LEGAL ALERT:
IN-PLAN ROTH CONVERSIONS MAY BE ADVISABLE IN 2020

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Federal tax rates in 2020 are as low as they have ever been for highly compensated employees at **37%**.

No matter who wins the November, 2020 election, future increases in tax rates are likely to fund the stimulus being pumped into the economy.

Many highly compensated employees have never made Employee After-Tax Roth Contributions, since they were reluctant to unnecessarily pay income taxes on Section 401(k) Employee Salary Deferral Contributions.

Therefore, 2020 may be an excellent year to consider participating in an in-Plan Roth Conversion to change Pre-Tax Employer Salary Deferral Contributions into After-Tax Roth Contributions. Given the fact that Employer Profit Sharing and Matching Contributions that are vested may also be converted to Employee After-Tax Roth Contributions, unique opportunities exist for employees.

Some highly compensated employees are also business owners who may be receiving Form K-1s with losses in 2020 due to the COVID-19 pandemic shut-downs, furloughs and loss of business. Thus, a 2020 in-Plan Roth Conversion is even more advantageous for such individuals (since a Form K-1 with a loss will generally reduce an employee's marginal tax rate).

In-Plan Roth Conversions can also be a useful estate planning tool for high net worth individuals, since there is no estate or gift tax consequence associated with paying income taxes on retirement accounts that may be held until death and transferred to designated beneficiaries.

It is important to note that there are pitfalls in making in-Plan Roth Conversions, including a **5-** year **recapture rule** and a **5-**year **holding period** to receive maximum benefits. In most cases, individuals would be best served by starting a separate Roth IRA to which an in-Plan Roth Conversion may be transferred in 2020 or the future. For example, after age **59½**, an in-service distribution may be taken from a 401(k) Plan and rolled over to a Roth IRA, even if such an individual is not otherwise eligible to make a Roth IRA Contribution due to exceeding the income level of **$139,000** in 2020 for a single individual and **$206,000** for a family.

Palmieri & Eisenberg ("P&E") has developed an extensive FAQ reviewing the rules for in-Plan Roth Conversions.

If you are interested in receiving the FAQ, or if you have any questions regarding in-Plan Roth Conversions, please contact Frank Palmieri at (609) 471-7679 or fpalmieri@p-ebenefitslaw.com.