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Contribution of Unused Employee Leave to Your Retirement Plan

The IRS recently published two Revenue Rulings to explain how employees might be able to receive retirement contributions in lieu of cash payments for unused paid time off ("PTO"), such as vacation or sick leave.

These rulings describe two general approaches. One is for an employer to decide at the company level that all unused PTO will be forfeited at the end of the year and the value of the forfeited leave will be deposited into the plan as a profit sharing contribution. The second approach is to allow employees to decide whether they wish to receive a cash payment for unused PTO or to contribute some or all of it to the 401(k) plan.

While this concept has received favorable press, employers must consider these options carefully. The initial question is whether offering this option comports with the employer's current leave policy and, if not, whether the employer is willing to change that policy. Remember, the forfeiture of leave not taken entails no out of pocket cost to the employer while contributing the value of the forfeited leave is an actual cash outlay. In addition, plan amendments are necessary to add this flexibility.

Second, all of the regular contribution limits apply to PTO contributions. For example, if an employee has already maxed out his or her 401(k) contributions at \$16,500, he or she would not be able to make elective contributions of unused PTO even if the plan otherwise permits it. These contributions (combined with all other contributions by or for the employee) are also subject to the employee's individual contribution limit, i.e., the lesser of 100% of compensation or \$49,000 for 2010.

A third consideration relates to nondiscrimination testing. Under the profit sharing approach described above, the amounts allocated to participant accounts will be different for each employee. This lack of uniformity subjects the plan to more detailed nondiscrimination tests and may be more difficult to pass.

Finally, some states require that unused leave be paid to the employee. In that event, only the employee deferral option would be available.

In lieu of, or in addition to, permitting ongoing contributions of unused PTO, the employer may choose to provide this option upon termination of employment. The principals discussed above apply to these contributions as well.

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[Contribution of Unused Employee Leave to Your Retirement Plan Majority of 401\(k\) Account Balances Have Recovered](#)

Majority of 401(k) Account Balances Have Recovered

A new report shows what's really happening with consumer's 401(k) balances. The report takes into consideration the low in March and the recent run-up in stocks and has found that consumer's 401(k) balances are doing much better than one might expect.

This report also showed that consumers who bailed out of their stock portfolios for safer choices missed most of the recovery that's occurred this year, but consumers who stayed in their holdings have made a round-trip and are doing just fine. The report stated that 60% of 401(k) holders in its study have balances on-par with what they had two years ago or have even made money.

The stock market hasn't fully recovered to its previous high, but many consumers have still made money because they have practiced dollar cost averaging, where consumers invest small amounts of money each pay period as they would with a traditional 401(k). Since they were able to buy some shares as the

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Dow dropped down dangerously close to 6,000, they were able to buy a portion of their portfolio at a significant discount.

The report also highlighted that younger investors have survived the financial meltdown much better than their older counterparts. Individuals that are under 40 typically have smaller account balances and more growth in their account balances because of the deposits they make, whereas older individuals have the most growth from compound interest on their nest egg. Since younger individuals were able to invest through the recession, they were able to buy a significant chunk of their portfolio at a deep discount, whereas older investors simply had to ride the wave.