Medicare for First Responders

• Early age Medicare for retired first responders
  - Age 50 optional buy-in (Parts A, B, C, and D)
  - S. 2552, Sen. Sherrod Brown (D-OH)

• HELPS II (IRC §402(l))
  - Would double annual exclusion ($3k to $6k)
  - Rep. Dan Lipinski (D-IL)

• HELPS Simplification
  – Repeal direct payment requirement
Windfall Elimination Provision

• Reduces your Social Security benefit if you earn a retirement benefit from non-Social Security covered employment (i.e., no FICA tax)

• SS benefit is based on average monthly earnings and the following calculations:
  ➢ 90% of first $926 of average monthly earnings
  ➢ 32% of $926 through $5,583, plus
  ➢ 15% of remainder
WEP, cont.

• SS benefit is based on average monthly earnings and the following calculations:
  - 90% of first $926 (WEP reduces 90% to 40%)
  - 32% of $926 through $5,583, plus
  - 15% of remainder

• Without WEP: $926 x 90% x 12 months = $10,000
• With WEP: $926 x 40% x 12 months = $4,445

• Difference of $5,555 annually!
GPO/WEP

Repeal WEP/GPO
– 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, cont.

• GAO Study: The extent to which state and local governments that maintain retirement plans possess or have access to information sufficient to determine what amount of participants’ benefits are based on non-covered service

• Two years after enactment
Pension Infrastructure Investment

• 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
The SECURE Act

- Passed House overwhelmingly
- Would enhance retirement savings by adding flexibility to tax rules on IRAs and defined contribution plans
- Move age trigger on Required Minimum Distributions from 70 ½ to 72 (affects public pension plans)
- Maneuvering in the Senate
- Also RESA and Portman/Cardin
Multiemployer Pensions

• H.R. 397, Rehabilitation for Multiemployer Pensions (not public plans, but some confusion with “Central States”)
• Passed House by 264-169 margin (29 Republicans voted yes)
• Provide loans to certain struggling plans
• Discount rate discussion overlap
No Bailouts

• State and Local Pensions Accountability and Security Act, H.R. 2126
  – Rep. Brian Babin (R-TX)
  – Prohibits Treasury and Federal Reserve from providing bailouts or other financial assistance to public pensions

• Senate Resolution, S. Res. 268
  – Sen. Tom Cotton (R-AR), “the Federal Government should take no action to redeem, assume, or guarantee any debt, including pension obligations, of a State"
Refresher on Key Issues

- UBIT
- FTT
- PEPTA
- Rothification
- Normalization
- Pick Up
UBIT

- IRC section 511 references 401(a) plans

- Section 115 exempts income derived from the exercise of any essential government functions
UBIT, cont.

- Legislation passed by the House in the 115\textsuperscript{th} Congress would have subjected certain income of public pension plans to UBIT (highest trust rate)

- Senate bill was silent

- Conference dropped House UBIT provision
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
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
PEPTA, cont.

- 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
• Heightened degree of discussion on discount rates

• GOP Members of Ways and Means Committee raised the issue during consideration of the SECURE Act

• Media interest

• The issue is not going away
Rothification

• Full Roth, limited, or catch-up contributions

• Revenue generation
Normalization

• Search for Anomalies
  • 457(b) plans and 72(t) penalty
  • 457(b) and 403(b) special catch-ups
  • Pick up
• Combining 457(b)/403(b)/401(k) plans
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
H.R. 3213

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.
(ii) APPLICATION TO EXISTING EMPLOYEES. –

...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)
Pick Up (Regulatory)

• Letter to Treasury from TN Senators and then-Rep. Diane Black and Rep. Phil Roe, June 14, 2018

• Language in H. Rept. 115-792, Financial Services Appropriations Bill for FY 2019
The Committee recommends that Treasury-IRS “...initiate a review of the existing regulatory guidance in Revenue Ruling 2006-43, and issue a revised revenue ruling that allows state and local pension plan sponsors to give existing plan participants the choice to make certain elections between pension plans or plan tiers without changing the tax treatment of employer contributions...”
Regulatory Issues

• Pension Cost Principles
• Normal Retirement Age
• Definition of Governmental Plan
Pension Cost Principles for Federal Grants/Awards

• 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 Regulations

• 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 max. age)
  – For public safety: Age 50; Rule of 70 or more; 20+ years of service (with max. 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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