BENEFITS BRIEFING WEBINAR: State Retirement Plan Initiatives

February 26, 2015

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Setting the Stage

- Coverage, coverage, coverage
- President Obama signature proposal – Automatic IRA

myRA moves forward

- Currently in pilot program
- Voluntary payroll deduction Roth IRA
- Only investment is “R Bond” similar to TSP G Fund
- Maximum of $15,000 or 30 years
- DOL Information Letter
Other Coverage Proposals

- **Starter 401(k)** *(Sen. Hatch (D-UT); Rep. Kind (D-WI) and Reichert (R-WA))*

- **Multiple employer plans** *(Sen. Hatch (D-UT), Collins (R-ME) and Nelson (D-FL); Rep. Neal (D-MA), Kind (D-WI) and Reichert (R-WA))*

- **USA Retirement Plans** *(Former Sen. Tom Harkin (D-IA))*

- **Open Federal TSP to private individuals** *(Sen. Rubio (R-FL), no bill yet)*

- **Expand voluntary payroll IRAs and SIMPLE IRAs** *(Rep. Kind (D-WI) and Reichert (R-WA))*
State-Run Proposals

Two Broad Types

Voluntary

• State offers low-cost defined contribution plan on a voluntary basis
• State is another service provider in market
• Example: Massachusetts (small non-profits only)

Mandatory

• State requires employers without a plan to enroll employees in payroll deduction
• State administers investments
• Example: California and Illinois
States Expressing Interest

- Arizona
- California
- Colorado
- Connecticut
- Illinois
- Indiana
- Louisiana
- Maine
- Maryland
- Massachusetts
- Minnesota
- Ohio
- Oregon
- Vermont
- Washington
- West Virginia
- Wisconsin

Note: This map is likely outdated as soon as we create it!
Illinois Secure Choice

- Signed into law January 4, 2015
- 25 or more employees in state
- Must be in business more than 2 years and not offer retirement plan
- Initial default of 3%. Employees can opt out, but employer cannot (unless offering a plan)
- Contribution to Roth IRA
  - Note income limit issue
- Default is target date fund. Board may also offer conservative principal protection fund, growth fund, annuity fund, and “secure return” fund (likely stable value)
- Expenses not to exceed 0.75%
Illinois Secure Choice

- Start-up costs must come from appropriations or other sources
- Board must request ruling from DOL
- Program may not be implemented if:
  - Fails to qualify as IRA
  - Program is an employee benefit plan covered by ERISA
- State “shall have no liability for the payment of any benefit”
- Employers “shall not have any liability” and “shall not be a fiduciary”
California Secure Choice

- Enacted September 2012
- After market analysis, Board must seek a subsequent authorizing statute
- Differences from Illinois
  - Threshold is five or more employees
  - Uses traditional IRA
  - Single investment, credited with stated interest rate (similar to GIC)
  - Employer contributions may be allowed if that does not trigger ERISA
Does ERISA Apply?

- Arrangements are not “governmental” plans
  - Advisory Opinion 2012-01A

- Use of IRA as funding vehicle
  - Payroll deduction IRA exemption in Department of Labor regulations
    - Must be *completely voluntary* for employee and limited employer involvement
  - Implications of DOL Information Letter re myRA

- Separate plans or single plan?
  - Advisory Opinion 2012-04A
ERISA Preemption

- ERISA preempts any state law that “relates to any employee benefit plan”
  - Auto-IRA bills include ERISA carve-out
- Congressional goal of uniformity of plan administration
- Lessons from court cases on “pay-or-play” health benefits prior to Patient Protection and Affordable Care Act
Budget request for $6.5 million to “help States pilot and evaluate State-based 401(k) programs or automatic enrollment IRAs”

States that there are “concerns about potential conflicts with the Federal law that governs employee benefit plans”

Seeks “waiver authority”
Implications for Council Members

We offer a plan to our employees. A pretty good one, in fact. How is this relevant to my company?
Implications for Council Members

- Do you have employees in multiple states?
- Is every single one of your employees covered?
- What happens if a state mandates its plan unless you have a certain kind of plan or benefit (cf. USA Retirement proposal)
  - Mandate unless plan has automatic enrollment
  - Mandate unless certain kinds of investments offered
  - Mandate unless certain level of employer contributions
  - Mandate if plan fees exceed certain levels
Thanks and questions

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