Congress Intends to Modernize Retirement Plan Rules

By Anthony J. SCROCCO, CFP®, CPA
Financial Advisor

Congress is considering sweeping legislation to modify — or modernize — the rules for IRS-qualified retirement plans, as recently both the House Ways & Means and Senate Finance Committees advanced substantially similar bills in Congress. The House version, called Setting Every Community Up for Retirement (SECURE) Act of 2019, and the Senate version, known as Retirement Enhancement and Savings Act (RESA), will serve as the principal road maps for retirement legislation that stands a significant chance of becoming law in 2019. One of the few things both sides of the aisle can agree on these days, these bills intend to increase flexibility and improve access with an update of the current ruling legislation, the Employment Income Security Act of 1974 (ERISA). The bills are designed to encourage and incentivize small businesses that don't currently provide retirement benefits to their workers to do so — and for those that do, to provide benefits to more of their workers.

The legislators' move to update the ERISA rules reflects an increased national focus on retirement. With the huge population of baby boomers retiring or already retired, information in the form of TV and radio ads, direct mail, seminars and webinars about financial security in retirement abounds. Defined benefit plans (e.g. pensions) have gone the way of the dinosaur for most, giving way to defined contribution plans that require employees to contribute their own money to their retirement plans, leaving many of today's retirees relying on monthly Social Security checks alone. Congress recognizes that relatively few Americans are stocking away enough money to retire comfortably, with many declaring this state of affairs a retirement income crisis. These respective bills represent a bipartisan effort to improve that national condition and stand to benefit both employers and individual employees.

The proposed regulations contain multiple provisions, including tax related changes, and much of the rule's language is technical and cumbersome. Some of the provisions most relevant to employers and individuals include:

FOR PLAN SPONSORS:

- Increases or creates tax credits for small employers to defray startup costs for new plans that include automatic enrollment. The credit would also be available to employers that convert an existing plan to an automatic enrollment design.

• Provides more time to retroactively adopt certain retirement plans.

• Allows employers to band together to offer 401(k)s to make DC plans more affordable.

• Encourages lifetime income options and requires statements provided to participants to include a lifetime income disclosure at least once during any 12-month period.

• Increases penalties for failure to file retirement plan returns, required notifications of changes and required withholding notices.

FOR INDIVIDUAL PARTICIPANTS:

• Repeals the prohibition on contributions to an IRA by an individual who has reached age 70 1/2.

• Increases the age to begin taking required minimum distributions (RMDs) from age 70 1/2 to age 72.

• Allows long-term part-time workers to participate in 401(k) plans if the worker meets certain service thresholds.

• Permits penalty-free withdrawals of up to $5,000 from qualified retirement savings plans to help pay for childbirth or adoption expenses (with repayment permitted).

• Reduces payout period for non-spouse beneficiaries of DC plans (and IRAs) to 10 years after the participant's (owner's) death.

For employers sponsoring 401(k) plans and other defined contribution plans, the legislation promises additional flexibility as well as additional responsibility. Notably, it does nothing to change the sponsoring employer's role as fiduciary. That responsibility remains strict and uppermost.

For more details about the impending retirement plan legislation, contact a retirement plan specialist at HBKS® Wealth Advisors.

Anthony J. Scrocco, CFP®, CPA

Financial Advisor, HBKS® Wealth Advisors

Anthony Scrocco is a financial advisor in the Youngstown, Ohio, office of HBKS® Wealth Advisors. Anthony is both a Certified Public Accountant and a CERTIFIED FINANCIAL PLANNER™. He joined HBKS® in September of 2013.

Anthony began his professional career as a CPA with Hill, Barth & King LLC (HBK) in December 2004. His CPA experience includes accounting & auditing, taxation and consulting with small business clients from myriad industries as well as individuals and high-net-worth families.

An honors' graduate of Youngstown State University, Anthony earned his Bachelor of Science degree in accounting and business administration in 2004. He is a member of American Institute of Certified Public Accountants (AICPA) and the Florida Institute of Certified Public Accountants (FICPA).