THE Pension Digest

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ALSO IN THIS ISSUE –

Planning Opportunities with the Roth IRA

The Roth IRA has a number of favorable attributes which the traditional IRA does not. Although many individuals have established Roth IRAs, there are certainly many people who will still want to do so. Your bank's customers need to be reminded of the following favorable attributes.

First, the income earned by the Roth IRA will never be taxed as long as certain rules are met. That is, no taxation of the earnings, ever, unless the law would be changed.

Second, the fact that a person is a participant in his or her employer's 401(k) plan or other pension plan has, in general, no effect on his or her ability to make a contribution to his or her Roth IRA. Some fortunate people will be able to contribute to both their Roth IRA and their employer's 401(k) plan. However, if a person can afford only to make a contribution to the Roth IRA or the 401(k) plan, many people, within the next couple of years, (sooner if you give them the idea with your marketing) will reach the conclusion that they may well be better off by contributing to their Roth IRA rather than their employer's 401(k) plan. The "no-tax" treatment of the Roth IRA may well outweigh the value of the employer's matching contribution.

Third, a person is eligible to make a $2,000 Roth IRA contribution even through he or she is age 70 1/2 or older, as long as the other eligibility requirements are met.

Fourth, a person is not required to take a required distribution from his or her Roth IRA at age 70 1/2 and older. This means the Roth IRA is an excellent planning tool for transferring assets to family members.

Fifth, the Roth IRA provides more favorable tax treatment to first-time home buyers than the traditional IRA. A taxpayer who withdraws funds from his or her Roth IRA (assume the five-year requirement has been met) will neither have to include the distribution of any of the Roth IRA's earnings in his or her income nor will he or she owe the 10% additional tax for being under age 59 1/2 at the time of the distribution. If your institution is not marketing the fact that a Roth IRA is a tremendous way to accumulate funds for the down payment of a first home, you should.

Sixth, most people do not see sufficient benefits associated with having their minor child or children establish a traditional IRA. Most people do see such benefits if the IRA is a Roth IRA. The "no-taxation" feature makes it very attractive.

In summary, although the favorable attributes of the Roth IRA are generally understood, additional explanations will only serve to increase the demand for Roth IRAs. ◆

New Code for 2001 Form 1099-R

The IRS has issued Announcement 2000-86 to advise IRA custodians/trustees who are payers making various types of IRA distributions of changes to the distribution codes entered in box 7 of the 2001 Form 1099-R.

Earlier in the year the IRS announced, in Notice 2000-30, a new method for reporting recharacterizations and reconversions occurring after 2000. Consequently the IRS defined that there would be two distribution codes (not just one) to be used to report those recharacterizations and reconversions occurring after 2000 (i.e.12-31-2000). For the year 2000, the Code R was used to report all recharacterizations whether for the same year or the prior year. For the year 2001 and subsequent years, a Code N

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is added for reporting a recharacterized IRA contribution made for 2001, and the Code R is now used to report a recharacterized IRA contribution made for 2000 (i.e. the prior year). The IRS previously announced the Code N.

The distribution codes inform the IRS of the tax consequences associated with the distribution which the IRA accountholder received.

For some time, the IRS has permitted the use of more than one distribution code in box 7. There is a rule, however, that only two distribution codes can be entered in box 7. Examples of permissible two-code distributions are: J4, J2, J3, J8, JP, 81, or 8P. However, IRA custodians and trustees were only able to report a distribution due to an excess contribution to a Roth IRA by using Code J with Code 8 or P. It was not possible to use Code 1, 2, 3, or 4 if Codes J and 8 or P applied. Thus, it was not possible to inform the IRS in the withdrawal of an excess contribution situation, whether or not the recipient was subject to the 10% additional tax.

To solve this reporting problem, the IRS has made the following changes in the distribution codes for distributions from a Roth IRA.

For 2000, Code J was used to report each and every distribution from a Roth IRA. For 2001, Code J will be used to report only "an early distribution from a Roth IRA, no known exception." Thus, for 2001 do not use Code 1 with Code J. Code 5, 8, or P must be used with Code J, if applicable.

For 2001, there will be a new Code T. It is to be used to report a "Roth IRA distribution, but an exception applies." Do not use Code 2, 3, 4, or 7 with Code T. Code 5, 8, or P must be used with Code T, if applicable. ◆

A Case to Watch at the U.S. Supreme Court

The U.S. Supreme Court recently heard a case from the state of Washington. The Court's decision with respect to this case will greatly impact the administration of pension plans and IRAs. The name of the case is Egelhoff v. Egelhoff. US No. 99-1529.

This case presents two separate but related issues.

The first issue to be settled is—does a state law which provides that, if a marriage is dissolved, the payment or transfer of non-probate assets granted in favor of the decedent's former spouse is revoked, apply to an ERISA pension plan? For transfer purposes, the statute, in effect, treats the former spouse for transfer purposes (whether for probate or non-probate purposes) as having predeceased the decedent participant.

That is, must a pension plan, which is created under federal law, have to apply various local state laws when it administers the plan? For example, must a large employer with employees in 30 states comply with the individual laws of 30 states, or may it simply apple the rules and procedures set forth in the qualified plan document?

The second issue to be settled is—does a state law which provides that, if a marriage is dissolved, the payment or transfer of non-probate assets granted in favor of the decedent's former spouse is revoked, apply to a welfare benefit situation involving the decedent's participation in a group life insurance plan?

At one time, the U.S. Supreme Court interpreted the ERISA preemption clause 514 as almost an absolute. This preemption clause section 514(a) reads as follows, "Except as provided in subsection (b) of this section, the provisions of this title and title IV shall supersede any and all State laws insofar as they may now or hereafter relate to any employee benefit plan described in section 4(a) and not exempt under section 4(b). Subsection (b) lists specific situations when there will not be preemption. For example, there is no preemption for qualified domestic relations orders and qualified medical child support orders. In addition, there is an exemption for the law of any state which regulates insurance, banking or securities.

However, the U.S. Supreme Court, in various medical situations, has lessened the rule that the federal law will always win over a state law. It was only a matter of time before a "pension" situation came to the Court. This article only discusses the pension situation and then discusses the possible impact on IRAs.

The situation in the Washington case was as follows. It was the classic divorce situation—the divorced participant either intentionally or unintentionally failed to change his beneficiary (the person who was now his ex-spouse) designation after he was divorced, and he then died. The administrators of the pension plan took the position that they must follow the plan's terms for designating a beneficiary, and because he had not changed his beneficiary, the plan must transfer his pension account balance to the ex-spouse.

The decedent's children argued they were entitled to his pension assets because the Washington statute cut off the right of the ex-spouse.

The first court ruled in favor of the pension plan. The first appeals court, and then the Washington Supreme Court, ruled in favor of the children (i.e. the Washington state law revoking the designation of a person who becomes an ex-spouse is not preempted by federal law).

Time will tell. This author believes the Court will rule that ERISA preempts this state law. The interference is too great. A pension plan created under federal law should not have to comply with the laws of 50 other states. There is no reason that pension plans cannot be written to include mandated changes in beneficiaries in certain situations or have simultaneous death provisions, or to have what

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are called slayer provisions.

To what degree may this ruling impact administration of IRAs?

An IRA is also created under federal law. It is true there is no preemption clause for IRAs. However, it is clear that the primary purpose of IRAs is to provide for the retirement of the accountholder and then to provide for his beneficiary(ies) after his death. The federal law is totally silent as to any rules regarding the designation and changing of a beneficiary. It is not clear if the IRA plan document, as with the qualified plan document, is to define all of the rules and procedures, or if, in some situations, state law will apply. This is an issue which will need to be resolved in the future. It appears that people generally assume that state law provisions will apply. ◆

Playing Games with Rollovers—the IRS Rarely Loses

As one would expect, our federal tax laws and court-developed policies are written to try to ensure that a taxpayer pays the tax liability amount he or she owes. A recent case decided by the U.S. Court of Appeals for the Ninth Circuit shows that a court will even strain the law a fair amount to achieve this result. The case was Ashman v. Commissioner, 9th Cir. No. 99-70280, 10/26/00).

The facts were as follows.

In 1990, a taxpayer received a distribution of $725,502 from a qualified plan. She rolled over $625,000 within the 60 days into another qualified plan. She did not roll over $100,502. She purchased an annuity from an insurance company with the $100,502. In 1993, she took two distributions totaling $99,632 from this annuity.

In completing her 1990 federal income tax return, the taxpayer prepared it to show that she had rolled over the entire $725,502. Thus, she did not pay tax on the $100,502, even though she should have.

In completing her 1993 federal income tax return, she did not report, as taxable income, the $99,632. In fact, this amount generally would not have been taxable because she was simply withdrawing her non-taxable basis in the annuity contract (i.e. was $100,502).

The IRS issued the taxpayer a deficiency notice for her 1993 return with respect to the $99,632. For whatever reason, the IRS chose not to try to collect the tax liability amount for failing to include the $100,502 in her 1990 income. The IRS probably thought it would be easier to collect for 1993 rather than trying to collect for 1990, because the three-year statute of limitations had closed with respect to 1990.

The IRS argued to the court that the Duty of Consistency rule applied to this situation. The basic premise of this rule is—a taxpayer may not adopt a certain tax position in one tax year and then adopt a contrary position in a later year. The court found that the taxpayer was bound by her representations that she had rolled over the funds in 1990. Because of her representation, the IRS was not put on notice that she really should have included the $100,502 in her 1990 income. Thus, the court found there was a deemed rollover for income tax purposes (when in fact there was not really a rollover since the funds had not been invested in an IRA), and there was a deemed distribution from the IRA in 1993.

Clearly, the court stretches the law to ensure that taxes would be paid, but one can expect a similar result (taxation in a future year) when the facts are similar (i.e. lying that an amount which was distributed from a pension plan or IRA was rolled over when in fact it was not).

No one likes a cheater – certainly not the IRS and the court. This appellate court stated, "To the extent that there has been any doubt in the past, we now make it clear that the tax court may apply the duty of consistency doctrine in cases which come before it. That means that once a taxpayer has transfigured the true facts, the power to change them back to their old form may well be lost."

The Roth IRA Retroactive Tax Law Change—Constitutional?

I don't know how many of you remember, but The Taxpayer Relief Act of 1997 signed into law in August of 1997 authorized the Roth IRA effective as of January 1, 1998. The law, as written, allowed an eligible traditional IRA accountholder to convert his or her traditional IRA, and such a conversion was an exception to the 10% tax of Code 72(t). The law, as written, did not impose this 10% tax on any subsequent withdrawal from the Roth IRA. The IRS convinced Congress that they could not have meant to write the law this way.

In fact, the Congress, in late 1997, did start discussing a law change to impose the 10% tax in the above situation along with other possible tax law changes. The IRS put all taxpayers on notice that they should not count on not having to pay the 10% additional tax if they would convert their traditional IRA to a Roth IRA followed by an immediate distribution, because any law change would be retroactive to January 1, 1998. The law was changed, but this did not happen until July of 1998, when the Internal Revenue Service Restructuring and Reform Act was enacted.

As expected, there were some taxpayers who intentionally decided to challenge the IRS' position in this situation – that distributions taking place before the correcting law change could be taxed retroactively. One such

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taxpayer was Douglass Q. Kitt. In March of 1998, he converted a certain amount into a Roth IRA. In April of 1998, he withdrew $53,000 of this conversion amount. He paid the total tax liability which the IRS claimed was due, and then asked for a refund of $5,500 ($53,000 x .105).

He then commenced suit in the United States Court of Federal Claims. He argued that because his conversion and distribution had occurred prior to the correcting law change, it would be unconstitutional to retroactively impose the 10% tax on him.

Sometimes retroactive law changes will be found to be unconstitutional. However, as in this situation, this was not the case – the application of the tax was rationally related to a legitimate governmental purpose of preventing taxpayers from taking advantage of an intended tax benefit. It certainly had not hurt the IRS' case that they had put taxpayers on notice that any subsequent law change would be applied retroactively.

Similar taxpayers should expect the same result. ◆

Senator Grassley of Iowa to be Likely Finance Committee Chairperson

The chairperson of the Senate Finance Committee has a very great amount of influence over federal tax legislation.

The new Finance Committee chairperson will likely be Senator Charles Grassley of Iowa, as the Senate operational rules are based on seniority.

Senator Grassley has been a proponent of the following two ideas. First, the law would be revised to allow an employer to amend its pension plan to allow in-service distributions to participants if they reach age 59 1/2, or have 30 years of service. Second, as he is from a state with many farmers, he favors a new type of tax-deferred savings account which must be interest bearing. For a given tax year, a farmer or rancher could contribute/deduct up to 20 percent of their taxable income to this special account. Funds would be allowed to accumulate for only five years. Taxation would occur when withdrawn, or a distribution would be deemed to occur at the end of the five-year period, if not withdrawn. In addition, there would be a 10% penalty tax for failing to take the funds out within the five-year period.

It appears that this special savings account is meant to give farmers and ranchers a way to "average" their income. That is, allow one to lower his or her income in the good years, and to increase their income in the not-so-good years.

Because a large portion of the population continues to age, one can expect that there will be more and more interest in pension plans, IRAs, and other tax-deferred plans. ◆

Employer's Beware—DOL Argues for Mandatory Sharing of Certain Expenses

For the last few years, the DOL has been examining various expense issues. The DOL believes that in certain cases, employers impermissibly have pension plans pay expenses which rightfully should be paid by the employer. In Advisory Opinion 1997-03, the DOL rules that the expenses incurred with respect to amending a plan to maintain its tax qualification and obtaining a determination letter, benefitted both the plan and the employer, and therefore the expenses must be allocated between the plan and the employer. The concept is—when the plan pays plan expenses, the plan participants receive less. When the employer receives some benefit, it should have to pay part of the expense.

Various pension advisors feel the DOL is overreaching on this issue. The payment of administrative expenses is authorized by ERISA. An employer should be aware of this issue and monitor the extent to which the DOL will try to expand their allocation approach. ◆

IRS List of Audit Items

An employee with the IRS has prepared a list entitled "Items on Form 5500 Return That May Trigger an Employee Benefit Plan Examination." The Form 5500 is certainly issued to determine whether or not an audit is warranted. Set forth below are the questions the IRS looks at most closely:

—Low percentage of participants compared to number of employees (coverage problem)

—Large percentage of loans to participants compared to total assets, or large dollar amounts of loans (prohibited transaction and/or 72(t) early distribution tax issue)

—Large loss on income statement when excluding distributions to participants (bad investment)

—Funding deficiency on the Schedule B—defined benefit plan (underfunded plan and excise tax payment).

—Date of most recent amendment prior to 1993 (did not amend for TRA 86)

—A "yes" answer to the question, "Did any amendment during the current year result in the retroactive reduction of accrued benefits for any participant?" (reduction in plan benefits)

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—When comparing multiple years there is a large drop in plan participants (plan partial termination)

—When comparing multiple years there is a large change in assets (reason for large fluctuation)

—Large amounts for administrative expenses (valid plan expenses)

—Large amounts of assets in real estate (unrelated business income)

—Small ESOP plans (less than 10 participants) (closely held stock—stock valuation question)

—*Top heavy 401(k) plans (providing top heavy minimums for non-highly compensated employees who don't receive employer contributions and treatment of matches used to meet top heavy minimum)

—*Top heavy plans covering self-employed individuals (determining the correct earned income for self-employed individual)

—Large amounts of liabilities (reason for plan liabilities)

—An adverse accountant's opinion letter (reason for adverse opinion letter)

—Where the return indicates the plan terminated a long time ago but distribution did not take place (distribution must occur as soon as administratively possible, usually within one year)

—*Large number of separated participants during the year with less than 100% vesting (vesting issue)

—*Large percentage of assets classified as "Other Assets" on balance sheet (questionable assets)

—Large percentage of assets in any one investment (e.g. mortgages) (diversity of assets)

—Compare end-of the-year assets to subsequent year beginning-of-the-year assets (should be the same)

—Compare end-of-the-year plan participants to subsequent year beginning-of the-year participants (should be the same)

—Terminated plan where the date of the most recent amendment is old (terminated plans must be amended for the current law prior to termination)

—Large decrease in number of plan participants from beginning of year to end of year (partial termination)

—*Large distributions on income statement (proper vesting and determine if the participant picked up distribution in income and paid early distribution tax if applicable)

*Indicates the top five most common occurrences

Note: Referrals from other sources such as the Internal Revenue Service income tax examination division, other Internal Revenue Service sources, the Department of Labor, and participant complaints also may lead to selection of a plan for examination. ◆

Partial Plan Terminations

The law mandates that the participants of a qualified plan become 100% vested upon a plan's termination, or in the case of a partial plan termination, the participants affected by such partial plan termination become 100% vested. For example, Dana Benson participates in her employer's 401(k) plan. Under this plan, the employer matches her elective deferrals to the extent of: 100% of her elective deferrals, but not to exceed $4,000. The employer has made matching contributions to her over the last three years of $12,000. She is 40% vested ($4,800) in these employer matching contributions. Thus, she is not vested to the extent of 60% ($7,200) and she will lose or forfeit this amount if she separates from service whether voluntarily or not, unless a partial termination would be found to exist.

Employers do not generally like to bestow 100% vesting upon nonvested participants earlier than the law requires.

The statutory law does not contain a definition for a partial plan termination. Many courts have found that a partial plan termination occurs when 20% of a plan's participants are terminated within one plan year.

It should be fairly obvious from many corporate restructures or partial divestitures, that business terminations and/or restructuring and pension plan terminations are not always completed in one year. Sometimes it may take a number of years to be finished. This fact was recognized in a recent court case. In R. J. Matz v. Household International Tax Reduction Investment Plan the U.S. Court of Appeals, 7th Circuit, No. 00-1109, September 21, 2000. In this case the appellate court recognized the fact that to determine if a plan termination has occurred, it is necessary to consider the terminations of vested and nonvested participants over multiple plan years.

The employer in this case argued that only nonvested participants should be included in the calculation to see if the 20% limit was met. For example, an employer has 100 participants at the beginning of the year, 10 are 100% vested and terminate their service voluntarily, and 10 are only partially vested and they are terminated by the employer. If the 20% limit would be calculated using only partially vested participants, then a partial termination would not exist. Although the court found some logic in the employer's argument, they did conclude that all terminated participants needed to be included because that has been the long-held position of the IRS.

The court also ruled that a partial termination can occur over a one, two, three, or four-year period. It is not required that the partial plan termination happen within a one-year period. This is a major change as the following example illustrates. A business with 100 employees has ten employees terminate in year one, eight employees terminate in year two, and another ten employees terminate in year three. If looked at on just an annual

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basis, a partial plan termination has not occurred. But if looked at over a three-year period, a partial plan termination has occurred, and partially vested participants should have been 100% vested. ◆

Amendment of Qualified Plans for 411(d)(6) Regs

The IRS published their final regulations under Code section 411(d)(6) on September 6, 2000. These 2000 regulations changed the prior rules as set forth in the 1988 regulations. These 2000 regulations provide new relief from the standard anti-cutback rules in three ways. First, the final regulations permit certain defined contribution plans to be amended in such a way so that some alternative forms of payment may be eliminated in certain situations. Second, the regulations allow the elimination or limitations of the right to receive certain in-kind distributions. Third, the final regulations also permit certain transfers between plans that were not previously permitted. The regulations generally apply to amendments adopted and transfers made on or after September 6, 2000. Consequently, on or after September 6, 2000, plan sponsors may amend their plans by adopting the new rules as permitted under the final regulations.

Most of the changes are permissive.

There is one change, however, which is mandatory. There may be some plans which contain pre-existing provisions that permit elimination of optional forms of benefits pursuant to the voluntary direct transfer rules as in effect under the 1988 regulations, but these provisions are now inconsistent with the 2000 final regulations. No later than January 1, 2002, such plans must be amended to adopt the new rule set forth in the final regulation.

The final regulation which provides relief from section 411(d)(6), is not available under the voluntary transfer rules where the participant is entitled to elect a 401(a) (31) direct rollover because the participant is eligible to receive an immediate distribution of his or her entire vested accrued benefit in a single-sum distribution. The plan must provide that a participant's benefit which is an eligible rollover distribution may be voluntarily transferred only through a direct rollover. Other types of voluntary transfers are not permitted. ◆

A Prohibited Transaction Ruling

The law permits a plan to allow its participants to self-direct their account balance. ERISA section 404(c) provides that a participant will not be considered to be a fiduciary in this situation.

Example: An individual was a participant in a pension plan and a profit sharing plan. He had the right to self direct his investments. He was an officer and major stockholder of the company which sponsored these two plans. He asked an advisor if a prohibited transaction would occur if he directed the trustees of each plan to loan funds to a company in which he was officer and a majority stockholder. He was told that a prohibited transaction would not occur, since a participant who has the right to self direct is not a fiduciary for ERISA section 404(c) purposes and Internal Revenue Code section 4975 purposes.

The IRS agreed with only one-half of the advisor's rationale. The IRS found the individual was a fiduciary for Code section 4975 purposes, and, consequently, there was a prohibited transaction for Code section 4975 purposes. The individual was therefore liable for the excise taxes. The Tax Court in Flaherty's Arden Bowl, Inc. v. Commissioner of Internal Revenue agreed with the IRS. The Tax Court concluded that Congress did not intend that Code section 4975 have the same exceptions for fiduciaries under ERISA 404(c) as for disqualified persons. ◆

When Must Education IRA Assets Be Distributed?

Generally, any assets remaining in the Education IRA must be withdrawn or distributed when either one of the following two events occurs.

1) The designated beneficiary reaches age 30. In this case, the designated beneficiary must withdraw remaining assets within 30 days after he or she reaches age 30.

2) The designated beneficiary dies before reaching age 30. In this case, the remaining assets must generally be distributed within 30 days after the date of death. The assets must be distributed to the estate of the designated beneficiary (if no beneficiary is named) or to the beneficiary named by the designated beneficiary.

When distribution is required because of one of these events, any balance remaining at the close of the 30-day period is considered distributed at that time, and the earnings portion of the distribution is includable in the beneficiary's gross income. For distribution because the designated beneficiary reaches age 30, the designated beneficiary may be subject to an additional 10% tax on the portion of the amount withdrawn that represents earnings, if the designated beneficiary does not have any qualified higher education expenses in the same tax year he or she makes the withdrawal. To determine the earnings on the amount withdrawn, use the following two steps.

1) Multiply the amount withdrawn by a fraction. The numerator is the total contributions in the account

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IRS Issues 2001 COLAs

IRS Announces Cost-of-Living Adjustments for 2001
The IRS in News Release 2000-82 Released its 2001 Adjustments as Follows:

	1999	2000	2001
Taxable Wage Base — OASDA Only	$72,600	$76,200	$80,400
SEP and Qualified Plan Maximum Compensation Cap - 401(a)(17) & 404(e)	$160,000	$170,000	$170,000
Elective (Salary) Deferral Limit - 401(k) & SAR-SEP	$10,000	$10,000	$10,500
SIMPLE Deferred Limit - 408(p)(2)(A)	$6,000	$6,000	$6,500
Highly-Compensated Employees (Compensation as Indexed) New Definition as of January 1, 1997	$80,000	$80,000	$85,000
Defined Benefit Limit - Section 415(b)(1)(A)	$130,000	$135,000	$140,000
Defined Contribution Limit - Section 415(c)(1)(A)	$30,000	$30,000	$35,000
SEP Minimum Compensation Threshold - 408(k)(2)(c)	$400	$450	$450
Officer Amount — Top Heavy (50% of 415(b)(1)(A) limit)	$65,000	$67,500	$70,000
Top 10 Owner Group — Top Heavy (Has more than one-half percent and the largest ownership interest and income in excess of the 415(c)(1)(A) limit.)	$30,000	$30,000	$35,000
1% Owner — Top Heavy (Having annual compensation in excess of $150,000.)	$150,000	$150,000	$150,000

Social Security COLA Increases

	2001	2000	INCREASE
Taxable Wage Base – OASDA Only (6.2%)	$80,400	$76,200	$4,200
Tax Amount Paid by the Employee	$4,985	$4,724	$ 261
Tax Amount Paid by the Employer	$4,985	$4,724	$261
Average Monthly Benefit	$845	$816	$29
Maximum Monthly Benefit	$1,536	$1,433	$103
Amount of Earnings Exempt for Individuals Age 62-64	$10,680	$10,080	$600
Amount of Earnings Exempt for Individuals for the Year Age 65 but Only for Months Prior to Attaining Age 65	$25,000	$17,000	$8,000
Amount of Earnings Exempt for Individuals Age 65-69	None	None	None

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and the denominator is the total balance in the account before the withdrawal(s).

2) Subtract the amount figured in (1) from the total amount withdrawn during the year. The result is the amount of earnings included in the withdrawal. The beneficiary must include this amount in income.

Except for transfer to a surviving spouse or family member, there are no income tax consequences if amounts that are required to be distributed are transferred or rolled over in the following situations.

1) Before a designated beneficiary reaches age 30, the remaining balance in his or her Education IRA can be transferred or rolled over to another Education IRA for a member the designated beneficiary's family. The new designated beneficiary must be under age 30 at the time of the transfer or rollover.

2) In the event of the designated beneficiary's death, a spouse or family member acquires the former designated beneficiary's interest in an Education IRA as a result of the death of the designated beneficiary. The spouse or family member can treat the Education IRA as his or her own.

Key Retirement Plan Rules for 2000 (From IRS Publication 560)

Type of Plan	Last Date for Contribution	Maximum Contribution	Maximum Deduction	When To Set Up Plan
SEP	Due date of employer's return (including extensions).	Smaller of $30,000 or 15%[1] of participant's compensation.[2]	15% of all participants' compensation[2] excluding SEP contributions.	Any time up to due date of employer's return (including extensions).
SIMPLE IRA and SIMPLE 401(k)	**Elective employer contributions:** 30 days following the end of the month for which the contributions are to be made.[3] **Matching contributions or nonelective contributions:** Due date of employer's return (including extensions).	**Employee:** Salary reduction contribution, *up* to $6,000. **Employer contribution:** *Either* dollar-for-dollar matching contributions, up to 3% of employee's compensation,[4] *or* fixed nonelective contributions of 2% of compensation.[2]	Same as maximum contribution. Same as maximum contribution.	Any time between 1/1 and 10/1 of the calendar year. For a new employer coming into existence after 10/1, as soon as administratively feasible.
Qualified	Due date of employer's return (including extensions). **Note:** For a defined benefit plan subject to minimum funding requirements, contributions are due in quarterly installments. See *Minimum Funding Requirements* under *Qualified Plans.*	<u>Defined Contribution Plans</u> **Money Purchase:** Smaller of $30,000 or 25%[1] of participant's compensation.[2] **Profit-Sharing:** Smaller of $30,000 or 25%[1] of participant's compensation.[2] <u>Defined Benefit Plans</u> Amount needed to provide an annual benefit no larger than the smaller of $135,000 or 100% of the participant's average taxable compensation for his or her highest 3 consecutive years.	<u>Defined Contribution Plans</u> **Money Purchase:** Same as maximum contribution. **Profit-Sharing:** 15% of all participants' compensation excluding plan contributions.[2] <u>Defined Benefit Plans</u> Based on actuarial assumptions and computations.	By the end of the tax year.

[1] Net earnings from self-employment must take the contribution into account.
[2] Compensation is generally limited to $170,000.
[3] Does not apply to SIMPLE 401(k) plans. The deadline for qualified plans applies instead.
[4] Under a SIMPLE 401(k) plan, compensation is generally limited to $170,000.