



**PLEASE RESPOND BY NOVEMBER 19TH IF YOU WISH TO PROVIDE
THE IN-PLAN ROTH CONVERSION FEATURE.**

With the enactment of the Small Business Jobs Act of 2010 (“SBJA”) qualified retirement plans [such as 401(k) and 403(b) plans] were given the ability to allow participants to convert non-Roth retirement savings into Roth retirement savings *inside their employer’s qualified plan*. Prior to this time, a plan participant could only convert non-Roth qualified plan balances [401(k), profit sharing and regular match] by rolling these balances into a Roth IRA. The effective date of these new conversion provisions is the date of enactment of the SBJA (September 27, 2010) for 401(k) and 403(b) plans.

In order to facilitate these conversions, the following conditions must be met:

- Your plan must include a Roth contribution feature. If you have a 401(k) plan in the UPAL Retirement Program, your plan already has this feature. Plans that do not allow salary deferrals (i.e., money purchase plans, defined benefit plans and profit sharing only plans) may not offer the Roth conversion feature, or have to be amended to allow 401(k) deferrals and provide for a Roth feature.
- The conversion option is only available for amounts that are “eligible rollover distributions.” This means that a participant must be able to take a withdrawal from the plan (even though they will not actually be taking such a withdrawal) in order to take advantage of the Roth conversion feature.

The conversion will not be subject to the 10% premature distribution penalty; however, participants will be required to pay regular taxes with their individual tax returns on the taxable amount of the conversion. SBJA provided that the taxable income on any amounts converted in 2010 may be recognized ratably over 2011 and 2012 or may be recognized in 2010. Amounts converted after 2010 must be fully recognized as taxable income in the year of conversion.

Plans must be amended to provide for the Roth conversion feature. We are still waiting on guidance from the IRS with regard to these amendments. It is anticipated that the IRS will provide for a remedial amendment period that will allow plans to offer this feature in 2010 and still have sufficient time to amend the plan.

Until additional guidance is available, plans that are considering providing the Roth conversion feature may want UPAL to take the following actions:

- Ask UPAL to amend their plans to permit in-plan Roth conversions and a 401(k) feature (if needed) (if that feature is not already available).
- Ask UPAL to review their in-service distribution provisions to determine if modifications are necessary.

This is only a brief overview of the Roth conversion feature for qualified plans. We would be glad to discuss these provisions with you in more detail.

If you have any participants interested in the conversion, please contact Lea Ann Nunley, Vice President of Retirement Plan Services, at 918-747-5585 immediately, to provide adequate time for preparation of plan conversion documentation.