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In this issue:

Senate taxwriters, White House focus on retirement savings

Retirement security was a focus of discussion at both ends of Pennsylvania Avenue this week as the Senate Finance Committee held a hearing to discuss the most effective ways to increase access, participation, and savings rates in tax-preferred retirement plans, and the Obama administration previewed a series of proposals aimed at "building a 21st century retirement system" that it intends to include in its upcoming FY 2017 budget blueprint.

Finance Committee hearing

Many of the policies discussed during the January 28 Finance Committee hearing echoed the recommendations in the report issued last summer by the panel's bipartisan tax reform working group on savings and investment, which was co-chaired by Sens. Mike Crapo, R-Idaho, and Sherrod Brown, D-Ohio. (For prior coverage, see *Tax News & Views*, Vol. 16, No. 23, July 10, 2015.)
URL:
http://www.finance.senate.gov/imo/media/doc/The%20Savings%20&%20Investment%20Bipartisan%20Tax%20Working%20Group%20Report.pdf
URL: http://newsletters.usdbriefs.com/2015/Tax/TNV/150710_1.html

Multiple employer plans: In his opening statement, Finance Committee Chairman Orrin Hatch, R-Utah, noted his support for the concept of so-called "open" multiple employer plans, or "open MEPs," which would expand the ability of small employers to join multiple employer plans by loosening rules that require participating employers to share some employment-based nexus or organizational relationship unrelated to the provision of benefits. Many other senators, and most of the witnesses, also endorsed the concept, which they argued would increase access to tax-favored savings opportunities by making such plans more easily administrable and cost-effective for small businesses.

“Clearly, there is a lot of momentum for this proposal, which, in my view, is a good thing. Indeed, this is an idea whose time has come,” said Hatch.

Income stream: Hatch also argued in favor of removing obstacles in the law that discourage employers from offering lifetime income products (such as annuities) in their section 401(k) plans. And he cautioned against imposing stricter limitations on contributions to 401(k)s and Individual Retirement Arrangements (IRAs) in order to pay for other legislative priorities, calling such an approach “short-sighted and counterproductive.”

For his part, Sen. Ron Wyden of Oregon, the committee’s ranking Democrat, stressed the severity of the retirement savings crisis, noting that half of private retirement accounts belonging to individuals between the ages of 55 and 64 have balances insufficient to pay a 64 year-old retiree even $300 per month.

Wyden went on to argue that the benefits (in terms of tax savings) of the current suite of tax-preferred retirement savings accounts are too heavily tilted toward upper-income taxpayers, while also bemoaning the existence of tax planning opportunities that can result in some individuals accumulating multi-million dollar IRA balances despite the relatively modest contribution limits that apply to such accounts.

“The nonpartisan Joint Committee on Taxation tells us that over the next five years, taxpayers will pour more than $1 trillion into subsidies for retirement accounts,” Wyden said, “…[b]ut the Congressional Budget Office says that the benefits are skewed toward people who need them the least. Less than one in five of those dollars goes to households with incomes in the bottom 60 percent of earners.”

To provide a counterbalance, Wyden said he would introduce legislation on January 28 to expand the so-called “Saver’s Credit” that applies to qualified retirement savings contributions made by low- and middle-income individuals and families.

Automatic enrollment, other issues: Though she agreed with senators that expanding savings opportunities through the Saver’s credit and multiple employer plans is a worthwhile policy goal, witness Alicia Munnell, director of the Center for Retirement Research at Boston College, suggested in her testimony that “bolder steps” will be required in order to fully address the retirement savings crisis.

Most importantly, Munnell said, employers offering 401(k)s should be required to automatically enroll all of their workers in the plan at a meaningful default contribution rate (with an automatic annual increase in that rate until it reaches 12 percent), while allowing employees to opt-out if they choose. So-called “leakage” of retirement funds should be reduced by limiting the scenarios under which participants can claim penalty-free hardship withdrawals to “unpredictable emergencies,” she said.

Munnell also argued that employers not offering a workplace plan should be required to enroll their employees into an IRA (the so-called “auto-IRA” proposal) – a view seconded by Sen. Wyden.

“Once employers are required to provide coverage either under a plan that they choose themselves or under a new auto-IRA program, they may become more interested in adopting a MEP, with its low cost and easier accessibility,” Munnell said in her written testimony.

Several senators and witnesses also expressed support for a policy that would allow long-term, part-time workers to participate in their employer’s retirement plan.

Preview of White House proposals

Also this week, the Obama administration on January 26 released a fact sheet outlining its own set of proposals that “aim to ensure near universal access to workplace retirement savings accounts and put us on a path to…more portable retirement benefits.” The proposals, which President Obama mentioned in his State of the Union message earlier this month, are expected to be further fleshed out in the White House’s FY 2017 budget blueprint, which will be released February 9.
URL: https://www.whitehouse.gov/the-press-office/2016/01/26/fact-sheet-building-21st-century-retirement-system-0

The administration’s proposals to promote greater access to retirement savings programs include increased flexibility in the creation of MEP 401(k) accounts; tax incentives for small businesses offering savings options or implementing automatic enrollment for employees; expanded enrollment eligibility for certain part-time employees; an automatic IRA enrollment requirement for the smallest employers (those with fewer than 10 employees); and improved coordination with state-level savings programs.

In an effort to address portability of retirement savings, the administration says the FY 2017 budget will include demonstration funding for innovative pilot programs developed by nonprofits and states.

In addition to outlining its proposals – several of which have been included in previous budgets – the White House highlighted some administrative actions taken related to retirement savings. These include creation of the *my*RA (a simplified, portable retirement account invested in Treasury securities), IRS guidance aimed at easing the 401(k) rollover process, proposed conflict-of-interest rules at the Department of Labor to ensure employees receive unbiased advice regarding rollovers, efforts at the Pension Benefit Guaranty Corporation to help individuals keep track of retirement accounts terminated by their employer, and changes to the Labor Department rules impacting asset distribution at bankrupt entities.

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Furman renews White House call for business-only tax reform

White House Council of Economic Advisors Chairman Jason Furman this week reiterated the Obama administration’s position that Congress should tackle business tax reform before turning to the individual side of the tax code.

In remarks to the New York State Bar Association's Tax Section on January 26, Furman noted that the business tax reform framework the administration released in 2012 and the tax reform proposals advanced by congressional Republicans generally converge on several key issues:
URL:
https://www.whitehouse.gov/sites/default/files/page/files/20160126_thirty_years_without_fundamental_reform_policy_politics_federal_tax_code.pdf
URL: https://www.treasury.gov/resource-center/tax-policy/Documents/The-Presidents-Framework-for-Business-Tax-Reform-02-22-2012.pdf

- The corporate tax rate needs to be reduced and the cost of a corporate rate cut should be offset through base-broadening provisions and structural reforms.
- The United States needs to abandon its worldwide system for taxing foreign-source income of US multinationals in favor of what Furman called a "hybrid system that prevents base erosion and increases the incentives to invest domestically" while also letting "American corporations operate overseas and repatriate earnings without the current system's needless tax-induced obstacles."
- Policymakers should focus on "business tax reform more broadly, not just corporate reform, that reduces and simplifies taxes for small businesses."

(For prior coverage of the Obama administration's business tax reform framework, see *Tax News & Views*, Vol. 13, No. 8, Feb. 22, 2012.)
URL: http://newsletters.usdbriefs.com/2012/Tax/TNV/120222_1.html

What about passthroughs?

But Furman noted that despite these potential opportunities for consensus, the White House and congressional Republicans remain divided over how tax reform should address the needs of businesses organized as passthroughs, whose owners pay tax on business income at individual rates. Furman explained that the administration has advocated making targeted changes to the tax code – such as the enhanced expensing limits under section 179, which were made permanent under the extenders agreement signed into law at the end of last year – that provide economic benefits and reduce tax burdens for passthrough entities without lowering their statutory rate. Congressional Republicans, Furman said, have generally called for "cutting the top individual tax rate so that the top statutory tax rates are the same on both corporate and individual income."

Furman argued that the GOP approach is "unjustified" from an economic standpoint because it does not "take into account that corporate income is taxed at two levels while passthrough income is taxed at one level – which…results in a lower effective tax rate for passthroughs than C corporations." In addition, "cutting the top individual rate…would worsen budget deficits and primarily benefit high-income households and even many large businesses," he said.

Resolution unlikely in 2016

Furman stated that "the administration stands ready to work with Congress" on business tax reform – with the caveat that it must be "genuinely revenue neutral in the long run and is not part of a broader effort to cut the top individual tax rate to confer substantial gains on high-income households." But the offer appears unlikely to gain traction among congressional Republicans or within the business community.

Republican leaders such as House Speaker Paul Ryan, R-Wis., and House Ways and Means Committee Chairman Kevin Brady, R-Texas, acknowledge that comprehensive tax reform as they envision it is off the table while President Obama remains in office; but they have indicated that they intend to use this year to lay the groundwork for what they hope will be a successful tax reform effort under a new Republican administration in 2017.

For their part, small-business groups last year flatly rejected the idea of a business-only tax reform plan that would reduce tax burdens for small businesses – through expanded deductions, credits, and incentives – but not lower marginal tax rates for business owners. In an April 13, 2015, letter to Ryan (who at the time chaired the Ways and Means Committee) and Senate Finance Committee Chairman Orrin Hatch, R-Utah, the Coalition for Fair Effective Tax Rates, joined by several small-business associations, argued that "no combination of credits, deductions, or exclusions will bring about tax rate parity and produce a fair, simple, transparent and pro-growth tax code." (For prior coverage, see *Tax News & Views*, Vol. 16, No. 13, Apr. 17, 2015.)
URL: http://newsletters.usdbriefs.com/2015/Tax/TNV/150417_3.html

There has been no indication that small-business stakeholders have moderated their position since then.

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