



AMERICAN BENEFITS COUNCIL

PORTMAN-CARDIN BILL WOULD ENHANCE PORTABILITY OF RETIREMENT SAVINGS

- **Rollovers Between Spouses' IRAs.** The Portman-Cardin bill allows amounts in one spouse's Individual Retirement Account (IRA) to be transferred to the other spouse's IRA without resulting in current taxation to either spouse, giving couples the choice to balance their savings regardless of who accumulated the assets. It is common for married couples to manage their finances jointly and treat their assets as common property. Yet, in the context of one of a family's most important financial assets – retirement savings – spouses are currently prevented from transferring amounts to one another.
- **Rollovers by Nonspouse Beneficiaries.** Generally, when a retirement plan participant dies, plan benefits must be distributed immediately in a lump sum. If the retirement plan beneficiary is the deceased participant's surviving spouse, the surviving spouse may transfer the lump sum benefit to an IRA or a retirement plan in which he or she is a participant, and is not forced to cash out the benefit. Similarly, when an IRA owner dies, the IRA beneficiaries (whether spousal or non-spousal) may maintain the IRA in the name of the deceased owner (an "inherited IRA"), likewise avoiding a forced cash out of the benefit. However, if the retirement plan beneficiary is someone other than the spouse of the plan participant (for example, the participant's sibling or parent), the lump sum may not be rolled over and is subject to immediate taxation. The Portman-Cardin bill improves portability of retirement savings by eliminating this unequal treatment, allowing non-spouse beneficiaries to transfer retirement plan benefits to an inherited IRA, to be distributed within five years or over the life expectancy of the beneficiary.
- **Rollovers to Roth IRAs.** Amounts held in a traditional IRA may be converted to a Roth IRA, provided that certain requirements are met (for example, the individual's income may not exceed \$100,000). Amounts converted to a Roth IRA are generally includible in gross income in the year of the conversion. If retirement savings are held in a 401(k) or similar workplace retirement plan, however, the savings must first be moved to a traditional IRA, and only then can be converted to a Roth IRA. The Portman-Cardin bill eliminates the unnecessary administrative step of rolling the workplace retirement savings to a traditional IRA prior to conversion by allowing a direct rollover from a retirement plan to a Roth IRA. The current income limitations and tax treatment applicable to conversions from IRAs to Roth IRAs would continue to apply.
- **Rollovers of After-Tax Amounts.** In many instances, employees may make after-tax contributions to retirement plans such as 401(k)s and 403(b)s. The 2001 tax relief act permitted distributions of those after-tax contributions to be rolled over into an IRA or another plan in a direct rollover. However, there has been some uncertainty whether after-tax amounts in 403(b) plans could be rolled over to 401(k) plans and vice versa. The Portman-Cardin bill clarifies that these after-tax rollovers are permitted, making it easier for workers to move all elements of their 401(k) or 403(b) savings when they change jobs.
- **Certain Plan Transfers and Mergers.** Subject to special rules, individuals may roll over or transfer amounts from one type of retirement plan to another. However, if an employer wishes to change the type of retirement plan it sponsors (for example, from a 401(k) to a 403(b) plan), there may not be a simple method of transferring assets between plans. Instead, with respect to the old plan, employers often must maintain a "frozen" plan, and then start a new plan going forward. This increases administrative complexity for the employer, and is confusing and burdensome for employees who must track retirement savings in a variety of accounts, often with different investment options. The Portman-Cardin bill directs the Treasury Department to prescribe rules to allow an employer to transfer assets from one type of retirement plan to another, but only where participant and spousal rights are fully protected.