Practice Tips for In-Service Distributions

Summary

There are different rules for in-service distributions of employee salary deferrals and employer contributions taken from a 401(k)/profit sharing plan.

Client Profile

401(k)/profit sharing plan participants younger than age 59 ½ who are still working

Apply the Rules

The plan document will specify whether in-service distributions are permitted from the plan and, if so, the criteria for receiving them.

If the plan allows, while employed, a participant may take a distribution of employee salary deferrals only after he/she attains age 59 ½, or suffers a hardship.

If the plan allows, in-service distributions of employer contributions can occur based on specific plan defined events (e.g. 100 percent vesting, attainment of age 55 with five years service, etc.).

Ask a Key Question

How much could a participant receive if he/she requests an in-service distribution from a 401(k)/profit sharing plan?

Example

John is 41 and participates in his employer's 401(k) plan. He has been employed by the same employer for the last 12 years. John wants to buy a boat to enjoy the summer with his family. John's 401(k) plan allows for in-service withdrawals of pre-tax deferrals at age 59 ½, and vested employer contributions after completion of five years of service. John has the following account balances in which he is 100 percent vested.

Employee salary deferrals	$48,500
Employer match	$22,000
Employer profit sharing	$ 6,500

John could receive $28,500.

According to the plan's in-service distribution provisions, John cannot receive any of his $48,500 in employee salary deferrals because he has not attained age 59 ½. He can, however, receive his $28,500 vested balance of the employer contributions (match and profit sharing) because he has completed five years of service. The federal regulation that requires a participant to attain age 59 ½ does not apply to employer matching and profit sharing contributions. However, John will be subject to taxation and the 10 percent early withdrawal penalty on the $28,500 distribution.

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