Special bulletin: Legislative and regulatory update

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How the Senate Finance Committee's tax reform bill would impact retirement plans

The Senate Finance Committee passed the Tax Cuts and Jobs Act on November 16, the same day the House of Representatives passed its version of this comprehensive tax reform bill. Both bills include a few proposed changes that would affect retirement plans. Some of these proposals are identical in both versions, while others are unique to either the Senate bill or the House bill. (See our November 3rd "Retirement Insights" special bulletin for a summary of proposed changes in a draft of the House bill, unchanged in the version passed by the full House on November 16).

Like the House bill, the Senate bill does not mandate "Rothification," although the Senate considered—but ultimately rejected—a proposal that would have required catch-up contributions to be made with after-tax dollars to a Roth account.

Here is a summary of proposed retirement plan provisions from the Senate Finance Committee's bill vs. current law:

Elimination of IRA "re-characterization"

Today: An individual can contribute to an IRA (traditional or Roth) for a year and then re-characterize that contribution as a contribution to the other type of IRA by transferring it to the other type of IRA by his or her tax return due date.

Proposed: This re-characterization would no longer be permitted. This provision was also in the House version.

Extension of time to roll over plan loan offsets

Today: Under current law, if an employee has an outstanding plan loan when he/she leaves an employer, the employee can avoid taxation on that amount by contributing the loan balance to an IRA within 60 days of leaving.

Proposed: The bill would extend that rollover deadline to the due date of the employee's tax return. This provision was also in the House version.

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Elimination of special 403(b) and 457(b) catch-up rules

Today: Like 401(k) plan participants, participants in 403(b) and governmental 457(b) plans can make catch-up contributions of up to $6,000 per year when they reach age 50. But some 403(b) and 457(b) plan participants can make additional catch-up contributions under certain circumstances. For example, participants in governmental 457(b) plans could potentially contribute up to twice the otherwise applicable deferral limit (two times $18,000 for 2017, or $36,000) for 3 years prior to reaching the plan's normal retirement age.

Proposed: The bill would eliminate these special 403(b) and 457(b) plan special catch-up rules.

Coordination of 403(b) and 457(b) contribution limits

Today: An employee who participates in both a 403(b) and a governmental 457(b) plan of the same employer could contribute up to $18,000 (plus catch-up contributions of $6,000 if age 50 or older) to each plan for a total of $36,000 (or $48,000 for those age 50 or older).

Proposed: Under the bill, an employee would be entitled to a single $18,000 contribution limit (plus catch-up, if applicable) regardless of the number of plans he or she participates in.

Elimination of 403(b) contributions for former employees

Today: An employer can contribute to a 403(b) plan for an employee for up to 5 years after the employee terminates employment.

Proposed: The bill would repeal this special rule.

NEXT STEPS

The tax reform process is complicated and moving fast. The full Senate will likely consider the Senate Finance Committee's proposal sometime after Thanksgiving. Assuming Senate passage, the House and the Senate will need to reconcile the differences between their two versions. So there is still a lot of work remaining for Congress and additional changes are likely to be made if the Tax Cuts and Jobs Act is to become law.

We will monitor this and other proposed legislation and keep you apprised of any significant developments.

For more information, please refer to the U.S. Senate Finance Committee's website at the following link: https://www.finance.senate.gov/

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