

New threats to your retirement plan in the Obama administration

Executive Summary

Many Americans have watched in horror as their retirement plans have plummeted in value during the high market volatility beginning in mid-2007 and continuing through March of 2009 when the Dow Jones Industrial Average plummeted more than 7,700 points and lost more than 54% of its value. Many Americans are approaching retirement and must depend upon their retirement accounts to supplement whatever money they may receive from Social Security. Many people are afraid that the markets have a real risk of falling farther, possibly wiping out whatever is left in their accounts.

There is a new risk to retirement accounts on the horizon. The Obama administration has been considering ways to go about keeping Social Security from bankruptcy, an event that looms much closer now that unemployment is rising and "contributions" to the Social Security Trust Fund are declining. There is a very real possibility that this administration, perhaps in the next 12 to 18 months, will take action, whether through the Congress or by Executive Order, to seize retirement accounts and "nationalize" them into the existing Social Security system.

This article discusses the possibilities and the options available to Americans. The decisions that we make will necessarily be very subjective because we are acting in the absence of complete information. However, this new threat has a high probability of becoming a reality, and therefore Americans must make the best decision they can now before it is too late.

Overview

The vast majority of Americans are struggling financially. With our current economic crisis the value of the assets that Americans hold has plummeted in recent months. Home values have fallen to the point that millions of Americans owe more on their homes than the home is worth, creating a very uncomfortable and possibly untenable situation. With the tremendous decline of the stock markets all over the world Americans are seeing their savings and retirement accounts dwindle just at the time when many of them were planning on retiring.

On top of that, millions of Americans have lost their jobs. For more than a decade middle-class Americans who lost good paying jobs have been unable in many cases to find jobs paying a comparable salary, and have often had to take a large pay cut when they accepted a new position. At present, good jobs are not available at all in many markets. Many people are becoming discouraged about their job prospects.

Our federal government has stepped in and repeated the mistakes the Roosevelt administration made during the Great Depression in trying to prop up failed industries and prevent the economy from going into a complete and devastating tailspin. It didn't work in the 1930s and it won't work now, but in making this effort our government has placed our nation even more heavily in debt and in greater jeopardy than at any time in our history.

This article will focus on Americans who own retirement plans. It is my intent to help you make the right decisions concerning your retirement plan at a time when you do not have access to full information. I will discuss some sound financial planning ideas, and then comment on them in the light of our current crisis and the intentions of our current administration.

Everyone's situation is personal to them, and this report is not meant to substitute for professional advice. All American should seek advice from competent, experienced, and knowledgeable financial professionals who are well-trained in taxation and in economics.

This report will examine the potential benefits of converting a current traditional IRA, 401(k) or 403(b) to a new Roth IRA. It will point out new reasons for discontinuing contributions to your retirement accounts, including the potential threat that the current administration may "nationalize" your hard-earned retirement savings.

Current Law

Under current law Americans are penalized if for any reason they withdraw funds from their retirement accounts (IRAs, 401(k)s, 403(b)s, and so on) prior to reaching age 59 1/2. This penalty is in the form of a 10% tax on all money that comes out of the retirement account unless the amount is rolled over to another retirement account within 60 days. This 10% penalty tax is in addition to regular income taxes which are also due and payable on all amounts taken out of retirement accounts at any time. The only major exception to this is Roth IRAs. In general terms, money invested into a Roth IRA is after tax money, and the law permits all money withdrawn from a Roth IRA to be free of normal income taxes.

Historically, the decision as to whether you would put money into a traditional IRA or a Roth IRA dependent upon two things; first, how much of a tax break he needed now, and second, whether you thought tax rates would be higher or lower when you retired. If, for example, you thought the tax rate would be lower when you retired you might do well to purchase a traditional IRA and deduct the amount that you invested each year from your taxable income.

Because our federal government is engaged in enormous amounts of deficit spending it is an absolute certainty that personal income tax rates must rise, and must rise dramatically in the months and years to come. Americans who pay taxes already work for the government each year from January 1st through April 15th. In other words, every penny that you earn in the first three in a half months of each year is paid in the form of taxes to some level of government, whether it be local, state, or federal. If we include the costs of paying interest on the national debt, eliminating future deficits, and paying off the debt itself, you and I would have to work at least into late August each year just to pay our taxes. Remember, we once fought a Revolution to get rid of excessive taxation.

This changes the playing field. Since it is a certainty that tax rates will be higher in the future than they are today, there is no longer any good reason to use a traditional IRA. The only reason why you might continue to use a 401(k) or 403(b) is that your employer might be giving you "free money" by matching some or all of your contributions to the retirement plan.

Still, with those plans or a traditional IRA every penny that comes out is going to be subject to income taxes, including all the gains, dividends, and interests you have learned during the entire time the account has been open. That could easily create a huge tax liability for you at a time when your income is declining.

I have "run the numbers" on the difference in net performance from a traditional IRA and a Roth IRA. I came to the conclusion that, all other things being equal, for tax purposes the choice was a 'wash' - that is, until now. The anticipation of much higher income tax rates in years to come clearly tips the scales in favor of the Roth IRA.

Making the Change

If you currently have a traditional IRA and, based upon what you just read, would like to convert it to a Roth IRA, you may do so. For most traditional IRA accounts the paperwork is very simple and may be a single page with one signature. Keep in mind, however, that every penny taken out of an IRA is fully taxable unless it is rolled over to another IRA or other retirement plan. Roth IRAs are not included in that list, which means that every penny you take out of your traditional IRA and moved to a Roth IRA will be fully taxable and added to your taxable income for the year in which the transaction takes place. For example, if you have \$100,000 in your traditional IRA and move it to a Roth IRA, you will add \$100,000 to your taxable income for 2009.

For those who are currently unemployed, or whose incomes will be significantly less than normal, this might be a good year to make that change. Just remember that the money to pay the taxes will have to come from somewhere.

If your traditional IRA is an annuity, the insurance company will probably offer to let you have taxes withheld as part of your conversion to the Roth IRA. Remember that the taxes withheld are included in the taxable amount of the distribution, and that if you exceed the amount of free withdrawals available from the policy in that particular contract you may also be subject to a surrender charge. It would be better if you could use money outside of retirement accounts and available to you to pay the taxes, so that you would move the entire value of your traditional IRA to your new Roth IRA.

What happens if you are 59 1/2 or older? Should you still make the conversion to a Roth IRA?

Since a Roth IRA conversion from a traditional IRA is fully taxable, if you are over 59 1/2 there are only two reasons to make the conversion instead of just closing out your IRA and taking the money. First, all funds coming out of a Roth IRA are tax-free; if you were instead to simply take a full distribution from your traditional IRA you would pay taxes for the rest of your life on whatever money you made with that distribution. Second, if you own an annuity you may pay a surrender charge to "take the money and run".

Therefore, if you are 59 1/2 or over, the decision you make will be slightly different. Your concern will have more to do with the things you can invest in outside of a Roth IRA format. If there are choices you prefer that are not available inside a Roth IRA, you may want to consider taking some if not all of the money from your traditional IRA as a full distribution and not converting it to a Roth IRA.

For example, there are many companies that recommend the purchase of gold coins in an IRA. I have resisted that notion for 30 years, primarily because of 1) the lack of accountability and transparency in a third-party administrator (TPA), and 2) because of the higher fees associated with the storing of hard assets by a custodian.

You can have a no-fee Fidelity Roth IRA and use it to purchase silver mining companies, precious metals ETFs, precious metals mutual funds, and options against your stock and ETFs. You can also purchase, though I do not recommend it, Perth Mint certificates for gold or silver, or even an Everbank Certificate of Deposit which invests your \$10,000 or

more in silver or gold without risk of principal. When you decide you want to purchase gold coins or silver coins, however, you can no longer use a no-fee Roth IRA. You may suddenly find yourself spending \$150 per year or more in storage and administrative fees for the privilege of having some gold coins stored somewhere where you have no direct access to them.

Rather you would take a distribution of some of the money for your traditional IRA and use it to buy your gold or silver coins and put them into a safe in your home or other secure location (generally not a bank safety deposit box; it's all too easy to have a "bank holiday" which runs several weeks and prevents you from getting access to the contents of your box).

Converting a 401(k) or 403(b)

If your employer is not contributing to your 401(k) or 403(b) plan, and if you are fully invested in any contributions the employer may have made in the past, the decision is basically the same for converting that plan to a Roth IRA. The only difference is whether the plan allows you to do so. Recent changes in the tax law have made it possible to make such a move, but the changes are not universally applicable. In addition, the existing plan may have some form of surrender or closure fees or charges, particularly if insurance products are involved.

If your employer is making contributions to your plan, you have the most difficult decision of all - assuming, of course, that the plan even permits withdrawals outside of termination of employment, disability, death, economic hardship, and/or the attaining of the age of 59½. That decision involves weighing the benefit of future "free money" contributions to your account against the higher taxes you will be forced to pay when you start taking withdrawals from the plan during retirement. Here again, it would be appropriate to familiarize yourself with basic time value of money calculations and an inexpensive financial calculator. If your 401(k) or 403(b) plan has a fair amount of flexibility - and most do not - you might expect that with good market timing skills you could obtain a decent return from the investments in the plan. If you thought you could make more money if it were outside the plan instead of in a Roth IRA, that too needs to be considered.

The new threat to your retirement

Our federal government is absolutely desperate for money. Despite all the talk in the media about how the Federal Reserve can "print money", there is a general awareness in Washington that at a certain point the rest of the world will lose confidence in our dollars and stop accepting them. We are already running that risk, and we can only hope and pray that some sort of common sense will prevail in Washington and prevent the dollar from reaching that critical "tipping point".

Our federal government has enormous unfunded liabilities such as Social Security, Medicare, and many of the numerous welfare programs that feed, house, and clothe as many as 40% of the American people. Congress and the president have handed the American people a blank check, promising to pay health, disability, and retirement benefits forever without regard to the availability of funding.

I have already discussed the absolute necessity of raising taxes. We also need to consider the necessity of raising Social Security and Medicare taxes. None of these increases will be sufficient to fund the New World Order Mr. Obama is creating. If he is to keep Social Security "alive" he's going to have to find trillions of dollars to do so.

What is the obvious source of those trillions of dollars? Your wallet, and the wallets of every American who pays taxes. I can envision a "Super Social Security" program in which your 401(k), 403(b), IRA or even Roth IRA are taken over by the government, perhaps through a simple Executive Order issued by the president, and you receive a piece of paper giving you "credit" for the entire value of your account on the date of the transfer. The paper will include some vague language about how the value of your account will be used to pay you additional benefits once you retire, for it is still your money - or so they would like you to believe.

Since there would be a huge public outcry against this massive theft, it is possible that the government might make a smart move and "credit your account" with the value of the IRA or retirement accounts being seized as of January 2007, instead of the usually much lower amount in it today. That announcement would instantly ease the minds of millions of Americans about this theft, and the media would absolutely love it because now they would be able to demonstrate that we had "fixed" Social Security once and for all.

I would not raise this issue had I not seen it reported on in several sources, among them the once-prestigious New York Times. Now the issue is on the table. The administration is anxious to take advantage of every possible crisis to reshape the very fabric of America, I can only believe that this will be one of many such plans rammed down our throats over the next several years.

Virtually all of the legislation that gets passed by the Congress these days and signed into law by the President is "bad". What do I mean by bad legislation? Simply this:

- 1) Most legislation is unconstitutional, as are most if not all Executive Orders.
- 2) Most legislation is passed only by political dealmaking. A bad law gets passed because everyone who will vote for it is bribed with some little earmark or other provision beneficial to them and their district or state.
- 3) Most legislation is oriented around the accumulation of ever more power in Washington.
- 4) Most legislation, particularly in the past 75 years, has been oriented around the involuntary redistribution of wealth from the taxpayers to the voting blocks Congress and the president wish to favor.
- 5) Most legislation is designed to move the United States further from a Constitutional Republic and closer to a socialist welfare state.

What if?

What if there is a real possibility that the Obama administration or the one after it will seize your retirement account and nationalize it? You have to understand that this can only be detrimental to you and your family. If you had a half-million dollars in your retirement account you would be giving that up in exchange for a promise to pay a certain amount of benefit every month for the rest of your life. It is theft. It is a violation of your Constitutional rights. In all likelihood you will not only have lost your access to your money, but the substituted "benefits" that you will receive in return will not begin to cover your loss.

In my opinion, this very real possibility pushes the need to decide to the forefront. The last time it happened, in 1933, Pres. Franklin D. Roosevelt issued an Executive Order ceasing virtually all the gold owned by Americans, with the exception of jewelry, collectible or numismatic coins, and "a few" that an individual might own. Congress

never voted on it, and the American people had no choice in the matter. The Supreme Court never challenged the order, and it gained the force of law immediately. If you did not comply, you would go to prison, be heavily fined, and lose your gold in any event.

It's always been hard for me to understand why so many Americans absolutely adore FDR to this day after he had done something as despicable as that. We now have a man in the Oval Office who is thought of as the next FDR, and we have a man at the head of the Federal Reserve who, though an avid student of the Great Depression, has completely failed to learn its lessons.

In 1933 America was a wealthy and powerful nation struggling through a great depression, from which it would probably have emerged years earlier had it not been for the heavy handedness of the federal government. In 2009 we are faced with a similar if not more severe economic downturn, and our government has chosen to respond in exactly the same manner - and will achieve exactly the same results. Is there any reason to believe that our federal government will not want to nationalize our retirement accounts and put them into Social Security?

I believe the risk to your money is too great to postpone taking action immediately. At the very least you owe it to yourself to consider the facts and the possibilities, and make a decision that is appropriate for yourself and your family.

Some Suggestions

If you are 59 1/2 or over, have a traditional IRA, and can afford to pay the taxes on a full or partial distribution from your IRA, you should consider moving some of your money right away. You might want to take the Free Withdrawals available from your annuity accounts and invest the money either in a Roth IRA or outside a retirement account as described above. You might want to convert the remaining balances of one or more IRAs to Roth IRAs to continue to enjoy the tax benefits associated with Roth IRAs.

Let's illustrate these choices with a table that details the things you need to consider:

Making the decision:

Leave your retirement money where it is, convert to a Roth IRA, or “take the money and run”?

Type of retirement account you currently own	You are under 59½		You are 59½ or older	
	Convert to Roth IRA	“Take the money and run”	Convert to Roth IRA	“Take the money and run”
Traditional IRA, no insurance products	All distributions from the traditional IRA are added to your taxable income. You pay no further taxes when making withdrawals from the Roth IRA.	All distributions are added to your taxable income <u>and</u> you pay a penalty tax. You pay taxes on all subsequent taxable gains, interest, and dividends.	All distributions from the traditional IRA are added to your taxable income. You pay no further taxes when making withdrawals from the Roth IRA.	All distributions are added to your taxable income. You pay taxes on all subsequent taxable gains, interest, and dividends.
Traditional IRA <i>with</i> insurance products	All distributions from the traditional IRA are added to your taxable income. You may also pay surrender charges to the insurance company. You pay no further taxes when making withdrawals from the Roth IRA.	All distributions are added to your taxable income <u>and</u> you pay a penalty tax. You may also pay surrender charges to the insurance company. You pay taxes on all subsequent taxable gains, interest, and dividends.	All distributions from the traditional IRA are added to your taxable income. You may also pay surrender charges to the insurance company. You pay no further taxes when making withdrawals from the Roth IRA.	All distributions are added to your taxable income. You may also pay surrender charges to the insurance company. You pay taxes on all subsequent taxable gains, interest, and dividends.
401(k), no employer contributions	There may be restrictions on withdrawing funds from a 401(k) for any reason. All distributions from the 401(k) are added to your taxable income. You pay no further taxes when making withdrawals from the Roth IRA.	There may be restrictions on withdrawing funds from a 401(k) for any reason. All distributions from the 401(k) are added to your taxable income <u>and</u> you pay a penalty tax. You pay no further taxes when making withdrawals from the Roth IRA.	There may be restrictions on withdrawing funds from a 401(k) for any reason. Being 59½ usually removes on of them. All distributions from the 401(k) are added to your taxable income. You pay no further taxes when making withdrawals from the Roth IRA.	There may be restrictions on withdrawing funds from a 401(k) for any reason. Being 59½ usually removes on of them. All distributions from the 401(k) are added to your taxable income. You pay taxes on all subsequent taxable gains, interest, and dividends.
401(k) <i>with</i> employer contributions	There may be restrictions on withdrawing funds from a 401(k) for any reason. You may not be fully vested in your	There may be restrictions on withdrawing funds from a 401(k) for any reason. You may not be fully vested in your	There may be restrictions on withdrawing funds from a 401(k) for any reason. You may not be fully vested in your	There may be restrictions on withdrawing funds from a 401(k) for any reason. You may not be fully vested in your

Making the decision:

Leave your retirement money where it is, convert to a Roth IRA, or “take the money and run”?

	employer’s contributions and therefore lose the non-vested portion. All distributions from the 401(k) are added to your taxable income. You pay no further taxes when making withdrawals from the Roth IRA.	employer’s contributions and therefore lose the non-vested portion. All distributions from the 401(k) are added to your taxable income <u>and</u> you pay a penalty tax. You pay no further taxes when making withdrawals from the Roth IRA.	employer’s contributions and therefore lose the non-vested portion. All distributions from the 401(k) are added to your taxable income. You pay no further taxes when making withdrawals from the Roth IRA.	employer’s contributions and therefore lose the non-vested portion. All distributions from the 401(k) are added to your taxable income. You pay taxes on all subsequent taxable gains, interest, and dividends.
403(b), no employer contributions	Same as the 401(k) with no employer contributions except that you are more likely to have a loan provision in a 403(b) than in a 401(k). You will lose that provision by converting to a Roth IRA.	Same as the 401(k) with no employer contributions.	Same as the 401(k) with no employer contributions except that you are more likely to have a loan provision in a 403(b) than in a 401(k). You will lose that provision by converting to a Roth IRA.	Same as the 401(k) with no employer contributions.* You pay taxes on all subsequent taxable gains, interest, and dividends.
403(b) <i>with</i> employer contributions	Same as the 401(k) with employer contributions except that you are more likely to have a loan provision in a 403(b) than in a 401(k). You will lose that provision by converting to a Roth IRA.*	Same as the 401(k) with employer contributions.*	Same as the 401(k) with employer contributions except that you are more likely to have a loan provision in a 403(b) than in a 401(k). You will lose that provision by converting to a Roth IRA.*	Same as the 401(k) with employer contributions.* You pay taxes on all subsequent taxable gains, interest, and dividends.

* The exception with 403(b) accounts is ORP (also known as DCRP), a “mandatory” voluntary program offered by certain universities. ORP is fully vested after one year and one day of employment, but can not be withdrawn except for retirement, death, disability, or termination of employment.

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