribution when elected in the plan.

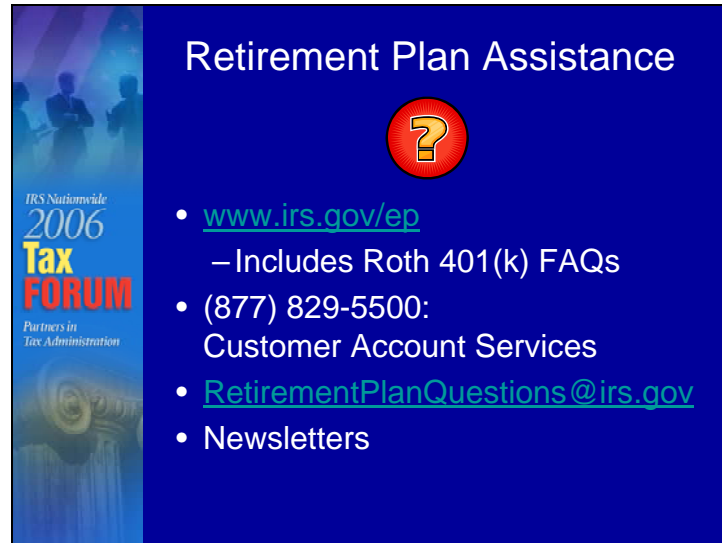
Failure to give employees 60-day notice before the start of the plan year to change their salary deferral election or to start one when first eligible to participate.

Controlled groups and affiliated service groups failing to meet plan coverage requirements by including their other employees when eligible as participants in the SIMPLE plan.

Not limiting the SIMPLE IRA plan to the only plan of the employer. For example the employer maintains a SIMPLE IRA plan and also has a SEP or a defined contribution plan, which code section IRC 408(p)(2)(D)(i) prohibits.

We have a checklist for SIMPLE IRA plans, as well as SARSEPs, 401(k) plans and 403(b) plans. The last two can only be found at our web site. The others are available in both hard copy and the on-line versions.

We also have a plain-language publication on SIMPLE IRAs, Publication 4334, SIMPLE IRA Plans for Small Businesses. This publication along with many others to assist you can be found on the Forms and Publications CD in your registration package, downloaded from our web site or ordered by calling toll-free 1-800-Tax-Form.



The slide features a blue background with a vertical banner on the left side. The banner contains the text "IRS Nationwide 2006 Tax FORUM Partners in Tax Administration" and an image of a person. The main content area has the title "Retirement Plan Assistance" at the top, followed by a red circular icon with a white question mark. Below the icon is a bulleted list of resources.

Retirement Plan Assistance

- www.irs.gov/ep
 - Includes Roth 401(k) FAQs
- (877) 829-5500:
Customer Account Services
- RetirementPlanQuestions@irs.gov
- Newsletters

We at the IRS have developed many tools to assist you and your clients in the retirement plan area, whether your question is “How do I choose a retirement plan?” or “How much money can I contribute to my retirement plan?” or “This plan isn’t working for me anymore. How do I terminate it?”

You can visit our web site at www.irs.gov/ep. The [Retirement Plans web page](#) has a new name and look. It’s now available under “Retirement Plans Community” on the main www.irs.gov landing page. You will now find information for “Benefits Practitioner,” “Plan Participant/Employee” and “Plan Sponsor/Employer.” The pages are populated with all of the retirement plan information that you have come to expect from Employee Plans. We are taking material written for practitioners and re-drafting it for plan sponsors and participants. We will continue adding, redrafting and editing retirement information for each of these customer groups. One recent addition to the web page is frequently asked questions on Roth 401(k) contributions.

There are two different ways that you can discuss your question with a retirement plan specialist. You can call our Customer Account Services at (877) 829-5500. This is a toll-free number. The call center is open 8:30am to 4:30pm Eastern Time.

If you would prefer, you can e-mail your question to RetirementPlanQuestions@irs.gov. All questions submitted via e-mail must be responded to via telephone, so please remember to include your phone number in your message and a customer service representative will call you with the answer to your question.

Finally, we have two free Newsletters that you can subscribe to. The first is the *Employee Plans News*. This newsletter is geared toward the practitioner community and is more technical and involved than our newest newsletter, *Retirement News for Employers*. This newsletter is geared toward the plan sponsor. Each is an electronic newsletter and is posted on our website as a PDF document every quarter. Being a web-based product, the newsletters make an excellent reference guide as they are chock-full of embedded links to guidance sources, products and other sites.

Subscribing to these newsletters yourself, as well as your clients, will keep you abreast of all the latest news regarding retirement plans, legislation, trends, tips on various subjects, as well as keeping you informed of the latest product releases from the office of Employee Plans Customer Education & Outreach!

Subscribing is easy. Just go to "Newsletters" under our web page, www.irs.gov/ep, click on "Employee Plans News" or "Retirement News for Employers," click on "Subscribe," then provide us with your e-mail address. That's all it takes.

You will receive a message in your e-mail inbox alerting you to when our latest issues are posted on our web page with a link bringing you to it when you are ready to use it. We will not be bogging down your e-mail with large PDF files.

Another advantage of subscribing is that we use the same distribution list to announce major late-breaking news through Special Editions of the newsletter, when it happens!

Roth 401(k) and Tips

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Characteristic	Designated Roth 401(k) Account	Roth IRA	Traditional, Pre-Tax 401(k) Account
Contributions	Designated Roth employee elective contributions are made with after-tax dollars .	Roth IRA contributions are made with after-tax dollars .	Traditional, pre-tax employee elective contributions are made with pre-tax dollars .
Income Limits	No income limitation to participate.	Income limits: married \$150,000/single \$110,000 (modified AGI).	Same as Designated Roth 401(k) Account. No income limitation to participate.
Maximum Elective Contributions	Aggregate* employee elective contributions limited to \$15,000 in 2006 (\$20,000 for employees 50 or over).	Contribution limited to \$5,000 in 2006 (\$5,000 for employees 50 or over).	Same aggregate* limit as Designated Roth 401(k) Account.
Taxation of Withdrawals	Withdrawals of contributions and earnings are not taxed provided it's a qualified distribution - (the account is held for at least 5 years and made: <ul style="list-style-type: none"> • On account of disability, • On or after death, or • On or after attainment of age 59½. 	Same as Designated Roth 401(k) Account and can have a qualified distribution for a first-time home purchase.	Withdrawals of contributions and earnings are subject to Federal and most State income taxes.
Required Distributions	Distributions must begin no later than age 70½, unless still working and not a 5% owner.	No requirement to start taking distributions while owner is alive.	Same as Designated Roth 401(k) Account.

* This limitation is by individual, rather than by plan. Although permissible to split the annual employee elective contribution between designated Roth contributions and traditional, pre-tax contributions, the combination cannot exceed the deferral limit - \$15,000/\$20,000 in 2006.

In conclusion, you can now see that each individual plan sponsor will need to decide whether or not they want to amend their plan to offer the designated Roth contribution feature. There are many things that must be taken into consideration including the increased administration. After the decision has been made to add the feature, then each individual employee will have to determine which type of elective contribution, Roth or pre-tax, is best for their individual circumstances. The chart on this slide, adapted from one prepared by John E. Buckley with the Bureau of Labor Statistics, U.S. Department of Labor provides a comparison between the Roth 401(k), the Roth IRA and a traditional 401(k) plan. It is a useful tool for your clients and their employees to use to make these decisions. A copy of this slide is included in your handbook.

Please be sure to attend our presentation on "Accessing Money from a Retirement Plan," where you will learn the who, what, when and why of taking distributions from your retirement account. Featuring highlights of: minimum required, early, and hardship distributions; loans and prohibited transactions; and the distinction between withdrawals from pre-tax elective deferrals traditional accounts and Roth elective accounts.

Thank you for your attention and please stop by the TE/GE booth for additional retirement plan information.