

ROTH IRA CONVERSION UNDER THE TAX INCREASE PREVENTION AND RECONCILIATION ACT

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The Tax Increase Prevention and Reconciliation Act of 2005 ("TIPRA") amends Internal Revenue Code §408A to eliminate the requirement that a taxpayer's gross income not exceed \$100,000.00 in order to be eligible to convert a non-Roth IRA into a Roth IRA. This change is effective for tax years beginning after December 31, 2009. Additionally, TIPRA amends Internal Revenue Code §408A to provide a two-year ratable income option for taxpayers who elect Roth IRA conversions in 2010. Under this rule, the amount of the conversion that must be included in gross income is recognized in two equal installments in 2011 and 2012. Taxpayers who are subject to this two-year ratable income rule would incur no taxation in the year of conversion (i.e. 2010). A taxpayer may elect not to have the two-year ratable income rule apply and include the entire taxable amount in income in 2010.

Contributions to a traditional IRA may or may not be deductible. The extent to which contributions to a traditional IRA are deductible depends on (1) whether or not the individual (or the individual's spouse) is an active participant in an employer-sponsored retirement plan and (2) the taxpayer's adjusted gross income ("AGI"). An individual may deduct his or her contributions to a traditional IRA if neither the individual nor the individual's spouse is an active participant in an employer-sponsored retirement plan. If an individual is an active participant in an employer-sponsored retirement plan, the deduction is phased out for taxpayers with AGI over certain levels. In 2006, for single tax filers with an employer-sponsored retirement plan, an IRA contribution is fully-tax deductible if AGI is below \$50,000.00. It is then pro-rated between \$50,000.00 and \$60,000.00. If AGI is over \$60,000.00 for an individual and the individual participates in an employer-sponsored retirement plan there is no tax deduction. For married couples, the same rules apply except the deduction is phased out between \$75,000.00 and \$80,000.00 (and increased to \$80,000.00 to \$100,000.00 in 2007). If an individual is not an active participant but the individual is married to an active participant, the deduction for an IRA for such individual is phased out for AGI between

\$150,000 and \$160,000. To the extent an individual does not or cannot make deductible contributions, the individual may make non-deductible contributions to a traditional IRA, subject to the maximum contribution limits.

A stand alone nondeductible IRA — or an IRA that has been funded with both deductible and nondeductible contributions — may be converted to a Roth IRA. Only the portion of the IRA in excess of the individual's nondeductible contribution is included in income as a result of such conversion.

The IRA deductible contribution limit for 2005 through 2007 is \$4,000.00 and is \$5,000.00 for 2008. Additionally, in 2006 and 2007, individuals 50 or older may make an additional catch-up contribution of \$1,000.00 for each year.