



# WAYS AND MEANS

REPUBLICANS | KEVIN BRADY, REPUBLICAN LEADER

## SECURING A STRONG RETIREMENT ACT

### SUMMARY OF PROVISIONS

October 27, 2020

#### **Title I - Expanding Coverage and Increasing Retirement Savings**

##### **Section 101. Expanding automatic enrollment in retirement plans**

New defined contribution plans, including 401(k) and SIMPLE plans, would be required to automatically enroll participants with at least a 3 percent contribution rate and increase the rate by one percent per year until reaching 10 percent. Employees would have at least 90 days to unenroll. Small businesses with fewer than 10 employees, new businesses less than 3 years old, and churches and governments would be exempt. Effective for new plans initiated after January 1, 2022.

##### **Section 102. Small business incentives to offer retirement plans**

Establishes a new credit and expands an existing credit to encourage small employers to offer defined contribution retirement plans. The new credit would offset up to \$1,000 of employer contributions per employee in the first year, phased down gradually over 5 years. This new credit applies to companies with 100 or fewer employees, however, it is phased in based on the number of employees, reaching a maximum at 50 or fewer employees.

For companies with 50 or fewer employees, the existing credit for start-up costs would be increased to 100 percent of costs from 50 percent under present law. The existing cap of \$5,000 per employer would be retained.

Effective tax years beginning after December 31, 2020.

### **Section 103. Saver's credit reforms**

Increases the income limit for the Saver's Credit to \$80,000 for joint filers (\$40,000 single and \$60,000 head of household) and increase the amount eligible for a 50 percent match to \$3,000. The income limits would be phased down gradually as the taxpayer's income rises over the applicable threshold, reaching zero at \$100,000 for joint filers.

Under present law, the Saver's Credit ends abruptly at \$32,500 of income for single filers and the amount eligible for a match is only \$2,000.

### **Section 104. Enhancement of 403(b) plans.**

Allows employers with 403(b) plans, including public schools and tax-exempt organizations, to structure their retirement plans as collective investment trusts, a legal structure commonly used by other retirement plans. This would lead to cost savings and more options for employees.

### **Section 105. Increase in age for required beginning date for mandatory distributions.**

Under present law, those aged 72 and above must take required minimum distributions (RMDs) from employer-sponsored defined contribution plans and traditional IRAs. This provision would increase the age to 75 for 2021 and later years.

### **Section 106. Deferral of tax for certain sales of employer stock to employee stock ownership plan sponsored by S corporation.**

Allows owners of appreciated S corporation shares to sell to an employee stock ownership plan (ESOP) without recognizing gain by rolling over the sale proceeds into new investments, such as marketable securities. Owners would have to pay tax on gain in the S corporation shares when they sold the new investment. Under present law, C corporation owners have this ability, but S corporation owners do not.

### **Section 107. Indexing IRA catch-up limit**

The catch-up contribution limit to IRAs for those aged 50 and over (currently \$1,000) would be indexed to inflation after 2021. The limit for defined contribution plan catch-ups is already indexed.

**Section 108. Higher catch-up limit to apply at age 60.**

Raises catch-up contributions to \$10,000 for those aged 60 or over who participate in employer-sponsored 401(k) and 403(b) plans and adjust the threshold for inflation. Participants in SIMPLE plans would be allowed to contribute an additional \$5,000.

Retains existing catch-up contribution limits for those aged 50.

**Section 109. Multiple Employer 403(b) Plans**

Allows unrelated public education or non-profit employers to join together to provide their employees a retirement plan under 403(b). These defined contribution plans sponsored by public schools and tax-exempt entities are similar to 401(k) plans.

**Section 110. Treatment of student loan payments as elective deferrals for purpose of matching contributions.**

Employers would be allowed to match employee student loan payments with a contribution to the employee's retirement plan, such as a 401(k) plan.

**Section 111. Application of credit for small employer pension plan startup costs to employers which join an existing plan.**

Provides an incentive for employers to join together to provide their employees a retirement plan by extending the start-up tax credit to employers based on the year they join existing plans. Under present law, the credit is only available during the first three years of the plan's existence.

**Section 112. Military spouse retirement plan eligibility credit for small employers.**

Helps military families save for retirement by extending a tax credit to small employers who offer military spouses a retirement plan with enhanced eligibility rules and an accelerated vesting schedule. The credit of up to \$500 per military spouse would apply for three years.

**Section 113. Small immediate financial incentives for contributing to a plan.**

Allows employers to provide a small and immediate financial incentive to join and contribute to a retirement plan. Such incentives are prohibited under current law.

**Section 114. Safe harbor for corrections of employee elective deferral failures.**

Enhances the ability of employers to correct inadvertent errors within 9½ months after the end of the year in which the error occurs where the correction is favorable to the employee.

**Section 115. One-year reduction in period of service requirement for long-term, part-time workers.**

Allows part-time workers who work for at least 500 hours per year for two years to join the company's defined contribution retirement plan. Previously, part-time workers had to work for at least three years to qualify.

**Section 116. First Responders Working for Volunteer Firefighting Organizations May Join Government Retirement Plans.**

Allows professional firefighters and emergency medical services (EMS) personnel who work for non-profit volunteer firefighting agencies to join State or local government pension plans.

**Title II - Preservation of Income**

**Section 201. Remove Required Minimum Distribution Barriers for Life Annuities.**

Allows individuals to satisfy the required minimum distribution (RMD) requirements by purchasing a fixed annuity with a circumscribed set of features, such as increasing no more than 5 percent per year or providing for a death benefit equal to the amounts paid for the annuity minus prior payments. Effective upon date of enactment.

**Section 202. Qualifying Longevity Annuity Contracts.**

Individuals are already allowed to purchase a fixed annuity that begins at age 85 (known as a "qualified longevity annuity contract" (QLAC)) to satisfy a portion of their required minimum distribution (RMD) requirements at age 72 or later. This provision allows individuals to buy QLACs to satisfy *all* of their RMD requirement up to \$200,000. The current cap applicable to QLACs is the lesser of 25 percent of the account balance or \$125,000.

**Section 203. Insurance-dedicated Exchange-traded Funds.**

Allows individuals to purchase insurance-dedicated exchange-traded funds (ETFs) through a variable annuity or a private placement life insurance policy. Under current law, insurance

companies cannot offer ETFs and variable annuity owners are limited to purchasing insurance-dedicated mutual fund investments.

### **Title III. Simplification and Clarification of Retirement Plan Rules**

#### **Section 301. Recovery of Retirement Plan Overpayments.**

Protects individuals from efforts by plan sponsors to recover excess payments more than three years old when the individual did not cause the overpayment.

#### **Section 302. Reduction in Excise Tax on Certain Accumulations in Qualified Retirement Plans.**

Reduces the excise tax for failure to take a required minimum distribution (RMD) to 25 percent from 50 percent, and further reduces the excise tax to 10 percent for taxpayers who take the required RMD before an IRS audit or (if earlier) the second year after the year in which the excise tax is imposed.

#### **Section 303. Performance benchmarks for asset allocation funds.**

Directs the Secretary of Labor to issue guidance that would allow plan administrators to use an alternative method for benchmarking target-date funds. Under present guidance, such funds must be benchmarked against other target funds with a similar date.

#### **Section 304. Review and report to the Congress relating to reporting and disclosure requirements.**

Requires the Departments of Treasury and Labor and the Pension Benefit Guaranty Corporation (PBGC) to report back to Congress with recommendations to streamline the reporting and disclosure requirements for employer sponsored plans.

#### **Section 305. Eliminating Unnecessary Plan Requirements related to Unenrolled Participants.**

Plans must provide all participants and eligible employees with extensive information about the plan. This provision would allow plans to provide much more limited information to employees who are not contributing to a plan and that have no balance in the plan.

### **Section 306. Retirement Savings Lost and Found.**

Requires the Pension Benefit Guaranty Corporation (PBGC) to update its existing online database of lost accounts to include the unclaimed accounts of all former employees worth \$6,000 or less. Employers would be allowed to transfer to the PBGC the retirement accounts of former employees with a balance of less than \$1,000. Employers could disburse accounts worth between \$1,000 and \$6,000, but they would be required to establish an IRA in the name of the former employee, as under present law. The PBGC would only be permitted to accept accounts worth less than \$1,000, and these accounts would be invested in U.S. Treasury securities.

### **Section 307. Exemption from required minimum distribution rules for individuals with certain account balances.**

Individuals with retirement account balances of \$100,000 or less would be exempted from the required minimum distribution requirements.

### **Section 308. Expansion of Employee Plans Compliance Resolution System.**

Employer plans benefit from an IRS program known as the Employee Plans Compliance Resolution System (EPCRS) that allows plan sponsors to disclose and correct errors without drastic penalties. This provision would expand the EPCRS to cover IRAs as well as employer-sponsored plans. It would also allow the IRS to waive the excise tax for required minimum distributions when an IRA owner self-corrects the error within 180 days. IRA owners currently have no way to correct inadvertent errors. According to a recent GAO study, such errors are frequent and costly to retirees.

### **Section 309. Eliminate the “First Day of the Month” Requirement for section 457(b) plans.**

Consistent with the rules applicable to other employer-sponsored plans, this provision would allow employee participants in 457(b) plans to change their contributions at any time. These plans are often offered by state governments and tax-exempt organizations such as non-profit hospitals.

### **Section 310. One-Time Election for Qualified Charitable Distribution to Split-Interest Entity.**

Allows a one-time donation of up to \$130,000 from IRAs and employer sponsored plans to a split-interest entity such as a charitable remainder trust or a charitable gift annuity for the benefit of a public charity. Increases the general limit on charitable contributions from an IRA to \$130,000, up from \$100,000.

### **Section 311. Retirement Plan Distributions for Charitable Purposes.**

Consistent with the rule applicable to IRAs, individuals would be able to satisfy their required minimum distribution requirement by donating to a charity directly from an employer-sponsored plan such as a 401(k). They would be able to donate up to \$130,000 per year.

### **Section 312. Distributions to Firefighters.**

Private sector firefighters would be allowed to qualify for a special rule that allows penalty-free distributions from retirement plans at age 50 if the firefighter is separated from service. Currently, the special rule only applies to public sector firefighters.

### **Section 313. Exclusion of certain disability-related first responder retirement payments.**

Disability payments to first responders from retirement plans would be excluded from income. Under present law, disability payments are considered similar to the underlying income and are taxable.

### **Section 314. Statute of Limitations for IRA Penalties Starts Running When Individual Tax Return is Filed.**

Starts the statute of limitations on assessments on IRA penalties when the taxpayer files his or her individual tax return.

### **Section 315. Requirement to Provide Paper Statements in Certain Cases.**

Allows retirement plans to deliver disclosures to participants electronically by default, consistent with recently promulgated DOL safe-harbor guidance, but also requires at least one quarterly benefit statement to be delivered on paper unless the participant opts-out of the paper requirement. The paper disclosure requirement is once every 3 years for defined benefit plans, and it does not apply to employees already receiving documents electronically at work.