House Passes Retirement Reform Proposal

The U. S. House of Representatives has passed the Securing a Strong Retirement Act of 2022 (or SSRA, which lawmakers are coining "SECURE 2.0") by a 414-5 vote. The bill includes provisions from the Retirement Improvement and Savings Enhancement (RISE) Act, which came out of the House Education and Labor Committee last November. This bill contains numerous retirement provisions.

Increased Access to Retirement Savings and Other Employee Benefits

- Requires automatic enrollment of eligible employees in 401(k) and 403(b) plans, with certain exceptions and grandfathering provisions.
- Reduces from three years to two years the period of service requirement for long-term, part-time workers, and disregards pre-2021 service for vesting purposes.
- Permits certain student loan repayments to qualify for employer retirement plan matching contributions.
- Permits participants to self-certify that deemed hardship distribution conditions are met in certain circumstances.
- Permits participants who self-certify that they have experienced domestic abuse to withdraw the lesser of $10,000 or 50 percent of their account without being subject to the 10 percent early distribution penalty tax. The funds could be repaid to the plan over three years.
- Permits discretionary amendments that increase benefits to participants to be adopted by the due date of the employer's tax return.
- Permits new 401(k) plans established after the end of the taxable year, but before the employer's tax filing date, to receive elective deferrals up to the due date of the employee's tax return for the initial year when they are sponsored by sole proprietors and single-member LLCs.
- Increases the catch-up contribution limit for plan participants who have attained ages 62-64 to $10,000 ($5,000 for SIMPLE plans).
- Establishes a national online "lost and found" database to connect individuals with unclaimed retirement account benefits.
- Increases the age for required minimum distributions (RMDs) from 72 to 73 in 2023, then age 74 in 2030, and finally age 75 in 2033.
- Limits repayment of qualified birth or adoption distributions to three years.

Employer and Savers Credits

- Enhances the three-year small retirement plan start-up credit, with a maximum credit of 100 percent (vs. the current 50 percent) for employers with no more than 50 employees, and phases out for employers that have between 51 and 100 employees.
- Provides a new credit for employer contributions to defined contribution plans of up to $1,000 per employee.
- Enhances the saver's credit by replacing the three-tier formula with a single, 50 percent credit percentage on contributions up to $2,000, with phase outs beginning at certain AGI thresholds.
- Provides a new small employer tax credit for enhanced plan eligibility for military spouses.

- Permits immediate de minimis financial incentives, in addition to a matching contribution, to individuals for contributing to a retirement plan.
- Increases the cash-out limit—which allows employers to distribute certain accounts—from $5,000 to $7,000.
- Enhances options for correcting salary deferral errors.
- Expands failures eligible for self-correction under the Employee Plans Compliance Resolution System.
- Allows otherwise excludable employees from a defined contribution plan to be excluded from determination of whether top-heavy requirements are met.

The legislation also includes minor technical corrections to the SECURE Act and other IRA provisions. Plan amendments would be required by the last day of the first plan year beginning on or after January 1, 2024 (2026 for governmental and collectively bargained plans), and would extend these new deadlines to the SECURE Act, CARES Act, and the Taxpayer Certainty and Disaster Tax Relief Act. Keep in mind that when the U.S. Senate considers this bill, it may make changes. Then the two houses of Congress would have to reconcile any differences. Although there is broad bipartisan support for these provisions, it is hard to predict when a final bill will pass—and what provisions it will contain.