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I. Washington Update

Obama Administration releases FY2016 Budget Proposal.

On February 2, the Obama Administration released its FY2016 Budget proposal [PDF]. The Budget once again contains harmful proposals impacting COLI, DRD, retirement plans, and Nationwide as a corporate taxpayer and largely mirrors past Obama Administration budgets. In a positive development, the Budget did not co-opt new insurance-related provisions from the tax reform plan introduced in 2014 by former Ways and Means (tax) Committee Chairman Camp (Camp Draft).

The Budget did include a number of positive retirement elements, including a proposal to facilitate annuity portability and simplified required distribution rules. The Budget should simply be viewed as a summary of Obama Administration priorities and not as a set of proposals likely to become law.

On January 13, Senate Finance (tax) Chairman Hatch (R-UT) announced he will create five tax reform working groups charged with scrutinizing specific aspects of the tax code. Of particular note, Sen. Brown (D-OH) will chair the Savings and Investments group and serve on the International Tax group. Sen. Portman (R-OH) will chair the International Tax group and serve on the Business Income Tax group. The Senate
Finance working groups are modeled on a similar effort that took place last year in the House tax writing committee as a first step to build internal committee support for comprehensive tax reform.

**Nationwide® Comment:** Nationwide and its trade associations will conduct a series of Capitol Hill meetings to reiterate the industry’s strong and continued opposition to the majority of the Budget’s proposals. Nationwide has already begun to engage with Senate Finance member offices to explore ways to improve the tax code without hurting Americans’ ability to prepare for and live in retirement.

**Senators introduce bills to encourage retirement savings.**

**NOTE:** Related information may be found in Section II of this Report, page 4.

On January 29, Sens. Collins (R-ME) and Nelson (D-FL) introduced the Retirement Security Act of 2015 (S. 266), a bill designed to greatly expand the ability of Americans to better save for their retirement. Similar legislation was introduced in the House (H.R. 557) by Reps. Vern Buchanan (R-Fla.) and Ron Kind (D-Wis.)

The bill, identical to the one the Senators introduced last Congress, would establish a new automatic enrollment safe harbor, allow open MEPs under certain circumstances, allow Treasury to eliminate the one bad apple rule, and reform the Saver’s Tax Credit. Reps. Buchanan (R-FL) and Kind (D-WI) simultaneously introduced companion legislation in the House.

Earlier last month, Senators Whitehouse (D-RI) and Rep. Neal (D-MA) introduced the Automatic IRA Act in both chambers of Congress. The bill would automatically deposit payroll contributions into IRAs for workers without access to workplace retirement plans. The bill also contains a mandate for employers with 10 or more workers to participate if the workers do not opt out. The bill is similar to the automatic IRA proposal included in President Obama’s FY2016 Budget proposal [PDF, page 134].

**Nationwide Comment:** Nationwide authored several of the bill’s provisions and, along with its trade partners, will continue to consult with those offices to improve the legislation. Nationwide supports autoIRA measures on a voluntary basis and will work with Members of Congress to encourage saving for retirement without a mandate.

**White House indicates it leans toward DOL’s view on fiduciary.**

Though President Obama made no mention of the DOL’s fiduciary efforts in his State of the Union address, there is ongoing consideration of the issue by senior Obama Administration officials.

An internal memo accidentally leaked by the White House offers a critical take on industry practices and suggests the White House is sympathetic to the DOL’s point of
view on the matter. It is expected that the DOL will soon transmit its reproposed definition of fiduciary to the White House Office of Management and Budget (OMB) to restart the rulemaking process. Should the rule be sent to OMB this month, it would likely see a public release in 90-120 days.

**Nationwide® Comment:** Throughout this multi-year process, Nationwide has engaged with members of Congress, the Administration, and industry partners to improve the fiduciary proposal and to mitigate the potential negative impact of the rule.

**Head of EBRI to retire.**

In January, Dallas Salisbury, head of the Employee Benefit Research Institute (EBRI), announced he plans to retire at the end of the year. Mr. Salisbury helped launch EBRI in 1978 and was the first and only president and CEO. His replacement is expected to be announced by July 1.

**References**

General Explanations of the Administration’s Fiscal Year 2016 Revenue Proposals

Hatch, Wyden Launch Bipartisan Finance Committee Tax Reform Working Groups
www.finance.senate.gov/newsroom/chairman/release/?id=2ea8c8e5-c892-4230-9d1ad7522a920be

White House Aide Calls for Stricter Broker Rules on 401(k)s

www.acli.com/Newsroom/News%20Releases/Pages/NR15-005.aspx

Democrats Push New Auto-IRA Mandate
www.benefitspro.com/2015/01/26/dems-push-new-auto-ira-mandate

Salisbury Retiring as Head of EBRI
II. President delivers State of the Union address.

On January 20, President Obama delivered his State of the Union address to a joint session of Congress.

Of particular note, President Obama did not mention the Department of Labor's (DOL) ongoing efforts to redefine “fiduciary” for those offering investment advice and/or education. Nationwide opposed the approach the DOL took in seeking to redefine fiduciary in 2010 as overly broad in scope and lacking a thorough economic analysis of the proposed rule’s impact.

Many also expected President Obama to point to business-only tax reform as potential area of compromise between the Administration and congressional Republicans. While President Obama did discuss tax reform issues in his speech, the subject was not highlighted as a priority for his Administration.

While President Obama’s State of the Union address did not describe the specifics of his retirement tax plan, the White House released a fact sheet providing the President’s tax plan a few days prior.

The PSCA, a 401(k) plan sponsor advocacy group, noted that the President’s plan proposes tax incentives to the middle-class to encourage retirement saving that would be offset, in part, by “closing retirement tax loopholes for the wealthy.” Below is its summary of the changes included in the proposed tax plan.

Limitations to Retirement Plans and IRAs – President Obama proposes that tax-preferred retirement plans and IRAs would prohibit further contributions and accruals of additional benefits once such plans and IRAs reach a balance of about $3.4 million.

Enrollment in “Automatic IRA” – The President’s retirement tax plan imposes a requirement on employers that have more than 10 employees. Such employers that do not have retirement plans would be required to automatically enroll their employees in an IRA. The employees would have an opt-out option, though. The plan further provides various tax credits.

1. $3,000 credit would be provided to those employers with less than 100 employees that offer the automatic IRA enrollment
2. $4,500 credit would be available to encourage small employers from establishing a retirement savings plan
3. $1,500 credit would be available for those employers that already have a retirement plan in place and add an auto-enrollment feature

Increased Access to Employers’ Existing Retirement Plan – The President’s tax plan would allow an employee to make voluntary contributions to an employer’s existing
retirement plans, despite working less than 1,000 hours per year. Current retirement plans may exclude such employees; however, the plan would permit such employees to contribute so long as they have worked:

- 500 hours or more per year, and
- for the same employer for 3 years or more.

**Nationwide Comment:** Rather than advancing efforts, many observers believe the President’s statements on tax issues actually hurt chances at reform during his presidency. Nationwide continues to work with Members of Congress and the Administration to convey the importance of the current tax treatment of its retirement-plan products.

**References**

**State of the Union 2015: Full Transcript**

**Impact of 2016 Budget Proposal on Retirement Plans**
www.psca.org/impact-of-2016-budget-proposal-on-retirement-plans

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III. **GAO argues for greater protections for forced transfers and inactive accounts.**

When a participant has saved less than $5,000 in a 401(k) plan and changes jobs without indicating what should be done with the money, the plan can transfer the account savings — a forced transfer — into an individual retirement account (IRA). Savings in these IRAs are intended to be preserved by the conservative investments allowed under Department of Labor (DOL) regulations.

However, GAO found that because fees outpaced returns in most of the IRAs analyzed, these account balances tended to decrease over time. Without alternatives to forced-transfer IRAs, current law permits billions in participant savings to be poorly invested for the long-term.

GAO also found that a provision in law allows a plan to disregard previous rollovers when determining if a balance is small enough to force out. For example, a plan can force out a participant with a balance of $20,000 if less than $5,000 is attributable to contributions other than rollover contributions.

The GAO studied how six countries address challenges of inactive accounts. Most use forced transfers that help preserve account value and providing a variety of tracking tools referred to as pension registries.

For example, officials in two countries told GAO that inactive accounts are consolidated there by law, without participant consent, in money-making investment vehicles. Officials in the United Kingdom said that it consolidates savings in a participant’s new plan and in Switzerland such savings are invested together in a single fund. In Australia, small, inactive accounts are held by a federal agency that preserves their real value by regulation until they are claimed. In addition, GAO found that Australia, the Netherlands and Denmark have pension registries, not always established by law or regulation, which provide participants a single source of online information on their new and old retirement accounts.

Participants in the United States, in contrast, often lack the information needed to keep track of their accounts. No single agency has responsibility for consolidating retirement account information for participants, and so far, the pension industry has not taken on the task. Without a pension registry for individuals to access current, consolidated retirement account information, the challenges participants face in tracking accounts over time can be expected to continue.

**GAO recommends that Congress consider:**

**Tip:** Click on underlined words to go to the topic being discussed.
1. Amending current law to permit alternative default destinations for plans to use when transferring participant accounts out of plans, and
2. Repealing a provision that allows plans to disregard rollovers when identifying balances eligible for transfer to an IRA.

Among other things, GAO also recommends that DOL convene a taskforce to explore the possibility of establishing a national pension registry. DOL and SSA each disagreed with one of GAO’s recommendations. GAO maintains the need for all its recommendations.

References

401(k) Plans: Greater Protections Needed for Forced Transfers and Inactive Accounts
http://gao.gov/assets/670/667151.pdf [95pp, 9MB]
IV. Keeping watch

You can find the most recent information on issues affecting governmental defined contribution plans, plan sponsors and plan participants in the Employer page of our plan website, NRSforu.com. In addition, we report guidance on legislative and regulatory activity relevant to government sector plans through:

- **Federal Legislative and Regulatory Report** – distributed monthly and posted in the Plan Sponsor section of NRSforu.com. It’s available online and for download.
- **Plan Sponsor Alerts** – published as needed to announce breaking news.
- **457 Guidebook** – which has been revised to include information about the American Taxpayer Relief Act of 2012, Pension Protection Act of 2006; The Heroes Earnings Assistance and Relief Tax Act of 2008; Worker, Retiree & Employer Recovery Act of 2008; and The Small Business Jobs Act of 2010.

About this report

**Bob Beasley**, CRC, Communications Consultant, edits this report. Beasley brings 25 years of financial services communications experience to your plan. He helped prepare the four most recent editions of the **457 Guidebook**, edits countless newsletters and plan sponsor communications, and in 2001 authored “What you should know about the Economic Growth and Tax Relief Reconciliation Act of 2001.” He often voices Nationwide’s online presentations and telephone greetings.

Beasley has served on the Education and Communication Committee for the Plan Sponsor Council of America and as a member of the National Association of Government Defined Contribution Administrators.

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