

# How to Access Your 401k Before You Retire

- December 14, 2011 [Chris Vizzi](#)

If permitted by your company-sponsored retirement plan, in-service, non-hardship 401k withdrawals can give you pre-retirement access to your retirement assets. With an in-service, 401k withdrawal, you can request a distribution from your retirement account while you are still employed. However, not all company-sponsored retirement plans offer these in-service 401k withdrawals.

This type of withdrawal is treated as ordinary income and will trigger a tax liability. In addition, if you're under age 59 ½, you could be subject to a 10% early withdrawal penalty. **However, by taking the 401k withdrawal as a 401k rollover, for example into a self-directed IRA, you continue to benefit from tax-deferred growth without an immediate tax liability or penalty.** You CAN rollover (or otherwise withdraw) employer contributions, or employee (after-tax or rollover) contributions. And you can do so without any required taxes or penalties. You can also continue to contribute to your 401k to receive any employer matching. According to the Tax Increase Prevention Reconciliation Act (TIPRA), tax laws now permit in-service non-hardship withdrawals from 401(k), 403(b) and 457 plans to traditional IRAs and Roth IRAs before age 59½. The employee must be eligible to take a distribution from the plan, and the funds have to be eligible for a direct IRA rollover. The five-year/two-year rule also has to be satisfied. IRS Revenue Ruling 68-24 says that for an in-service withdrawal from a qualified retirement plan to take place, an employee has to have been a plan participant for five years or the funds have to have been in the plan for two years.

To find out if your 401(k) plan has a provision for in-service, non-hardship withdrawals, ask for a copy of the plan's *Summary Plan Description*, which must be provided upon request to plan participants. Or, just look at your year-end 401(k) statement. If the plan allows such withdrawals, the statement might have a separate column that indicates the dollar amount of funds available for in-service withdrawals.

**In-service, non-hardship withdrawals can be reinvested in a broader range of investment choices suited to your investment objectives.** To avoid income tax withholding, you must not take receipt of the proceeds, but rather roll them directly over to an IRA or another qualified plan. It is recommended you consult your South Coast Representative before taking any action. It is important to check applicable state laws regarding protection of assets from creditors. Federal bankruptcy law protects IRA assets rolled over from qualified employer retirement plans from creditor claims in bankruptcy proceedings. But unlike 401(k) assets, which are nearly universally protected from creditor claims outside of bankruptcy as well, states protect IRA assets from creditors outside of bankruptcy to varying degrees. In addition, you will want to make sure that the 401(k) plan does not offer other benefits that may be valuable to you but unavailable through an IRA, such as loans. Also, if you hold highly appreciated company stock in a 401(k) plan, partial distributions may jeopardize valuable tax benefits that may be available with respect to the stock (i.e., "NUA treatment" of in-kind distributions of employer stock).

There are several reasons you may want to consider a 401k in-service, non-hardship rollover to a self-directed IRA:



- Flexibility of investment choices that may not be offered in your 401k plan and reduced account fees
- Ability to diversify concentrated positions: some plans have limited investment options
- Some 401k plans specify that certain contributions must be invested in company stock (e.g., employer matching contributions) and you may have accumulated too much in one asset for prudent diversification
- Consolidation: IRA rollovers can be used to help you consolidate your retirement assets. It then becomes easier to develop a comprehensive retirement income strategy, monitor performance, rebalance as needed, and calculate required minimum distributions
- To simplify estate planning
- To gain professional guidance: you may choose to have your retirement plan assets managed by a professional and need to make a 401k withdrawal to make that possible

Some restrictions may apply to 401(k) in-service withdrawals. Generally, 401(k) in-service withdrawals are only available to participants who have reached age 59 ½. Also, the amount eligible for such withdrawals might be limited in frequency, to a certain dollar amount, or to certain contribution sources. 401(k) plans differ greatly. Always consult a qualified tax consultant to ensure you obtain the tax consequences you desire.