

December 17, 2010

**ALERT: Pre-Dec. 31 deadline for 401(k) and 403(b) retirement plan sponsors to notify retirement plan recordkeepers if Roth rollover option will be added in 2010; Roth option offers tax-advantaged investments to employees**

Newly released IRS guidance clarifies an opportunity for tax savings in retirement plan options – but both employers and employees may need to act before Dec. 31, 2010 to take advantage of the savings. While the Roth deferral and rollover options will remain available to employers, the one-time opportunity to split tax liability on Roth rollovers into two years expires Dec. 31. The actions required are different depending on whether your plan already includes a Roth deferral option or not.

**If your retirement plan already includes a Roth deferral option**

If your plan already has a Roth deferral option and allows employees to receive payouts while they are still employed (called “in-service distributions”), you may choose to move funds from non-Roth investments into the Roth rollover option, called an in-plan conversion.

Non-Roth funds are taxable when the participant receives a distribution because they are funded with pre-tax dollars. Roth rollover investments and earnings may be distributed tax-free, which could result in significant savings, especially if you expect tax rates to rise from current levels. The catch: You must pay the applicable taxes if you convert non-Roth funds into a Roth rollover. However, ***if you complete the conversion in 2010, the Small Business Jobs Act of 2010 allows you to split the tax liability so that half is due for the taxable year beginning in 2011 and the other half for the taxable year beginning in 2012.*** You also may choose to pay all applicable taxes on your 2010 return if it offers a tax advantage for you. For in-plan Roth conversions taking place after Dec. 31, 2010, all tax would be due in the applicable year.

Not all non-Roth funds may be eligible for conversion to the Roth rollover option. If you are interested in adding the in-plan Roth rollover option to your plan for 2010, please contact your plan document attorney, plan recordkeeper and tax advisor immediately.

**If your retirement plan does not currently include a Roth deferral option**

***If you would like to add a Roth deferral and Roth rollover option to your plan, contact your plan document attorney, recordkeeper and tax advisor immediately*** to discuss the pros and cons of such an addition.

Adding the Roth rollover option could provide significant tax benefits for some participants, but it may require several amendments to your plan document as well as additional recordkeeping obligations.

If you have questions about this alert, please contact your AGH employee benefits manager Karen DeWerff at (316) 291-4128 or [karen.dewerff@aghlc.com](mailto:karen.dewerff@aghlc.com), or your AGH tax professional.

*NOTE: Pursuant to federal regulations imposed on practitioners who render tax advice ("Circular 230"), we are required to inform you that any discussion of tax matters contained herein is not intended or written to be tax advice, and cannot be relied upon as such, nor can it be used for the purpose of: (i) avoiding tax penalties that may be imposed by the IRS or states, or (ii) promoting, marketing or recommending to another party any transaction or matter addressed herein. If you seek definitive tax advice on a matter, please request a written tax memorandum from your AGH tax advisor.*