Q4 2021 Retirement Legislation Update

ANNUAL RETIREMENT PLAN CONTRIBUTION LIMITS FOR 2022

Plan Limits	2022	2021
401(k) Elective Deferral Limit	$20,500	$19,500
Catch-Up Contribution Limit	$6,500	$6,500
Annual Defined Contribution Limit	$61,000	$58,000
Annual Compensation Limit	$305,000	$290,000
Annual Defined Benefit Limit	$245,000	$230,000
Highly Compensated Employee Dollar Limit	$135,000	$130,000
Key Employee Dollar Limit	$200,000	$185,000
Related Limits		
403(b)/457 Elective Deferral Limit	$20,500	$19,500
SIMPLE Employee Deferral Limit	$14,000	$13,500
SIMPLE Catch-Up Deferral Limit	$3,000	$3,000
SEP Minimum Compensation Limit	$650	$650
SEP Annual Compensation Limit	$305,000	$290,000
Social Security Taxable Wage Base	$147,000	$142,800
Self-only HSA Contribution Limit	$3,650	$3,600
Family HSA Contribution Limit	$7,300	$7,200
HSA Catch-Up Contribution Limit	$1,000	$1,000
IRA Contribution Limit	$6,000	$6,000
IRA Catch-Up Contribution Limit	$1,000	$1,000

PENTEGRA

Q4 2021 Retirement Legislation Update

It's a retirement reforms race in the 117th Congress. As we enter the home stretch of 2021, Congress is considering multiple retirement-laden proposals that have the potential to materially affect the retirement marketplace.

The House's Resolution (HR) 2954 "Securing a Strong Retirement Act of 2021" (dubbed SECURE 2.0), and the Senate's 1770 "Retirement Security and Savings Act" (RSSA)—two overlapping bills with strong bipartisan support—have been the odds on favorites since spring. A last minute contender [the $3.5 trillion budget reconciliation package a.k.a., the Build Back Better (BBB) Act], with several retirement reform provisions, seemed poised to upset the early leaders, but was neutralized when the retirement provisions were dropped October 28, 2021.

Nevertheless, enactment of retirement reforms appears imminent—if not before yearend, quite probably in 2022. How much change is yet unknown and will become clearer as the House and Senate reconcile their differences. The outcome hinges on the battle between Congress's many competing goals, two of which are reducing the deficit and increasing retirement savings.

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SECURE 2.0 was introduced in the House on May 4, and unanimously approved by the House Ways and Means committee on May 5, 2021. Next, it will face a full vote of the House of Representatives. As it currently stands, SECURE 2.0 has 45 retirement-related provisions. RSSA was introduced to the Senate on May 20th and referred to the Committee on Finance. RSSA contains 59 retirement reform proposals. Both bills are driven by three key objectives, which include

1. Expanding coverage of employees by workplace retirement plans;
2. Increasing retirement savings
3. Preserving income for retirees.

Expanding Plan Coverage

While the details may vary, each bill includes measures that would improve plan coverage by

- Enhancing automatic enrollment (SECURE 2.0 would mandate most employers offer a retirement plan, while RSSA would merely simplify administrative steps);
- Increasing the current plan startup tax credit for small businesses;
- Allowing errant businesses to self-correct all unintentional plan violations under the IRS's Employee Plans Compliance Resolution System;
- Simplifying "top-heavy" rules for small business plans to reduce the cost of enrolling new employees; and
- Defining performance benchmarks for target date funds.

Increasing Retirement Savings

Both SECURE 2.0 and RSSA would increase retirement savings by

- Promoting and boosting the Saver's Credit (RSSA would make the Saver's Credit refundable and require it be contributed directly to a retirement plan or Roth IRA);
- Reducing the period of service requirement for long-term, part-time workers from three to two years;
- Creating a national, online, "lost and found" for U.S. workers' retirement plan assets, managed by the Pension Benefit Guaranty Corporation;
- Granting plan coverage to military spouses who change jobs frequently to save for retirement.
- Treating student loan payments as elective deferrals in a 401(k) plan, 403(b) plan, gov't 457 plan or SIMPLE IRA for purposes of employer matching contributions, and
- Increase the level of catch-up contributions and index them for cost-of-living adjustments.

PENTEGRA PERSPECTIVE: Until recently, offering a workplace retirement plan has always been an option—not a mandate—for U.S. businesses. With the advent of more states requiring private-sector employers to install automatic enrollment retirement plans—and with legitimate movement by the federal government in the same direction, conversations with potential and existing plan sponsors around plan establishment and plan upgrades have reached a zenith. And don't forget the added incentives the first SECURE Act provided, namely, increasing the maximum allowable Plan Startup Tax Credit from $500 to $5,000, and giving an extra $500 credit for an automatic enrollment feature. New retirement plan solutions such as Pooled Employer Plans (PEPs) and Groups of Plans (GoPs) may be an ideal way for small employers to meet these mandates.

SECURE Act 2.0 and RSSA would help preserve retiree income by

- Raising the required minimum distribution (RMD) age;
- Reducing the excise tax for failing to take RMDs from 50% of the shortfall to 25%;
- Removing RMD barriers for life annuities,
- Removing the 25% contribution cap on qualifying longevity annuity contracts; and
- Updating regulations for insurance-dedicated exchange-traded funds.

It's coming down to the wire and having an approved budget for 2022 is a priority. Consequently, action on the BBB Act takes precedence over other bills such as SECURE 2.0 and RSSA. The latter two bills enjoy bipartisan support and predictions are that a unified bill may emerge early in 2022. Given the contenders, the odds of having some retirement reforms soon are high.

Q4 2021 Retirement Regulatory Update

Investment Advice Fiduciaries Get a Reprieve

According to Field Assistance Bulletin (FAB) 2021-02, the Department of Labor (DOL) has delayed its enforcement effective date into 2022 for provisions of Prohibited Transaction Exemption (PTE) 2020-02, which were set to apply on December 21, 2021. PTE 2020-02 is one of the exemptions that allows investment professionals who are fiduciaries to receive direct or indirect compensation for investment advice they give. FAB 2021-02 says the DOL will not pursue cases temporarily provided the advisor makes a good faith effort to follow the three Impartial Conduct Standards through January 31, 2022. If the advice involves a rollover recommendation, the DOL will not enforce the rollover documentation and disclosure rules through June 30, 2022.

PENTEGRA PERSPECTIVE: The DOL granted the delay after financial institutions indicated that, despite their efforts, meeting the December 20, 2021, compliance deadline was unrealistic and would cause undue hardship. The delay may also have had to do with the fact that the DOL is set to release a notice of proposed rulemaking on the Definition of the Term "Fiduciary" before year end, which could affect PTE 2020-02.

Q4 2021 Retirement Regulatory Update

New Revised Proposed Rules for ESG Investments and Proxy Voting

On October 14, 2021, the DOL published a proposed regulation, "Prudence and Loyalty in Selecting Plan Investments and Exercising Shareholder Rights." If finalized, the proposal would amend the DOL's investment duties regulations for environmental social and governance (ESG) investments and proxy voting. A public comment period closes on Monday, December 13, 2021. Under the 2021 proposed regulations, the duties of prudence and loyalty require plan fiduciaries to focus on material risk and return factors and not subordinate the interests of participants and beneficiaries to objectives unrelated to the provision of benefits under the plan. However, the proposed regulations would include changes that, ostensibly, would give fiduciaries greater leeway to include ESG investments in plans. With respect to voting proxies, plan fiduciaries must make decisions about voting proxies and exercising shareholder rights, and the proposed regulations provide guidelines for doing so.

We will continue to keep you posted on these legislative and regulatory developments. Feel free to contact your Relationship Manager to review these developments and any questions you may have.

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[1] 1) Advice must be given in the best interest of the retirement investor; 2) at a reasonable price; and 3) without any misleading statements.