



# AMERICAN BENEFITS COUNCIL

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## SUMMARY OF THE DISCUSSION DRAFT OF THE RETIREMENT IMPROVEMENTS AND SAVINGS ENHANCEMENTS (RISE) ACT

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On September 8, Senator Ron Wyden (D-OR), the ranking Democratic member of the Senate Finance Committee, has released an early draft of retirement policy reform legislation, the [Retirement Improvements and Savings Enhancements \(RISE\) Act](#). The measure specifically targets perceived abuses of Roth IRAs by wealthy individuals, but also includes a number of other provisions intended to eliminate other loopholes while expanding savings for lower-income individuals. An official [summary](#) and [short summary](#) are also available.

The discussion draft of the RISE Act includes the following provisions:

### **Imposes \$5 million limit on Roth IRA savings**

In general, under the discussion draft, accumulations in Roth IRAs are limited to \$5 million (indexed). However, if an individual has Roth IRA accumulations in excess of \$5 million as of December 31, 2016, the limit for such individual is such higher amount held as of December 31, 2016.

On an ongoing basis, if an individual's Roth accumulations as of the end of the prior year exceed the applicable limit, then no non-rollover contributions can be made to a Roth IRA maintained on behalf of the individual for the current year. In addition, if there is such an excess, then generally 50% of the excess must be distributed.

### **Eliminates conversions of pre-tax money to Roth accounts or plans**

Under the discussion draft, conversions from pre-tax amounts to Roth amounts in plans or IRAs would no longer be permitted.

## **Applies lifetime RMD rules to Roth IRAs**

Under the discussion draft, Roth IRA IRAs would become subject to the same lifetime required minimum distribution (RMD) rules applicable to traditional IRAs.

## **Makes Saver's Credit refundable**

Under the discussion draft, the Saver's Credit, which is nonrefundable, would be replaced by a refundable tax credit. Generally, the refundable tax credit would equal 50% of plan or IRA contributions up to \$1,000 made by an individual. However, this credit would begin to phase out for joint returns with more than \$65,000 (indexed) of modified adjusted gross income, with the phase-out complete by \$85,000. For single returns, the phase-out starts at \$32,500 and ends at \$42,500.

This refundable tax credit would not be available in cash, but rather must be deposited directly by the federal government into a Roth plan account or a Roth IRA designated by the individual, provided that no plan or IRA is required to accept this deposit. In the absence of a designation by the individual, the amount would be contributed to a myRA account on behalf of the individual. The contribution by the federal government would not be taxable to the individual and would not count against applicable limits.

## **Permits IRA contributions after age 70 ½**

Under current law, an individual who has attained age 70 ½ by the end of the year cannot make a non-rollover contribution to a traditional IRA. Under the discussion draft, this age limitation would be repealed.

## **Permits 60-day rollovers for non-spouse beneficiaries**

Under current law, non-spouse beneficiaries who are entitled to an eligible rollover distribution from a plan may directly roll over that distribution to an inherited IRA, but may not roll over the distribution in a "60-day rollover," i.e., a rollover where the beneficiary receives the distribution and then rolls it over to an IRA within 60 days. Under the discussion draft, (1) non-spouse beneficiaries are permitted to do 60-day rollovers, and (2) non-spouse beneficiaries are permitted to roll over IRA distributions to an inherited IRA, which previously was not permitted.

## **Increase in 70 ½ age for required minimum distributions**

Under current law, required minimum distributions ("RMDs") must commence by April 1 following the calendar year in which the individual attains age 70 ½, subject to a delayed commencement date for plans in the case of non-5% owners who work past that calendar year. As generally discussed in a prior e-mail, under the discussion draft,

age 70 ½ be increased as follows: age 71 for 2018-2022; age 72 for 2023-2027; age 73 for 2028; and an adjusted age for years after 2028. For years after 2028, age 73 would be adjusted by Treasury in accordance with increases in life expectancy.

### **Exempts individuals with no more than \$150,000 in savings from RMD rules**

Generally, under the discussion draft, if an individual's total benefits under all defined benefit and defined contribution plans and IRAs do not exceed \$150,000 (indexed) as of the "measurement date," the individual would be exempt from the RMD rules. Generally, the measurement date is the first day of the calendar year in which the individual attains age 70 ½ (or the later age applicable under the proposal described above). If the individual dies before that year, however, the measurement date is the first day of the calendar year in which he or she dies. If additional contributions, rollovers, or transfers are made after the measurement date, and those amounts were not previously taken into account, a new measurement date is used: the first day of the next calendar year after the additional savings are added.

The \$150,000 threshold is phased out over the next \$10,000 of savings, so that no exemption is applicable to an individual with \$160,000 of savings. The only amounts disregarded in determining an individual's total savings are life annuity benefits in pay status under a defined benefit plan as of the measurement date.

### **Permits matches on student loan repayments**

Under the discussion draft, an employer would be permitted to make matching contributions under a 401(k) plan, 403(b) plan, or SIMPLE IRA with respect to "qualified student loan repayments," which is broadly defined as any indebtedness incurred by the employee solely to pay qualified higher education expenses *of the employee*" [emphasis added] (expenses of a dependent would not be covered).

For almost all purposes, the student loan repayment would *not* be treated as an elective contribution to the plan, but any matching contribution made with respect to such repayment would be treated as a matching contribution for all purposes. The following rules would apply:

- The amount of student loan repayments taken into account for this purpose cannot exceed the applicable current law limit on the employee's elective contributions to the plan, reduced by the employee's actual elective contributions.
- The employee must provide "evidence" of the loan and repayments to the employer.
- Matching contributions on student loan repayments can only be made:

- On behalf of employees eligible to make elective contributions,
- At the same rate as matching contributions on elective contributions, and
- If all employees eligible for matches on elective contributions are also eligible for matches on student loan repayments.

### **Imposes five-year limit on post-death payments (“Stretch IRA” provision)**

The RMD rules very generally require that IRA and plan distributions start shortly after the IRA owner or participant attains age 70-1/2 (subject, as noted above, to an exception for plans in the case of non-5%-owner employees working past age 70-1/2). There are also RMD rules applicable after the death of the IRA owner or participant. Very generally, under current law, if an IRA owner or participant dies, the beneficiary is permitted to draw down the IRA or plan benefits over the beneficiary’s life expectancy.

Under the discussion draft, generally, IRA and plan beneficiaries would be required to draw down all assets in the IRA or plan within five years of the death of the IRA owner or plan participant, subject to exceptions for “eligible beneficiaries,” i.e., beneficiaries who are (1) the surviving spouse of the IRA owner or plan participant, (2) a child who has not attained the age of majority, (3) disabled, (4) chronically ill, or (5) not more than 10 years younger than the IRA owner or plan participant. In the case of a child who has not attained the age of majority, the five-year rule would apply as of the date the child attains the age of majority.

The application of this provision to defined benefit plans and commercial annuities distributed from plans raises a number of issues, including, for example, (1) the need to eliminate defined benefit plan options that violate this rule and (2) the inability to offer life annuities with a term certain of more than five years.

The proposal would generally apply to distributions with respect to IRA owners and plan participants who die after 2016, subject to delayed effective dates for governmental plans and collectively bargained plans. In general, the change would not apply to certain commercial or defined benefit plan annuities that have been irrevocably elected as of the date of enactment of the legislation.

### **Establishes required beginning date for 5% owners**

Under the discussion draft, if an employee becomes a 5% owner after age 70 ½ (or the later age specified in the prior proposal raising age 70 ½), but before retiring, the employee’s required beginning date is April 1 of the calendar year after the year in which he or she becomes a 5% owner.

**Asks Treasury to propose rules on interaction of RMD rules with defined benefit plan benefit restrictions on lump sum payments and other prohibited payments from plans less than 80% funded**

Under the discussion draft, RMDs may not exceed the distributions permitted by the benefit restrictions. The U.S. Treasury Department is directed to prescribe regulations on how to apply this rule, including in years after the benefit restrictions cease to apply.

**Describes valuation of IRA assets**

Under the discussion draft, if an asset does not fit within certain categories of assets with a readily determinable fair market value, then the asset must be valued through the use of a “qualified appraisal” as defined for purposes of the charitable deduction rules. In general, the following do not need a qualified appraisal: (1) securities for which there is a generally recognized market, (2) mutual fund shares, and (3) securities and other instruments (such as annuities and certificates of deposit) offered publicly by a bank or insurance company in the ordinary course of their business. This proposal would apply after 2017.

**Establishes statute of limitations with respect to IRA noncompliance and prohibited transactions**

Under the discussion draft, the statute of limitations will last until after at least six years after the filing of a return in the case of (1) a substantial error in the reporting of any information relating to the valuation of investment assets under an IRA, and (2) prohibited transactions.

**Prohibits IRAs from investing in IRA owner’s business**

Under the discussion draft, an IRA would not be permitted to be invested in any entity that is at least 10% owned (directly or indirectly) by the IRA owner.

**Treats IRA owners as disqualified persons under prohibited transaction rules**