

MEMO# 25950

March 1, 2012

FAA Modernization Act Expands IRA Rollover Opportunities for Airline Employees Who Received Payments During Airline Bankruptcies

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TO: PENSION MEMBERS No. 14-12
BANK, TRUST AND RETIREMENT ADVISORY COMMITTEE No. 9-12
BROKER/DEALER ADVISORY COMMITTEE No. 12-12
TRANSFER AGENT ADVISORY COMMITTEE No. 12-12 RE: FAA MODERNIZATION ACT
EXPANDS IRA ROLLOVER OPPORTUNITIES FOR AIRLINE EMPLOYEES WHO RECEIVED
PAYMENTS DURING AIRLINE BANKRUPTCIES

Section 1106 of the FAA Modernization and Reform Act of 2012 (FAA Act), [\[1\]](#) signed by the President on February 14, 2012, includes provisions allowing for expanded rollover opportunities for certain current and former airline employees who received payments in connection with their employer airline's bankruptcy. The new law expands the Roth-only rollover opportunities previously provided to these employees under Section 125 of the Worker, Retiree, and Employer Recovery Act of 2008 (WRERA). [\[2\]](#)

Transfers to a Traditional IRA

The FAA Act allows a "qualified airline employee," [\[3\]](#) or his or her surviving spouse, to transfer up to 90 percent of the aggregate "airline payment amount" [\[4\]](#) received by the qualified airline employee to a traditional IRA without regard to the general IRA annual contribution limitations. The amount transferred to the IRA is treated as a rollover under IRS rules and may be from any funds, the amount of which qualified as an airline payment amount, available to the qualified airline employee. [\[5\]](#) The qualified airline employee may exclude from gross income the amount transferred in the taxable year in which the airline payment was made and file a claim for a refund of any federal taxes paid on such funds.

Transfer from a Roth IRA to a Traditional IRA

Under WRERA, a qualified airline employee was permitted to transfer up to 100 percent of airline payment amounts received in connection with their employer's bankruptcy to a Roth IRA. The FAA Act enables a qualified airline employee who had made such a transfer the ability to rollover to a traditional IRA (through a trustee-to-trustee transfer) up to 90 percent of the total airline payment amounts previously transferred to the Roth IRA, subject to adjustments for gains and losses. The qualified airline employee may then claim a refund for federal income taxes paid on the amount of the transfer from the Roth IRA to the traditional IRA.

Time Limitation on Transfers

Under the FAA Act, the time limitation applicable to both the transfer of funds to a traditional IRA, or the rollover of previous airline payment amounts from a Roth IRA to a traditional IRA is August 13, 2012, 180 days from the enactment of the FAA Act.

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endnotes

[1] A copy of the FAA Act is available here:

<http://www.gpo.gov/fdsys/pkg/BILLS-112hr658enr/pdf/BILLS-112hr658enr.pdf>.

[2] A copy of WRERA is available here:

<http://www.gpo.gov/fdsys/pkg/PLAW-110publ458/pdf/PLAW-110publ458.pdf>. Generally, under WRERA Section 125, eligible airline employees were able to transfer certain airline payments received as a result of their employer's bankruptcy to a Roth IRA.

[3] The FAA Act defines the term "qualified airline employee" as an employee or former employee of a commercial passenger airline carrier in a defined benefit plan maintained by the carrier which (1) is a plan defined in Internal Revenue Code section 401, and (2) was terminated or became subject to the accrual restrictions or benefit increase restrictions in section 402(b) of the Pension Protection Act. The chief executive officer or one of the top 4 highest compensated officers of the airline from which the payment was made are not eligible to make transfers under the FAA Act.

[4] The FAA Act defines the term "airline payment amount" as any payment of money or any other property which is payable by a commercial passenger airline carrier to a qualified airline employee (a) under the approval of an order of a Federal bankruptcy court in a case filed after September 11, 2001 and before January 1, 2007; and (b) in respect of the qualified airline employee's interest in a bankruptcy claim against the carrier, any note of the carrier (or amount paid in lieu of a note being issued) or any other fixed obligation of the carrier to pay a lump sum amount.

[5] The amount of such payments is included on the recipient employee's IRS Form 8935. A copy of the Form 8935 with instructions is available here:

<http://www.irs.gov/pub/irs-pdf/f8935.pdf>.

Source URL: <https://icinew-stage.ici.org/memo-25950>

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