In-service, non-hardship withdrawals

For participants seeking different investment choices in their retirement portfolios

The menu of investment choices in your 401(k) plan was created by individuals at your company (the plan's sponsor) working in concert with a plan administrator, and potentially a financial advisor or consultant. And while the choices were made thoughtfully, the resulting lineup may not suit every participant. If you are age 59½, you have the option to withdraw your savings and invest it in an IRA without penalty, assuming certain conditions are met. As always, you should consult your financial representative to determine what may be best for your individual needs. The following provides some guidelines for such a move and some considerations for any participant looking to make an in-service withdrawal.

Look for special 401(k) provisions

Many 401(k) plans allow participants to take "in-service" withdrawals (withdrawals while currently employed) if they provide proof of hardship. Generally, those distributions must be used to pay qualified expenses, such as medical or educational costs, or to purchase a primary residence. But some 401(k) plans allow in-service, non-hardship withdrawals. This special provision allows participants to take withdrawals — without providing proof of hardship — if they have reached age 59½ or have met the requirements specified by the plan document. To find out if your 401(k) plan has a provision for in-service, non-hardship withdrawals, ask for a copy of the plan's Summary Plan Description, which must be provided upon request to plan participants. Or, refer to your year-end 401(k) statement. If the plan allows such withdrawals, the statement might have a separate column that indicates the dollar amount of funds available for in-service withdrawals.

Implementing a direct rollover to an IRA or other qualified plan

In-service, non-hardship withdrawals may be reinvested in a broader range of investment choices suited to your objectives. To avoid income tax withholding, you must not take receipt of the proceeds, but rather roll them directly over to an IRA or another qualified plan. Before pursuing this option, check applicable state laws regarding protection of assets from creditors. Federal bankruptcy law protects IRA assets rolled over from qualified employer retirement plans from creditor claims in bankruptcy proceedings. But unlike 401(k) assets, which are nearly universally protected from creditor claims outside of bankruptcy as well, states protect IRA assets from creditors outside of bankruptcy to varying degrees. While many states will fully protect IRAs from creditors, others may not provide any protection or limit protection for IRAs to the amount necessary to support the account owner and dependents, which can be subjective depending on the circumstances. In addition, be sure that the 401(k) plan does not offer other benefits that may be valuable but unavailable through an IRA, such as loans. Also, if you hold highly appreciated, employer stock in a 401(k) plan, partial distributions may jeopardize valuable tax benefits that may be available with respect to the stock (i.e., net unrealized appreciation (NUA) treatment of in-kind distributions of employer stock). Consult a qualified tax consultant for more information.

Not FDIC insured | May lose value | No bank guarantee

Evaluating the in-service, non-hardship distribution option

An in-service, non-hardship distribution may make sense if:

- The retirement plan offers limited investment choices
- You are age 59½ or older
- The retirement plan does not offer access to professional investment advice and/or guidance
- You may benefit from investing IRA assets in a vehicle that may provide lifetime retirement income (which many retirement plans do not offer)
- You want to consolidate retirement assets within a Rollover IRA
- You are interested in converting retirement assets to a Roth IRA (assuming your plan does not allow Roth conversions within the plan)

An in-service, non-hardship distribution may NOT make sense if:

- You receive preferential pricing or fee reductions from investing within the employer retirement plan
- You are under age 59½
- Your retirement plan assets include highly appreciated company stock, and you are considering the net unrealized appreciation (NUA) strategy
- You wish to defer required minimum distributions (RMDs) past age 73 if still employed*
- You reside in a state that provides no, or limited, creditor protection for IRAs
- You wish to take advantage of features (loans, for example) that are only available within the retirement plan

* If you are still employed at age 73, required minimum distributions from an employer retirement plan may be delayed until you terminate employment (subject to specific plan rules). Plan participants who own 5% of the company or more cannot delay RMDs.

Each plan is different — watch for restrictions and consult with your financial advisor

Some restrictions may apply to 401(k) in-service withdrawals. Generally, 401(k) in-service withdrawals are only available to participants who have reached age 59½. Also, the amount eligible for such withdrawals might be limited in frequency to a certain dollar amount or to certain contribution sources. The 401(k) plans , as well as investors' needs, differ greatly. Given the complexities surrounding this feature, be sure to work closely with your financial representative or tax advisor to determine whether in-service withdrawals from your employer retirement plan make sense for you.

Diversification does not assure a profit or protect against loss. It is possible to lose money in a diversified portfolio.

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