



Food and
Nutrition
Service

Park Office
Center

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Date: January 17 2017

SUBJECT: Updated Retirement Account Exclusions from Resources

TO: All Regional Directors
Supplemental Nutrition Assistance Program (SNAP)

The memorandum that follows is intended to update earlier guidance provided to State agencies on the treatment of retirement accounts in determining the Supplemental Nutrition Assistance Program (SNAP) eligibility. This memorandum replaces the previous guidance on retirement accounts that was distributed on May 14, 2009.

The Food and Nutrition Act of 2008, as amended, (the Act) excludes many retirement accounts from consideration as a resource in determining SNAP eligibility. Specifically, section 5(g)(7)(A)(i) of the Act excludes any funds in a plan, contract, or account described in the following sections of the Internal Revenue Code of 1986: 401(a), 403(a), 403(b), 408, 408A, 457(b), and 501(c)(18). This section of the Act also excludes funds in a Federal Thrift Savings Plan, as defined by section 8439 of title 5 of the United States Code.

In response to a Presidential Memorandum, the U.S. Department of the Treasury established a new retirement savings account designed for small-dollar savers and employees who do not have access to a retirement savings plan through their employers. This retirement savings program, known as *myRA*, started on December 15, 2014. The Food and Nutrition Service (FNS) received questions about whether *myRA* accounts are excluded from resources when determining eligibility for SNAP.

A *myRA* account is a Roth Individual Retirement Account (IRA) and is subject to section 408A of the Internal Revenue Code. Since the Act specifically excludes accounts described in section 408A of the Internal Revenue Code as a resource for SNAP purposes, *myRA* accounts are excluded as resources in determining SNAP eligibility or benefits. Section 5(g)(7)(A)(ii) allows the Secretary to exclude from financial resources any retirement program or account included in any successor or similar provision that may be enacted and determined to be exempt from tax under the Internal Revenue Code of 1986.

Please see the attached table for detailed information on retirement plans excluded by the Act.

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Section 5(g)(7)(B) of the Act provides the Secretary with discretion to exclude additional funds in retirement plans, contracts, or accounts. At this time, FNS is adding *myRA* to the list of excluded retirement accounts. FNS will provide additional notification if other retirement accounts are excluded from financial resources in the future.

As noted in the May 14, 2009 memorandum, an earlier chart included in the second 2008 Farm Bill Question and Answer document on Certification Issues (available at: <http://www.fns.usda.gov/snap/questions-and-answers-certification-issues-2008-farm-bill-2>) included the term “tax-preferred.” Some inaccurately interpreted this term as a requirement that the State determine whether a retirement account was tax-preferred before excluding the retirement account from a household’s resources. FNS used tax-preferred to indicate that these accounts receive preferential treatment by the Internal Revenue Service (i.e. these accounts have tax advantages). There is no need to differentiate whether excluded retirement accounts are tax-deferred or tax-preferred. The final rule implementing the related 2008 Farm Bill provision, the Supplemental Nutrition Assistance Program: Eligibility, Certification, and Employment and Training Provisions of the Food, Conservation and Energy Act of 2008, was published in the Federal Register on January 6, 2017, and is effective as of March 7, 2017.

Please work with your States to ensure that SNAP staff is aware of which retirement accounts the Act expressly excludes from resources and are applying the policy accurately. States only need to determine whether the retirement account is defined by the abovementioned sections (i.e. is included in the attached table). If the retirement account is included in the table, the account is excluded as a resource in determining a household’s eligibility.

If you have questions, please contact Sarah Goldberg via email at Sarah.Goldberg@fns.usda.gov or by phone at (703) 305-4397.

Sincerely,

A handwritten signature in cursive script that reads "Lizbeth Silberman".

Lizbeth Silberman
Director
Program Development Division

Attachment

Retirement Accounts Excluded from Resources by the Act

Authorized	Plan/Account	What Is It?
Section 401 IRS Code	Traditional Defined-Benefit Plan	Employer-based retirement plan that promises retirees a certain benefit upon retirement, regardless of investment performance.
Section 401(a) IRS Code	Cash Balance Plan	Employer-based “hybrid” plan that combines features of defined benefit and defined contribution plans. Each employee is allocated a hypothetical account, but account balances accrue at a specified rate, rather than depending on investment performance.
Section 401(a) IRS Code	Employee Stock Ownership Plan	Similar to a profit-sharing plan that must be primarily invested in the employer’s stock and under which distributed benefits must be offered in the form of the employer’s stock.
Section 401(a) IRS Code	Keogh Plan	“Informal” term for retirement plans available to self-employed people.
Section 401(a) IRS Code	Money Purchase Pension Plan	Employer-based defined contribution plan under which annual contributions are fixed by a set formula.
Section 401(a) IRS Code	Profit-Sharing Plan	Employer-based defined contribution plan under which employer contributions may, but need not be, linked to profits. Usually refers to non-matching employer contributions.
Section 401(a) IRS Code	Simple 401(k)	401(k)-type plans available only to small businesses: exempt from certain restrictions and subject to some limitations on employer contributions.
Section 401(a) IRS Code	401(k)	Defined contribution plan that allows employees to defer receiving compensation in order to have the amount contributed to the plan. Commonly referred to as a “cash or deferred arrangement” (CODA). Some 401(k) plans allow after-tax Roth 401(k) contributions.
Section 403(a) IRS Code	403(a)	Plans that are similar to 401(a) plans but are funded through annuity insurance
Section 403(b) IRS Code	403(b)	Tax-sheltered annuity or custodial account plan offered by tax-exempt section 501(c) organizations or public schools. Many are funded by employee contributions that resemble 401(k)s.
Section 408 IRS Code	IRA	Vehicle for tax-deferred retirement savings controlled by individuals rather than employers.
Section 408(p) IRS Code	Simple retirement account IRA	Employer-based IRA (to which employers and employees contribute) available only to small businesses.
Section 408(k) IRS Code	Simplified Employee Pension Plan (SEP)	Employer-sponsored plan available only to small businesses; allows employer to contribute to employee accounts that function as IRAs and are subject mostly to IRA rules. Generally ceased to apply in 1996.
Section 408A IRS Code	Roth IRA	Same as IRA, except that qualified distributions are tax exempt.
Section 408A IRS Code	myRA	Same as IRA, except that qualified distributions are tax exempt.
Section 457(b) IRS Code	Eligible 457(b) Plan	Funded plan offered by state and local governments or unfunded plan offered by nonprofit organizations.
Section 501(c) (18) IRS Code	501(c)18 Plan	Plan offered mostly by unions. Had to be set by June 1959 and are now largely obsolete.
Section 8439 of Title 5 USC	Federal Thrift Savings Plan	Plan offered by the federal government to its employees.