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Bipartisan retirement security bill headed for House floor vote

The House could vote as early as the week of March 28 on bipartisan retirement security legislation aimed at making it easier for businesses to offer tax-qualified retirement savings plans to their employees and for individuals to participate in retirement plans and grow their tax-preferred savings, according to multiple press reports this week citing comments from lawmakers and House staff members. (Majority Leader Steny Hoyer, D-Md., had not released an official House floor schedule for the coming week as of press time.)

Highlights of key provisions

The Securing a Strong Retirement Act of 2021 (H.R. 2954), which was introduced last year by Ways and Means Committee Chairman Richard Neal, D-Mass., and ranking member Kevin Brady, R-Texas, and was approved unanimously at a committee mark-up last May, would build on bipartisan retirement security legislation (the SECURE Act) that was signed into law at the end of 2019. (The SECURE Act was incorporated into the Further

Consolidated Appropriations Act, 2020 (P.L. 116-94). For additional details on that legislation, see *Tax News & Views*, Vol. 20, No. 42, Dec. 19, 2019.)
URL: https://waysandmeans.house.gov/sites/democrats.waysandmeans.house.gov/files/documents/SECURE%20-%20as%20Introduced.pdf
URL: https://www.congress.gov/116/plaws/publ94/PLAW-116publ94.pdf
URL: http://newsletters.usdbriefs.com/2019/Tax/TNV/191219_1.html

Retirement security enhancements: At a high level, the retirement security provisions in the Ways and Means-approved bill would, among other things:

- Allow plan participants nearing retirement to contribute more to their retirement accounts—by increasing the limits on catch-up contributions for certain employees, for example—and allow plan participants of any age to take advantage of the benefits of tax-deferred earnings over a longer period of time by raising the age for taking mandatory minimum distributions;
- Expand the universe of workers that participate in employer-sponsored retirement plans—for example, by requiring employers offering certain types of retirement plans to automatically enroll their employees in those plans (though employees could opt out), allowing employers to treat student loan payments made by their employees as elective deferrals for purposes of determining retirement plan matching contributions, and reducing the service requirements for part-time employees to participate in an employer plan;
- Modify certain retirement plan design rules to ease administration burdens for plan sponsors—particularly small businesses—and provide additional flexibility and other relief for plan participants;
- Remove barriers to offering certain types of annuity products within a defined contribution plan; and
- Make certain technical amendments to 2019's SECURE Act.

Expanded 'Rothification': These and other proposed retirement plan enhancements and savings incentives would reduce federal receipts by nearly $27.25 billion over 10 years, according to an estimate by the nonpartisan Joint Committee on Taxation (JCT) staff. But that amount would be more than offset by nearly $27.4 billion through provisions that would expand "Roth" treatment of certain retirement accounts and certain retirement account contributions. ("Roth"-style retirement accounts, named for former Senate Finance Committee Chairman William Roth, R-Del., require contributions to be made with after-tax funds rather than on a pre-tax basis, with distributions paid out tax-free during retirement.)
URL: https://www.jct.gov/publications/2021/jcx-22-21/

Among the specific offsets in the legislation are proposals to:

- Require a section 401(a) qualified plan, section 403(b) plan, or governmental section 457(b) plan that permits an eligible participant to make catch-up contributions to treat those contributions as after-tax Roth contributions;
- Allow participants in a section 401(a) qualified plan, a section 403(b) plan, or a governmental 457(b) plan to designate employer matching contributions as Roth contributions; and
- Permit SEPs and SIMPLE IRAs to be designated as Roth IRAs, subject to an employee election.

Find out more: For additional details on the Ways and Means-approved bill, see *Tax News & Views*, Vol. 22, No. 24, May 7, 2021. A description of the provisions in legislation is available from the JCT staff.
URL: https://dhub.blob.core.windows.net/dhub/Newsletters/Tax/2021/TNV/210507_2.html
URL: https://www.jct.gov/publications/2021/jcx-21-21/

Senate prospects

Assuming the bill clears the House—an outcome that is generally expected given its bipartisan pedigree—it is likely to get a favorable reception in the Senate, where lawmakers on both sides of the aisle have expressed support for expanding the SECURE Act. It's worth noting, though, that Senate taxwriters have retirement security proposals of their own that they likely will want to incorporate into any new legislation that Congress eventually sends to the White House.

Thus far in the 117th Congress, Finance Committee Chairman Ron Wyden, D-Ore., has released the Encouraging Americans to Save Act (S. 2452); taxwriters Ben Cardin, D-Md., and Rob Portman, R-Ohio, have reintroduced their Retirement Security and Savings Act (S. 1770); and taxwriters Charles Grassley, R-Iowa, Maggie Hassan, D-N.H., and James Lankford, R-Okla., have introduced their Improving Access to Retirement Savings Act (S. 1703).
URL: https://www.congress.gov/bill/117th-congress/senate-bill/2452/text?q=%7B%22search%22%3A%5B%22%5C%22encouraging+americans+to+save+act%5C%22%22%2C%22%5C%22encouraging%22%2C%22americans%22%2C%22to%22%2C%22save%22%2C%22act%5C%22%22%5D%7D&r=2&s=1
URL: https://www.congress.gov/bill/117th-congress/senate-bill/1770/text?q=%7B%22search%22%3A%5B%22s.+1770%22%2C%22s.%22%2C%221770%22%5D%7D&r=3&s=9
URL: https://www.congress.gov/bill/117th-congress/senate-bill/1703/text?q=%7B%22search%22%3A%5B%22improving+access+to+retirement+savings+act%22%5D%7D&r=1&s=2

Wyden has not yet announced plans for a Finance Committee mark-up of a retirement security bill.

— Michael DeHoff
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US-Chile tax treaty scheduled for Senate Foreign Relations Committee consideration

In a sign that the long-delayed US-Chile tax treaty could be making progress toward Senate ratification, the Senate Foreign Relations Committee—after scrapping plans to take up the treaty at the business meeting it held this week—indicated that it intends to consider the agreement during its next business meeting, on March 29.

The tax treaty with Chile is one of several that were negotiated and signed before the Tax Cuts and Jobs Act of 2017 (TCJA, P.L. 115-97) was enacted but have been held up since then because of concerns that their language could be interpreted as overriding the TCJA's base erosion and anti-abuse tax (BEAT). (For prior coverage, see *Tax News & Views*, Vol. 20, No. 24, July 19, 2019.) The Treasury Department originally proposed to address the issue through "BEAT reservation" language to make clear that the treaties do not override the BEAT rules, but that proposal still ran into concerns in the Senate. Treasury has since renegotiated the US-Chile tax treaty to ensure conformity with the BEAT.
URL: http://newsletters.usdbriefs.com/2019/Tax/TNV/190719_1.html

The treaty had been on the agenda for the Foreign Relations Committee's March 23 business meeting, near the end of a list of 26 items scheduled for consideration, a development that supporters of the treaty viewed as a strongly positive sign. But it ultimately was held over and is currently listed among five items on the calendar for consideration on March 29.

If the treaty is approved by the Foreign Relations Committee, it will move forward to consideration by the full Senate once there is an agreement to approve it under unanimous consent or—more likely—when Democratic leadership schedules a floor vote. The treaty is expected to easily garner the necessary two-thirds majority (67 votes if all 100 senators are present and voting) needed for passage if it goes to the floor.

The Chilean government also would have to move the treaty through its own parliament.

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