

Insights on legislative updates and industry affairs

Industrywide, plan sponsors are facing heightened concerns about fiduciary responsibilities. To help our clients better understand these responsibilities, as well as their associated risks, J.P. Morgan Defined Contribution Investment Solutions offers *Fiduciary Focus*, an e-newsletter that offers insight into fiduciary best practices and examines today's evolving regulatory environment.

Roth rollovers

On September 16, 2010 the Senate passed the Small Business Jobs Act, which now goes to the House of Representatives for final approval. Democratic leaders in the House have indicated their intent to consider the bill next week.

The primary intent of this bill is to provide tax breaks to small businesses and increase access to small business loans, but part of its funding mechanism includes provisions that would affect retirement plans. Immediately upon its final passage and enactment, the bill would allow 401(k), 403(b) and governmental 457(b) plans to offer participants the option to roll pre-tax account balances into a Roth account.

Roth conversion overview

Participant eligibility:

- Participants must be eligible to receive distributions (i.e., over age 59½) to take advantage of this provision
- Effectively, participants take a distribution and immediately roll it back into the plan as part of a Roth account

Tax considerations:

- Rollover amounts are considered taxable income (with the exception of any return of after-tax contributions)
- If the rollover is made in 2010, the participant can elect to pay the resulting tax in 2011 and 2012

To offer this option to active participants, the plan must:

- Offer a Roth source
- Allow in-service withdrawals and rollovers
- Elect to have this new provision apply to the plan

> Area to watch

While there is some House opposition to the Roth provision, it has been estimated to raise \$5.1 billion in tax revenue over ten years, offering an important funding source for the broader bill. We will keep you posted as it continues to work its way through the legislative process.

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