2020 Federal Policy Agenda

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The SECURE Act (New Tax Law)

- The SECURE Act
- RMDs → Age 70 ½ trigger increased to 72
- Distributions of lifetime income investments
- Distributions related to birth and adoption
- Inherited account assets
Going Forward

- RESA
- Portman-Cardin II

- Multiemployer Pensions (discount rate cap) – Nexus with PEPTA
Discount Rate Cap

Equals the Lesser of:

• Actuary’s best estimate of future investment experience under the plan, OR

Lesser of:

(1) 24-month average of the third segment of the yield curve plus 2 percent, OR

(2) 6 percent
Public Employee Pension Transparency Act (PEPTA)

H.R. 6290 (115th), Rep. Devin Nunes (R-CA)

S. 2381 (114th), Puerto Rico Assistance Act

State and local reporting on funding status to federal government for first time in history

Threatens tax-exempt bonding authority of states and localities for compliance failures
Plan sponsor would submit annual reports to U.S. Treasury Department

Two sets of calculations:

1) Current assumed rate of return

2) Supplemental report based on Treasury obligation spot yield curve
Newer Items

- WEP
- First Responders Medicare Buy-In
- HELPS
- Infrastructure
Windfall Elimination Provision (WEP)

What is it?

A reduction in your Social Security benefit if you earn a retirement benefit from non-Social Security covered employment (i.e., no FICA tax)
Windfall Elimination Provision (WEP) cont.

SS benefit is based on average monthly earnings and the following calculations:

- 90% of first $960 of average monthly earnings
- 32% of $961 through $5,785, plus
- 15% of remainder

- WEP reduces 90% to 40%
Windfall Elimination Provision (WEP) cont.

Practical Impact:

Without WEP: $960 \times 90\% \times 12 \text{ months} = $10,368

With WEP: $960 \times 40\% \times 12 \text{ months} = $4,608

Penalty of $5,760 annually!
Windfall Elimination Provision (WEP) cont.

Repeal WEP/GPO

– S. 521, Sen. Sherrod Brown
  H.R. 141, Rep. Rodney Davis (R-IL)
– S. 710, Sen. Pat Toomey (R-PA), would exempt public safety personnel with five years of service

Reform WEP Only

– H.R. 4540 (Neal)/H.R. 3934 (Brady)
  • Monthly rebates
  • Broad grandfather/hold harmless protections
WEP-Only Bills

Current retirees and those who will reach age 62 by 2022:

- Neal: $150 monthly rebate
- Brady: $100 monthly rebate ($50 spouse)
WEP-Only Bills, cont.

Neal: Everyone else = Current system or new proportional formula, whichever is higher

Brady:
Ages 21-59 = Current system or new proportional formula, whichever is higher
Age 20 and younger = Proportional formula
First Responders Medicare Buy-In

- Age 50 optional buy-in for retired first responders
- Parts A, B, C, and D
- Premiums set separately for new pool

S. 2552, Sen. Sherrod Brown (D-OH)
H.R. 4527, Rep. Tom Malinowski (D-NJ)
IRC §402(l) -- $3k annual income exclusion for public safety officers if pension distributions used for health care premiums; paid directly

HELPS +

H.R. 4897, Rep. Dan Lipinski (D-IL), would double the exclusion ($3k to $6k)

H.R. _____, Rep. Steve Chabot (R-OH), would remove the direct payment requirement
U.S. Treasury would issue up to $300 billion of 40-year Rebuild America bonds to provide capital for an infrastructure bank, Rep. John Yarmuth (D-KY)

- Sold exclusively to public and private pension funds
- Interest rate 200 bps more than 30-year Treasuries
- Hold for at least 10 years
Refresher on Key Issues

- FTT
- UBIT
- Rothification
- Normalization
- Pick Up
Financial Transactions Tax (FTT)

- Sen. Brian Schatz (D-HI), S. 647, would impose a 10 bps on stocks and bonds (Rep. Peter DeFazio, D-OR, H.R. 1516)
- No exemptions for savings plans/pensions
- Raises significant revenue
UBIT

IRC section 511 references 401(a) plans

Section 115 exempts income derived from the exercise of any essential government function
Rothification

Full Roth, dollar cap on traditional contributions, or apply only to over-age-50 catch-up contributions

Generates significant revenue in the 10-year budget window
**Employer Pick Up**

**The Issue**
- No regulations, §414(h)(2)
- Revenue Ruling 2006-43
- No CODAs in pick up situation
- Cash or deferred arrangement = affects take home pay
- PLR requests to allow existing employees to elect between legacy/new DB plans/tiers

**Tension**
- Promoting retention of DB plans through flexibility
- Clear path to erode underlying DB benefits

**Approaches**
- Legislative
  - H.R. 3213
  - H.R. 6757 (115th)
- Regulatory
Employer Pick Up

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Regulatory
Amendment to IRC section 414(h)(2):

...a contribution shall not fail to be treated as picked up by an employing unit merely because the employee may make an irrevocable election between the application of two alternative benefit formulas involving the same or different levels of employee contributions.
...shall be applied without regard to whether the employee is already covered by one of the benefit formulas referred to therein.

Introduced by Rep. Phil Roe (R-TN)
Regulatory Issues

- Pension Cost Principles
- Normal Retirement Age
- Definition of Governmental Plan
OMB regulations specify how costs of salaries and benefits can be charged for federally funded positions. Red flags when state law requires federal contributions to be greater than the ADC. Proposed guidance expected from OMB.
Normal Retirement Age

• Proposed rules released on 1/27/16
• Apply to plans that permit in-service distributions prior to age 62
• Additional safe harbors proposed for governmental plans
  – Age 60 and 5 years of service; Age 55 and 10 years of service; Rule of 80; 25+ years of service (with maximum age)
  – For public safety: Age 50; Rule of 70 or more; 20+ years of service (with maximum age)
• Final rules expected
Definition of Governmental Plan

- ANPRM released on 11/8/2011
- Town hall meetings, phone forums, public comment period, and IRS hearing
- Notice on 2015-07 regarding inclusion of charter schools in governmental plans
- Proposed rules ??
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