

Women and Retirement Security Bill

Increasing Retirement Savings

- **Increasing Retirement Savings through Automatic IRAs** – Employers that do not sponsor a qualified retirement plan for their employees (other than certain very small employers) would be required to allow employees to contribute a portion of their employees' pay to an IRA.
- **Expanding the Saver's Credit** – The Saver's Credit is a tax credit for certain low and moderate-income individuals who contribute to workplace retirement plans and IRAs. The Saver's Credit is used by more than five million Americans annually. However, many Americans are unable to take advantage of the credit because they don't have any tax liability. The bill will make the credit refundable and require recipients of the refund to deposit the refund into a qualified account. In addition, under the bill, individuals who are currently eligible for a credit in the amount of 10 and 20 percent of contributions would be eligible for a 50 percent credit. Therefore, all eligible would receive a 50 percent credit. The bill also addresses the cliff.
- **Amending DC Elective Deferral Coverage Rules for Long-tem Part-time Workers** – Under current law, employers generally may exclude part-time employees (employees who work less than 1,000 hours per year) when providing a defined contribution plan to their employees. As women are more likely than men to work part-time, these rules can be quite harmful for women in preparing for retirement. The bill will require employers maintaining a 401(k) plan to have a dual eligibility requirement under which an employee must complete either a one year of service requirement (with the 1,000-hour rule) or three years of service where the employee completes at least 500 hours of service.
- **Facilitating Retirement Savings Through FSA Transfers** – Under current law, Flexible Spending Accounts (FSAs) allow employees to defer cash compensation for use as reimbursement for qualified benefits, such as health care costs. However, amount set aside in FSAs are forfeited if they are not used for qualified expenses by 2 ½ months after year-end. The bill will modify this rule by allowing employees to transfer up to \$500 per year in unused health FSA amounts to a defined contribution plan or IRA.
- **Expansion of Access to IRAs** – This provision would expand access to IRAs for people on disability and those who have taken a short time off from the workforce. The general contribution limit to IRAs for 2006 is the lesser of \$4,000 or an individual's taxable compensation for the year. This provision amends the definition of compensation for IRA purposes to include disability income, unemployment compensation, workers' compensation and other "wage replacement" income. In addition, the bill would allow individuals to take into account compensation from the two previous years in calculating the annual Roth IRA contribution limit.

Preservation of Income

- **Incentives for Lifetime Payments** – The bill will encourage annuitization by allowing individuals to exclude from taxation a portion of payments from qualified (retirement plan or IRA) or nonqualified (after-tax) annuities that last a lifetime.
- **Study of Spousal Consent for Distributions from Defined Contribution Plans** – Under the bill, the Labor and Treasury Departments are required to conduct a joint study of the feasibility and desirability of extending the spousal consent requirements to defined contribution plans and to report the results, with recommendations for legislative changes, to the Senate Committees on Finance and Health, Education, Labor and Pensions and the House Committees on Ways and Means and Education and Labor.
- **Longevity Insurance** – In light of the movement away from defined benefit plans that provide guaranteed income for life, there is an increased need for annuitization of savings held in a retirement plan or an IRA. One very efficient way to annuitize and address this risk is to purchase “longevity insurance”. In general, longevity insurance is a life annuity that begins payments at the end of the payee’s life expectancy, such as age 85. Prior to benefit commencement, the annuity would have no cash surrender value and a very limited death benefit if any; these features make longevity insurance relatively inexpensive. The bill encourages the purchase of longevity insurance by providing that the value of longevity insurance held in a plan or IRA would be disregarded in applying the applicable minimum required distribution rules until the date that annuity payments begin.

Providing Equity in Divorce

- **Railroad Retirement Reforms**
 - With respect to railroad retirement, the bill will:
 - Eliminate the current-connection requirement for widows to collect Tier II benefits (under current law, if an employee leaves his or her railroad employer and goes to work for another employer and then dies, the surviving spouse receives a Social Security equivalent benefit but does not receive the Tier II benefits).
 - Permit both widows and divorced spouses/widows to remarry at age 60 without penalty.
- **Military Retirement Reforms**
 - The bill would eliminate the special jurisdictional requirement to treat military retirement pay as property of the military member and spouse. Under current law, there is a special jurisdictional requirement that applies to the division of a military pension between a service member and spouse that does not apply to the court’s jurisdiction over the member’s divorce generally or to the court’s jurisdiction to divide any other property. This additional jurisdictional requirement can impose a hardship on a spouse who cannot afford to travel to file for divorce (and other laws already protect the member from having to litigate in a faraway forum). The bill would repeal the jurisdictional requirement.

- **Preservation of Assets** – During the “reasonable” period that plans are given to determine whether domestic relations orders are Qualified Domestic Relations Orders (QDROs), plans are required to segregate and preserve plan assets that would otherwise be payable to an alternate payee for up to 18 months from when the benefit first becomes payable. However, there is nothing to prevent plans from distributing assets *prior* to receipt of a proposed QDRO, even if the plan has received notice of an impending domestic relations proceeding (although in this situation some plans place a “hold” on funds voluntarily). The bill would require plans to segregate and preserve half of the participant’s assets upon receipt of written notice that a separation or divorce proceeding is in process.
- **Plan Disclosure Obligations** – Current regulations require plans to furnish pertinent information about the plan and a participant’s benefits thereunder to beneficiaries upon written request, and it is DOL’s view that this duty applies to prospective alternate payees before receipt of a QDRO. However, if a plan administrator fails to furnish requested information, it appears that the requestor’s only recourse is to rely on DOL to request the information on the beneficiary’s behalf, which could take a long time. The bill would impose a meaningful financial penalty on plans that fail to respond within a reasonable time to the informational requests of prospective alternate payees, their representatives, or DOL.
- **QDRO Expenses** - Until 2003, it was DOL’s view that any expenses attendant to providing information to a beneficiary or making a QDRO determination must be allocated to the plan as a whole. However, in 2003, DOL reversed this longstanding position and allowed defined contribution plans to charge the participant and alternate payee for any QDRO-related expenses. The bill would require all types of plans to allocate QDRO-related expenses to the plan as a whole.

Improving Financial Literacy

- **Retirement Savings Grants to Community Tax Preparation Sites** – Under the bill, the Treasury Department would be authorized to provide \$25 million annually for infrastructure development and retirement savings counseling to grantees implementing community-based tax preparation programs.
- **Easy to Understand Financial Reference Handbook** – Under the bill, the Social Security Administration would be authorized to develop an easy to understand reference handbook that will be distributed to all Americans when they become eligible for Social Security. This pamphlet would include explanations and definitions of basic financial terms and issues facing people in retirement.
- **Retirement Readiness Checklist** – The bill would require the Social Security Administration to prepare a retirement readiness checklist to be distributed annually to Americans with their Social Security statements. The checklist will include Q&As that individuals should consider in preparing for retirement, such as what annual income the

individual will need in retirement and how many years the individual will live in retirement.

- **Qualified Retirement Planning Services** – The bill would allow employees to exclude from income up to \$1,000 for qualified retirement planning services in situations where the employee has a choice between cash or the services.

Encouraging Small Business to Enter and Remain in the Employer Retirement Plan System

- **Start-up Credit for New Small Business Retirement Plan Contributions** – The bill will provide small employers with a tax credit for contributions to new retirement plans, including defined benefit plans, defined contribution plans, SIMPLEs and SEPs. The credit will be available for the plan's first three years. The credit will be equal to 50 percent of the amount of employer contributions for non-highly compensated employees that would otherwise be deductible to the extent of up to 3 percent of compensation. Similar rules would apply for defined benefit plans.
- **Equalization of Tax Treatment of Retirement Plan Contributions of the Self-Employed** – In general, contributions to a qualified retirement plan on behalf of an employee are excluded from both income and employment taxes (with the exception of 401(k) contributions and other salary reduction contributions, which are subject to employment taxes). In contrast, contributions to a qualified plan on behalf of the self-employed generally are not excluded for purposes of determining employment taxes. The bill will permit the self-employed to exclude contributions to a qualified retirement plan when determining employment tax liability.
- **Modify the Top Heavy Rules for Deferral-Only 401(k) Plans** – The current top heavy rules discourage small employers from adopting deferral-only plans. The bill will exempt deferral-only 401(k) plans from the top heavy rules.
- **Amend Plan Document Compliance Rules for Small Business Retirement Plans** – Today all plans, including small plans, generally must adopt new amendments required by statute by the employer's due date for filing its income tax return. The extra annual expenditure of time and money to amend plans creates a disincentive for small employers to sponsor and maintain retirement plans. The bill will require the IRS develop rules that would exempt small plans from complying with the interim amendment requirements under Rev. Proc. 2005-66. Small plans will be required to adopt conforming amendments for all plan qualification changes by the end of each remedial amendment period cycle prescribed by Rev. Proc. 2005-66. Prior to the plan amendment being made, the plan will have to be operated in compliance with the changes in law or regulation.