

# Highlights of Fiscal Cliff Legislation on Employee Benefits

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The American Taxpayer Relief Act of 2012 signed into law by President Obama on January 2, 2013 is a compromise and the result of a contentious tax policy debate. Some of the highlights that employee benefit plan sponsors should be aware of include:

- **Roth Conversions.** Many defined contribution plans, such as 401(k) plans, are now allowed to permit in-plan conversion of pre-tax dollars to Roth dollars *regardless of whether the amounts could be distributed as an eligible rollover distribution*. This is a change from prior law which only allowed a conversion of pre-tax amounts to Roth that were distributable as an eligible rollover distribution. Because most amounts in these plans were ineligible for a rollover distribution, this creates a tremendous opportunity for participants in electing plans to access a Roth strategy. Of course, the plan document itself must permit this Roth conversion feature, which will require plan sponsors to review and possibly amend their plan documents to accommodate the conversion feature.
- **Educational Assistance.** Employers providing educational assistance to employees through a qualified education assistance plan may continue to provide those benefits tax free to participants of up to \$5,250 per year. Although this provision had historically been extended period-by-period, the new legislation has permanently extended employer-provided educational assistance for undergraduate and graduate-level courses beginning after December 31, 2012.
- **Transportation Expenses.** The pre-tax allowance for mass transit expenses has been increased from \$125 to \$240 per month effective retroactively to January 1, 2012 through the end of 2013. This reflects an extension of the rates that were in effect at the end of 2011, and brings mass transit and parking benefits in parity for pre-tax treatment.

For assistance with permitting Roth conversions in your plan or if you have other questions regarding the changes made by the new legislation, please contact a member of our Benefits Law Group.

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