CAMMACK
RETIREMENT

Distribution Confusion: The Difference Between Plan Types

Michael A. Webb, CEBS
Vice President, Cammack Retirement Group

Plan sponsor confusion over amending retirement plan distribution restrictions appears to be growing, particularly because some are finding that they are unable to amend their plan in the desired fashion due to IRS code restrictions on distributions. The confusion may reflect a lack of understanding of the distribution rules and the varying rules among different plan types; therefore, in this article, we provide an overview of the distribution rules as they apply to each specific type of plan.

401(k) PLANS

Depending on the type of contribution, there are different rules for 401(k) plans. Elective deferrals and earnings may only be distributed at age 59½, upon termination of employment, financial hardship (note that earnings may NOT be withdrawn in the event of financial hardship), death, disability, or plan termination. Employer contributions and earnings may be distributed after a fixed number of years, the attainment of a stated age, or upon the occurrence of an event such as a layoff, illness, financial hardship, disability, retirement, death, termination of employment or plan termination.

403(b) PLANS

Like 401(k) plans, there are different rules depending on the type of contribution and/or investment. Elective deferrals and earnings may only be distributed at age 59½, upon termination of employment, financial hardship (again, earnings may NOT be withdrawn in the event of financial hardship), death, disability or plan termination.

Note that there is an exception for certain amounts invested prior to December 31, 1988, as these contributions are not subject to any distribution restrictions - if they have always been invested in an annuity contract. Employer contribution distribution restrictions differ depending on whether the funds have always been invested in an annuity contract, or were ever invested in a custodial account (mutual fund):

- Employer contributions and earnings that have always been invested in an annuity contract may be distributed after a fixed number of years, the attainment of a stated age, or upon the occurrence of some event such as layoff, illness, disability, retirement, death, termination of employment or plan termination.
- Employer contributions and earnings that have been invested in a custodial account (mutual fund), regardless of whether they were once invested in an annuity contract,

©2018 All Rights Reserved | For Plan Sponsor Use Only

may only be distributed at age 59½, upon termination of employment, death, disability or plan termination.

401(a) PLANS

Again, there are different rules depending on the type of 401(a) plan. Note that these plans only utilize employer contributions, so there are no elective deferral restrictions that apply.

- For money purchase plans, employer contributions and earnings may only be distributed upon attainment of the plan's normal retirement age (generally 62, but can be 55-62, if the age is representative of the typical retirement age for the industry of the relevant covered workforce; and as early as 50, if the plan consists substantially of public safety employees), termination of employment, death, disability or plan termination.
- For profit-sharing plans, employer contributions and earnings may be distributed after a fixed number of years, the attainment of a stated age, or upon the occurrence of some event such as layoff, illness, financial hardship, disability, retirement, death, termination of employment or plan termination.

457(b) PLANS

For all contribution types, contributions and earnings may be distributed only at age 70½ (in this instance, the calendar year in which a participant reaches age 70½ is used for age determination), upon termination of employment, death, or the occurrence of an unforeseeable emergency (generally, severe financial hardship due to illness, accident, property loss due to casualty, or similar circumstances).

Note that mandatory contributions, as a condition of employment or pursuant to a one-time election to participate in the plan, are considered employer contributions for the purpose of the restrictions described above. Plan sponsors may select provisions that are more restrictive than the rules described above, but never less restrictive.

CONCLUSION

Retirement plan sponsors should take the time to familiarize themselves with the distribution rules of their specific plan type, as the distribution restrictions can vary significantly. If you have further questions or concerns about this or other retirement plan issues, please contact your consultant or info@cammackretirement.com.

ABOUT CAMMACK RETIREMENT GROUP

Cammack Retirement Group has been helping retirement plan sponsors meet their goals for half a century. Solely focused on serving retirement plan sponsors, we provide a tailored approach to investment advisory and consulting services. We work with some of the nation's leading academic and research institutions, healthcare providers, corporations, non-profit organizations and public sector employers to help them manage fiduciary risk.

For more information on our services, please contact **Mike Volo,** Senior Partner, at **781.997.1426** or **mvolo@cammackretirement.com**.

Note: *This feature is to provide general information only, does not constitute legal advice, and cannot be used or substituted for legal or tax advice.*

Investment products available through Cammack LaRhette Brokerage, Inc. Investment advisory services available through Cammack LaRhette Advisors, LLC. 100 William Street, Suite 215, Wellesley, MA 02481 | p 781-237-2291