

Publications

Labor and Employment Alert: Final Regulations Change the Allocation Rule for Roth IRA Rollovers

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On May 17, 2016, the Internal Revenue Service issued final regulations simplifying a participant's ability to make a rollover from his or her designated Roth account in a qualified plan. The final regulations eliminated the requirement that the amounts that are directly rolled over by a participant to an eligible retirement plan be treated as a separate distribution from other amounts received by the participant.

As a result, the final regulations provide that if a distribution is made from a participant's designated Roth account to both the participant and such person's Roth IRA in a direct rollover, the pretax amounts from the designated Roth account can now be allocated first to the direct rollover, thus permitting the participant to shelter from federal income tax the entire amount of the rollover, while receiving the after-tax amounts from the designated Roth account tax-free.

The final regulations also provide that all distributions from a plan to a participant that are scheduled to be made at the same time are treated as a single distribution, regardless of whether the distributions are directed to multiple destinations. This change now permits a participant to allocate pretax and after-tax monies, including Roth contributions, from a qualified plan to multiple destinations by specifying which destination will receive the pretax amounts.

The final regulations apply to designated Roth accounts held by participants under a 401(k), 403(b), or governmental 457(b) plans.

When are the rules effective?

The final regulations apply retroactively to distributions from designated Roth accounts made on or after January 1, 2016, but also permit a participant to apply the new rule as of any date on or after September 18, 2014.

What should an employer do?

Employers should review all plan materials, distribution election forms, and notices, including the *Special Tax Notice* that is provided to participants who make a distribution election, to ensure that the documents reflect the final regulations. We expect that the IRS will update the model *Special Tax Notice*, but employers should consider whether changes should be made before a revised notice is issued.

Contact your Vorys lawyer if you have questions about the final regulations.