Q1 2022 Retirement Legislation Update

As we entered the new year, 2022 could have begun with an explosion of retirement reform fireworks—but the anticipated spectacle fizzled out—postponed until later in 2022. All eyes had been turned to the Build Back Better (BBB) Act, Securing a Strong Retirement Act of 2021 (a.k.a., SECURE 2.0) and the Retirement Improvement and Savings Enhancement (RISE) Act of 2021 as the most likely bills to become law, perhaps effective as soon as 2022, but progress in the 117 th Congress stalled at the end of 2021. None of the bills are dead as the legislature reconvened in January; however, in order for the BBB Act to have any chance of advancing, Senate Democrats will need to further whittle down its $1.75 trillion price tag. As it stands now, the BBB Act includes several retirement provisions, two of which may have a meaningful impact on retirement savers. One provision would prohibit Roth conversions of after-tax 401(k) and after-tax IRA assets upon enactment, and another would severely restrict Roth conversions of plan and IRA pre-tax assets after 2031 (date subject to change). The takeaway at this point would be for investors to possibly consider Roth conversions now as they may not be available in the future.

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.

Q1 2022 Retirement Legislation Update

With respect to the other two bills, Congress is predicted to merge SECURE 2.0 and the RISE Act as there are several overlapping provisions and both have bipartisan support. Among the long list of changes, the better known SECURE 2.0 would:

- Require most employers with 10 or more employees to offer a retirement plan, with mandatory auto enrollment and auto escalation,
- Increase catch-up contribution annual limits to $10,000 for those aged 62 – 64,
- Raise the age (again) for commencing required minimum distributions (RMDs) to age 73 in 2022, age 74 in 2029 and age 75 in 2032,
- Decrease the penalty for failure to take an RMD to 25%,
- Exempt those with less than $100,000 in retirement savings from RMDs entirely,
- Treat student loan payments as elective deferrals in a 401(k) plan, 403(b) plan, government 457 plan or Savings Incentive Match Plan for Employees (SIMPLE) IRA for purposes of employer matching contributions,
- Reduce the period of service requirement for long-term, part-time workers from 3 to 2 years,
- Enhance the credit for small employer pension plan start-up costs to 100% of administrative costs the first year of establishing the plan,
- Require plan sponsors to benchmark their plans' target date funds, and
- "Rothify" retirement plan contributions (i.e., require all catch-up contributions to qualified retirement plans be made on a Roth basis (after-tax); allow SIMPLE IRAs to accept Roth contributions, and Simplified Employee Pension (SEP) plans to treat employee and employer contributions as Roth contributions (in whole or in part); and allow defined contribution plans to provide participants with the option of receiving matching contributions on a Roth basis).

Q1 2022 Retirement Legislation Update

The RISE Act would:

- Establish an online, searchable "Retirement Lost and Found" database at the Department of Labor (DOL) to help job changers locate their retirement savings left behind in former employers' plans,
- Allow 403(b) plans to participate in multiple employer plans and pooled employer plans,
- Ensure more part-time workers are offered opportunities to join retirement savings plans,
- Clarify rules regarding the recovery of inadvertent overpayments to retirees,
- Enable employers to provide small financial incentives, such as low-dollar gift cards, to incentivize workers' participation in retirement plans, and
- Simplify and clarify reporting and disclosure requirements related to retirement plans.

Hopes remain high that retirement reform provisions will experience a resurgence in the first quarter of 2022.

PENTEGRA PERSPECTIVE: Consistently, one of the main concerns of the DOL is locating missing participants. To that end, the agency issued new guidance in 2021 for plan administrators. As an outsourced 3(16) administrator, Pentegra can assume responsibility for locating lost and/or missing participants, removing this critical function from plan sponsors' must-do list, along with many other administrative responsibilities. For more information on Pentegra's 3(16) resources, visit: 316fiduciaryday.com.

Q1 2022 Retirement Regulatory Update

DOL 2021 Plan Enforcement Efforts Recoup $2.4 Billion in Plan Assets

The U.S. Department of Labor's Employee Benefits Security Administration (EBSA) announced in a November fact sheet its ERISA enforcement program for fiscal year 2021 recovered over $2.4 billion in payments to plans, participants and beneficiaries. Moreover, the agency saw great success with its self-correction programs (i.e., the Voluntary Fiduciary Correction Program (VFCP) and Delinquent Filer Voluntary Compliance Program (DFVCP)).

Through its 1,072 civil investigations of plans in 2021, EBSA found that 69 percent of the plans reviewed required corrective action, representing a two percent increase over 2020. EBSA makes every attempt to avoid litigation and help plan sponsors correct their plans through available compliance programs when possible.

When warranted, EBSA also conducts criminal investigations of plans involving such activity as theft or embezzlement. Of the 208 criminal investigations in 2021, 72 plan officials, corporate officers and service providers were indicted for crimes against their plans. In addition to paying fines and restitution, such individuals can face jail time in some cases. According to its 2022 budget request, EBSA intends to step up enforcement for 2022, especially in the area of cybersecurity. Identifying and correcting problems before EBSA steps in should be every plan sponsor's goal.

PENTEGRA PERSPECTIVE: Every plan sponsor wants the peace of mind that the company's retirement plan is administered in a compliant manner. A Pentegra study[1] revealed that most advisors are considering recommending 3(16) administrative services to their clients, and most plan sponsors are receptive to 3(16) outsourcing services, primarily because of the potential for reduced liability. Employers and advisors alike are increasingly becoming aware that fiduciary outsourcing is a prudent, safe option that can work to the benefit of all parties. Pentegra is one of America's oldest, most experienced independent institutional fiduciaries in the U.S.

[1] 2018 Pentegra Survey, Advisors and 3(16) Fiduciary Outsourcing

Q1 2022 Retirement Regulatory Update

Highest Social Security COLA in 40 Years Affects 2022 Retirement Limits

Social Security and Supplemental Security Income (SSI) benefits for approximately 70 million Americans will increase 5.9 percent in 2022—the highest increase in four decades. As a result, the maximum amount of earnings in 2022 subject to the Social Security tax will increase to $147,000 from $142,800.

The SSI COLA directly affects annual dollar limits that apply to retirement plans and IRAs, according to prescribed formulas in the Internal Revenue Code. On November 4, 2021, the IRS published the updated numbers in IRS Notice 2021-61 as reflected in the tables that follow

IRA Contribution Limit	$6,000	$6,000	$6,000
IRA Catch-Up Contributions	$1,000	$1,000	$1,000
Joint Return covered by workplace retirement plan	$109,000-$129,000	$105,000-$125,000	$104,000-$124,000
Single or Head of Household	$68,000-$78,000	$66,000-$76,000	$65,000-$75,000
Joint Return spouse not covered by workplace plan	$204,000-$214,000	$198,000-$208,000	$196,000-$206,000
Married filing separately covered by workplace plan	$0-$10,000	$0-$10,000	$0-$10,000
Roth IRA Joint Return	$204,000-$214,000	$198,000-$208,000	$196,000-$206,000
Roth IRA Single or Head of Household	$129,000-$144,000	$125,000-$140,000	$124,000-$139,000
Roth IRA Married filing separately	$0-$10,000	$0-$10,000	$0-$10,000

Q1 2022 Retirement Regulatory Update

Employer Plan Limits	2022	2021	2020
Elective Deferral Limit (401(k), 403(b), Roth 401(k), SARSEP)	$20,500	$19,500	$19,500
Catch-Up Contribution Limit	$6,500	$6,500	$6,500
Annual Defined Benefit Limit	$245,000	$230,000	$230,000
Annual DC Contribution Limit	$61,000	$58,000	$57,000
Annual Compensation Limit	$305,000	$290,000	$285,000
457 Deferral Limit	$20,500	$19,500	$19,500
Highly Compensated Employee Dollar Threshold	$135,000	$130,000	$130,000
SIMPLE Contribution Limit	$14,000	$13,500	$13,500
SIMPLE Catch-Up Contributions	$3,000	$3,000	$3,000
SEP Coverage Minimum Comp.	$650	$650	$600
SEP Compensation Limit	$305,000	$290,000	$285,000
Top-Heavy Key Employee Comp.	$200,000	$185,000	$185,000
Social Security Taxable Wage Base	$147,000	$142,800	$137,700

Q1 2022 Retirement Regulatory Update

Updated Life Expectancy Tables Apply for 2022 and Later Years' Retirement Distributions

Effective for distributions beginning on or after January 1, 2022, qualified retirement plans and IRAs are subject to revised life expectancy tables reflecting longer life expectancies. The result is smaller RMDs for plan participants, IRA owners and their beneficiaries. For example, under the pre-2022 tables, a 72-year-old using the Uniform Lifetime Table to calculate an RMD would have used a denominator of 25.6 years; under the new version, the denominator is 27.4. A transition rule grants a one-time life expectancy reset for certain employees/IRA owners who died prior to January 1, 2022. Under the transition rule, the initial life expectancy used to determine the distribution period is reset by using the new single life table in the IRS regulations.

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.