

## **Baker Botts LLP 401(k) & Savings Plan**

### **In-Plan Roth Conversion FAQs**

#### **What is an “in-plan Roth conversion”?**

An in-plan Roth conversion is a distribution from your Before-Tax Account, After-Tax Account and/or General Account in the Baker Botts LLP 401(k) & Savings Plan (the “Plan”) that you roll over to your Roth Conversion Account.

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#### **Who is eligible to make an in-plan Roth conversion?**

Participants (active and terminated or retired), beneficiaries and alternate payees who are a spouse or former spouse of a participant are eligible to make an in-plan Roth conversion.

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#### **How can I make an in-plan Roth conversion?**

You may request an in-plan Roth conversion by completing the [Baker Botts LLP 401\(k\) & Savings Plan In-Plan Roth Conversion Form](#) to transfer an eligible rollover distribution from your non-Roth accounts to your Roth Conversion Account. You may make more than one in-plan Roth conversation.

If you have any questions about completing the in-plan Roth conversion form, please contact a Customer Contact Center Representative at 1-800-961-4015.

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#### **Can I re-characterize an in-plan Roth conversion?**

No. You may not re-characterize an in-plan Roth conversion. Once you make your in-plan Roth conversion, it is irrevocable.

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#### **What types of distributions may I roll over in an in-plan Roth conversion?**

You may only roll over an eligible rollover distribution in an in-plan Roth conversion. Generally, an eligible rollover distribution is any distribution except:

- Required minimum distributions,
  - Hardship distributions,
  - Excess contributions, excess deferrals, excess annual additions or other corrective distributions, and any income on these amounts, or
  - A loan treated as a distribution because it didn't satisfy all loan requirements when made or later, unless your accrued benefits are reduced (offset) to repay the loan.
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**Can I get a distribution while I am still an employee (an in-service distribution) and roll over that distribution as an in-plan Roth conversion?**

Yes, if you are 59½ or older or no longer employed by Baker Botts LLP, you can convert amounts in your Before-Tax Account in the Plan.

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**Can I get a loan based on the balance that is part of an in-plan Roth conversion?**

Yes, if you are otherwise eligible to get a loan. However, if you have not met the 5-year holding period discussed below, you may be subject to a 10% additional penalty tax discussed below.

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**Is income tax withholding required on in-plan Roth conversion?**

There is no income tax withholding required on an in-plan Roth direct conversion. You may have to increase your federal income tax withholding or make estimated tax payments to avoid an underpayment of tax penalty.

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**How are in-plan Roth conversions taxed?**

You generally include the taxable amount (fair market value minus your basis in the distribution) of an in-plan Roth rollover in your gross income for the tax year in which the rollover occurs.

In-plan Roth conversions are not subject to the 10% early distribution tax. However, they are subject to a special recapture rule when a plan distributes any part of an in-plan Roth rollover within a 5-taxable-year period ("5-year holding period"), making the distribution subject to the 10% additional penalty tax on early distributions unless:

- an exception to this tax applies, or
- the distribution is allocable to any nontaxable portion of the in-plan Roth conversion.

The 5-year holding period begins January 1 of the year of the in-plan Roth conversion and ends on the last day of the fifth year following the conversation. There is a separate 5-year holding period for each in-plan Roth conversion.

This special recapture rule does not apply when you roll over the distribution to a designated Roth account in another employer's eligible plan or to your Roth IRA but does apply to a subsequent distribution from the rolled over account or IRA within the 5-year holding period.

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**What happens if I take a distribution of my in-plan Roth conversion amounts before the end of the 5-year holding period?**

If you take a distribution of your in-plan Roth conversion amounts during the 5-year holding period for those amounts, then you will be subject to a 10% additional penalty tax on the portion of the distribution attributable to the conversion. In addition, you may also have to pay ordinary income tax in addition to the 10% penalty on the portion of the distribution that represents earnings on the Roth amounts, unless you are age 59½ or older.

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**Will my Roth contributions previously made to the Plan count toward the 5-taxable-year holding period for an in-plan Roth conversion?**

No. Each in-plan Roth conversion has a separate 5-year holding period for determining whether a distribution of converted money is subject to a 10% additional penalty tax. However, one 5-year holding period applies to applicable Roth money for the purposes of determining whether earnings may be withdrawn tax-free.

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**Can I take a distribution from my in-plan Roth conversion account?**

Any existing distribution options you have under the Plan will still be available after the money is converted to the Roth Conversion Account; however, please be advised that you will need to speak to a Customer Contact Center Representative at 1-800-961-4015 to request such a distribution and that any distribution would not be processed immediately but will be processed as soon as administratively possible.

If you are no longer a Baker Botts LLP employee, you may request a full distribution at any time.

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**Special rules about withdrawing from your Roth Conversion Account:**

Withdrawals from the Roth Conversion Account may be subject to a special recapture rule when a plan distributes any part of the in-plan Roth conversion within the 5- year holding period.

A distribution attributed to an in-plan Roth conversion is treated as first coming from your earliest in-plan Roth conversion (first-in-first-out basis) and is allocated first to the taxable amount of that rollover.

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The website <http://www.irs.gov> has more information on Roth accounts and In-Plan Roth rollovers.