



United States
Department of
Agriculture

MAY 14 2009

Food and
Nutrition
Service

3101 Park
Center Drive

Alexandria, VA
22302-1500

SUBJECT: Clarification on Exclusion of Retirement Accounts from Resources

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

Recently we became aware that confusion remains regarding which retirement accounts are excluded from resources when determining eligibility for the Supplemental Nutrition Assistance Program (SNAP). The Food and Nutrition Act of 2008 (the Act) excluded most retirement accounts from consideration as resources.

Specifically, 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). The Act also excludes funds in a Federal Thrift Savings Plan, as defined by section 8439 of title 5 of the United States Code. For more detailed information on which plans the Act excludes, please see the attached table.

The Act also provides the Agency with discretion to exclude additional funds in retirement plans, contracts, or accounts. At this time we have not identified any additional funds to be excluded. If we do so in the future, we will notify you.

We were also informed that there was some confusion concerning the chart included in the second 2008 Farm Bill Question and Answer document on Certification Issues (the document can be found at: <http://www.fns.usda.gov/snap/rules/Memo/2008/082908.pdf>). The table included the term "tax-preferred." Some believed that the use of this term required the State to determine whether a retirement account was tax-preferred before the State could exclude that retirement account from a household's resources. We 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 these accounts are tax-deferred or tax-preferred.

Please work with your States to ensure that they know 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 on the table, the account is excluded as a resource in determining a household's eligibility.

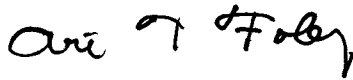
AN EQUAL OPPORTUNITY

The contents of this guidance document do not have the force and effect of law and are not meant to bind the public in any way. This document is intended only to provide clarity to the public regarding existing requirements under the law or agency policies.

All Regional Directors

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If you have any questions or need further assistance, please contact Harriet Kornegay at (703) 305-2501 or Sasha Gersten-Paal at (703) 305-2507.

A handwritten signature in black ink, appearing to read "Art T Foley". The signature is written in a cursive, slightly slanted style.

Arthur T Foley

Director

Program Development Division

Enclosure

Attachment 1: 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 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.