CAMMACK RETIREMENT

A Closer Look: What's Cooking in Congress for Retirement Plans?

Michael A. Webb, CEBS
Vice President, Cammack Retirement Group

In this edition of *A Closer Look*, we take a deeper dive into what has been cooking in Congress for retirement plans over the past few months. Earlier, I wrote a *Top of Mind* blog post on my colleague Jeff Snyder's interview with Preston Rutledge, Tax and Benefits Counsel at the Senate Finance Committee. Jeff also conducted two recent interviews with Elizabeth Bell, Tax Counsel for U.S. Senator Ben Cardin (of Portman-Cardin EGTRRA fame), *A Look at Tax Reform and its Potential Impact on Retirement* and *The Pulse on Tax Reform,* (the latter of which was recently featured in the PLANSPONSOR article, *Senator Cardin's Tax Counsel Measures Likelihood of Reform)*.

While these interviews reflect only the opinions of the speakers themselves, they provide valuable insight into the Congressional process surrounding issues such as tax reform as it relates to retirement plans.

DISCUSSIONS WITH THE WASHINGTON INSIDERS:

While tax reform is a priority of the Senate, the lowering of retirement plan contribution limits does not appear to be a top-shelf item.
Many commentators have indicated that an obvious target of tax reform would be the 402(g) and other retirement plan contribution limits. Thanks to previous tax law changes, these limits allow individuals to shelter significant amounts of earnings from taxation for retirement purposes, particularly for plan combinations where the limits are independent, such as a 403(b)/457(b) combo. However, Preston Rutledge indicates that there is a lot of reluctance in the Senate Finance Committee to reduce the current retirement plan contribution limits, given the longstanding commitment to those limits, dating back to the 2000s.

There is still hope that the Open MEP provision can be attached to tax-reform or some "must pass" legislation in order to pass.
The Open MEP (which would allow unrelated employers, that otherwise could not establish retirement plans on their own, to band together and participate in a single multiple-employer plan, or MEP) had bipartisan support as part of a retirement savings bill (the Retirement Enhancement and Savings Act passed 26-0 in the Senate Finance Committee), but was unable to be attached to the budget bill last year. Rutledge indicates that there will be similar opportunities to get the bill passed this year (tax reform being one), but also stated that the atmosphere at present is less bipartisan, which can make bills such as this difficult to pass.

While there is a lot of interest in getting tax reform done in a bipartisan fashion, there is similar interest in keeping the gains that the private retirement system has made in the past several years.
Elizabeth Bell indicated that there is a strong

desire in the Senate to "do no harm" with respect to the favorable tax treatment of retirement plans. However, she added that "good retirement policy costs money," which means that there is "a bucket of money" that Congress can obtain out of the retirement system, and therefore, everything is on the table. Since the Senate is reluctant to go outside the revenue-neutral scope with respect to tax reform, retirement plans could potentially be a target.

It is likely that any individual retirement plan legislation will be incorporated as part of a "must move" legislative vehicle, since Congress is in a place where not a lot is going to move on its own.
Bell indicated that this could occur in a manner similar to the Economic Growth Tax Relief Reconciliation Act of 2001 (EGTRRA), meaning that as part of a reconciliation process, an expedited passage of certain budgetary legislation would require only a simple majority vote in the House and Senate. However, at the time of the interview, there were not any big "must move" legislative vehicles in the pipeline.

In terms of the legislative agenda, there has been a significant pivot to tax reform.
In the wake of the failed procedural vote on healthcare legislation, Ms. Bell stated that the attention of most in the Senate, the House, and the administration is now turning toward tax reform. She reiterated her point from her prior interview that Congress is likely looking at a reconciliation bill (like EGTRRA) as a vehicle to pass tax reform legislation.

"Rothification" is the new buzzword when it comes to tax reform as related to retirement plans.
Elizabeth points out that "Rothification" is not a new concept. In 2014, it was introduced in a proposal from the former Chairman of the House Ways and Means Committee, Dave Camp. However, the Senate is currently reviewing three types of "Rothification" proposals:

- Full "Rothification", or moving everything to Roth
- A 50-50 allocation of Roth/pre-tax, up to a certain limit (which was the Camp proposal)
- Only "Rothifying", or partially "Rothifying", certain accounts (401(k) vs. IRA is one potential division)

Elizabeth added that while the prevailing sentiment in the Senate toward retirement plan tax reform is either "do not harm" or "wait and see" (the latter referring to waiting for empirical evidence of the impact of "Rothification" on retirement accumulations), "Rothification" proposals are attractive. There is only a 10-year window for scoring the tax impact of legislation; thus, only the revenue gains of "Rothification" (e.g., immediate conversion of former pre-tax funds to after-tax) and not the corresponding revenue losses (e.g., no taxation of Roth accounts when they are ultimately distributed, in most cases) are within the 10-year window.

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For more information on our services, please contact **Mike Volo,** Senior Partner, at **781.997.1426** or **mvolo@cammackretirement.com**.

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