ASSURED RETIREMENT SOLUTIONS

Corporate Office
375 E. Central Ave 2nd Floor
Winter Haven, FL 33880
Phone: (863) 294-7100 Fax: (863) 294-7171

Elite Alert: From Ed Slott and Company

To: Members of Ed Slott's Elite IRA Advisor Group

Retirement Account Provisions in Final Obama Budget Proposal
What You Need to Know to Answer Clients' Questions

On Tuesday President Obama released his Fiscal Year 2017 Budget – his final budget proposal as President of the United States. Having seen none of his 14 retirement account-related proposals from last year's budget enacted, the President has included them all again in this year's budget. In addition, this year's budget features one additional significant retirement account-related proposal; a provisions allowing certain employers to pool resources and create new multi-employer defined contribution plans.

As the futility of last year's proposals shows, the President's budget is really more of a political statement than anything else, but it does give us keen insight into what the administration hopes to accomplish. And with President Obama's administration quickly approaching "the bottom of the ninth," you can be sure he's going to swing for the fences before his time in office is up.

Below you will find a complete list of the 15 provisions in the President's budget that directly relate to retirement accounts along with a brief explanation of each so you can address most clients' questions and spread the word to your media contacts. There is also a longer, consumer-focused explanation of these provisions available at the Slott Report, linked below.

https://www.irahelp.com/slottreport/final-obama-budget-proposal-heavy-retirement-account-changes-again

#1 – Allow Unrelated Employers to Participate in a Single Multi-Employer Defined Contribution Plan

This is the single biggest new retirement account-related change in this year's budget. Under the proposal, the Employee Retirement Income and Security Act (ERISA) would be amended to allow unaffiliated employers to adopt a defined contribution multi-employer plan that would be treated as a single plan for ERISA purposes. In order to be allowed to participate in such a plan, the employer could not have maintained a qualified plan on their own within the past three years. Only regulated financial institutions would be allowed to be a provider of such plans, and they would be required to be ERISA fiduciaries and serve as the plan administrator. Employers would still be responsible (read "liable") for a variety of tasks, including selecting and monitoring an appropriate provider.

Plans would establish certain requirements that would need to be adhered to by the provider, and companies would be allowed to cease participation in such a plan altogether, as well as move assets to another plan.
Finally, the proposal would delegate a significant amount of authority to the Department of Labor and the Treasury Department to create rules and guidelines that would allow the proposal's successful implementation. This would include the application of the provision to plans in which the only participant is the business owner (and possibly their spouse), which are not technically covered under ERISA.

What's the administration's logic behind this proposal? Three words for you... Economies. Of. Scale. The whole purpose of this provision is to eliminate much of the complexities and drive down the costs associated with maintaining a retirement plan, particularly for small businesses. The administration's hope is that, if these barriers are reduced, more of these employers will be willing adopt a plan.

It's easy to foresee a few hiccups in the early years while such plans and their procedures are perfected – or at least improved – but in many ways, the idea of pooling resources to decrease cost and complexity makes a ton of sense. It's good for businesses, because a good retirement plan can be a great way to attract and retain talent for the long-term and lower costs lead to higher profit. And it's great for employees, who may have increased options to save and who will no doubt benefit from economies of scale and cost efficiencies as well. This is actually one of those things that you wonder why no one thought of (or at least thought enough of to include in a budget proposal) before.

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#2 - Eliminate the Special Tax Break for NUA
This was a massive surprise when it first appeared in last year's budget, but it was almost a given that, after seeing no progress over the last year, the provision would rear its head again in this year's budget. By eliminating the special tax break for NUA, distributions of appreciated employer stock would be subject to ordinary income tax rates, just like the rest of a plan participant's retirement account savings. Many employees, however, would be grandfathered into the old rules. Any plan participant 50 or older by the end of this year (2016) would still be eligible for the special NUA tax break, provided they meet all the rules.

#3 - Limit Roth Conversions to Pre-Tax Dollars
When this proposal first came out last year, it was a real surprise, especially since late in 2014 the IRS released guidance making Roth IRA conversions of after-tax money in employer-sponsored retirement plans easier and more favorable. It's almost like the left hand had no idea what the right hand was doing.

After-tax money held in a client's traditional IRA or employer-sponsored retirement plan would no longer be eligible for conversion to a Roth account. The back-door Roth IRAwould quickly become a thing of the past.

#4 - "Harmonize" the RMD Rules for Roth IRAs with the RMD Rules for Other Retirement Accounts
Like last year, this proposal is once again tucked away inside the same section of the Greenbook that discusses eliminating RMDs for those with small retirement account balances. Under the guide of "simplifying" the RMD rules, the administration seeks to impose required minimum distributions for most Roth IRAs owners beginning when they turn 70 ½. Clients already 70 ½ at the end of this year (2016), would be exempt from the change.

#5 - Eliminate RMDs if Your Total Savings in Tax-Favored Retirement Accounts is $100,000 or Less
This provision is basically a carbon copy of proposals that have been included in several previous budget proposals. If a client has $100,000 or less across all their tax-favored retirement accounts, such as IRAs and 401(k)s, they would be completely exempt from required minimum distributions. Defined benefit pensions paid in some form of a life annuity would be excluded from this calculation.

#6 - Create a 28% Maximum Tax Benefit for Contributions to Retirement Accounts
This proposal is old news already. The maximum tax benefit (deduction or exclusion) a client could receive for making a contribution to a retirement plan, like an IRA or 401(k), would be limited to 28%. Thus, clients in the 33%, 35%, or top 39.6% ordinary income tax bracket, would not receive a full tax deduction (exclusion) for amounts contributed or deferred into a retirement plan.

This proposal hasn't gone anywhere for years and that's not likely to change anytime soon. This is a very politically divisive aspect of the overall budget proposal and with Republicans in control of both the House and the Senate, you can be pretty well sure this item is DOA.

If this provision were to one day become law, it would create a terrible compliance burden for those in the highest tax brackets with respect to their retirement accounts.

#7 - Establish a "Cap" on Retirement Savings Prohibiting Additional Contributions
Another carbon copy of a provision from last year's proposal. This proposal would prevent clients from making any new contributions to tax-favored retirement accounts once they exceeded an established "cap."

Here's the big question though... What happens if someone is over their applicable limit, but would otherwise be eligible to receive employer contributions, such as profit-sharing contributions, to their retirement account. It would appear that, under the proposal, these amounts would be forfeited altogether.

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#8 - Create a new "Hardship" Exception to the 10% Penalty for the Long-Term Unemployed

A new 10% early distribution penalty exception would be created to help those with financial hardships due to being unemployed for long periods of time. The exception would apply to IRAs, as well as employer-sponsored retirement plans. In order to qualify, an individual would have to be unemployed for more than 26 weeks and receive unemployment compensation during that period (or less if due to State law). Furthermore, the distribution would have to occur in either the year the unemployment compensation was paid, or the following year. Finally, the exception would be limited to certain amounts.

All qualifying individuals would be eligible to use this exception for at least $10,000 of their eligible retirement account distributions. However, if half of their IRA balance or plan balance exceeded this amount, then that amount, up to $50,000, would be eligible for the exception per year.

#9 - Mandatory 5-Year Rule for Non-Spouse Beneficiaries

You've probably seen this proposal a time or two before already. Under it, the overwhelming majority of non-spouse beneficiaries would be forced to empty their inherited retirement accounts by the end of the fifth year after the account owner's death. This provision would effectively mark the death of the "stretch IRA," and all the tax benefits that come along with it.

The provision would exempt certain beneficiaries from this substantial reduction in the benefits provided by their inherited retirement account. Disabled beneficiaries, beneficiaries who are chronically ill and beneficiaries who are not more than 10 years younger than the deceased retirement account owner would still be able to stretch distributions over their life expectancy. Minor children would also be given a break, but would still be required to distribute their inherited retirement account no later than five years after they reach the age of majority.

#10 - Allow Non-Spouse Beneficiaries to Complete 60-Day Rollovers for Inherited IRAs

Non-spouse beneficiaries would be allowed to move money from one inherited retirement account to another via a 60-day rollover, in a similar fashion to the way retirement account owners can move their own savings.

While the budget proposal makes no such mention of this possibility, it would seem as though if this provision were to become law, that such rollovers would be subject to the "new" interpretation of the once-per-year rollover rule that has been in effect since 2015.

#11 - Require Retirement Plans to Allow Participation of Long-Term Part-Time Workers

Retirement plans would be required to allow participation of workers who have worked at least 500 hours per year for three consecutive years with the sponsoring employer. Employees eligible to participate in a plan because of this provision would not be required to receive employer contributions, however, including employer matching contributions. In other words, this provision would only require qualifying employees to be able to contribute their own funds to their employer's retirement plan.

#12 - Require Form W-2 Reporting for Employer Contributions to Defined Contribution Retirement Plans

The header here really says it all.

#13 - Mandatory Auto-Enrollment IRAs for Certain Small Businesses

Employers in business for at least two years that have more than ten employees would be required to offer an automatic IRA option to its employees if it doesn't already offer another type of employer-sponsored retirement plan (i.e., 401(k), 403(b), SEP IRA). These automatic IRAs would be funded via payroll deductions. Employees would be provided a standard notice explaining the automatic IRA. They would be given the right to establish their own contribution rate or to opt out of contributions altogether, but in absence of any election, default

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contributions of 3% to a payroll deduction IRA would begin. Furthermore, "a low-cost, standard type of default investment and a handful of standard, low-cost alternatives would be prescribed by statute or regulation." Employees would also be able to choose between allocating their salary deferrals to a traditional IRA or a Roth IRA, with the Roth option being the default.

To offset some of the costs associated with establishing the automatic IRAs and to further encourage employers to offer more robust retirement savings options, the proposal would also expand existing tax credits, while establishing some new ones as well.

#14 - Facilitate Annuity Portability
If an employer-sponsored retirement plan decided to offer an annuity investment within the plan, but at some later point changed its mind and prohibited such an investment from being authorized to be held under the plan, plan participants would be eligible to roll over the annuity within their plan to an IRA or other retirement account via a direct rollover. This distribution would be allowed even if such a distribution would otherwise be prohibited.

#15 - Eliminate Deductions for Dividends on Stock of Publicly-Traded Companies Held in ESOPs
In general, publicly traded companies would no longer be allowed to claim a deduction for dividends paid that are attributable to stock held in an ESOP (employee stock ownership plan).

Jeffrey Levine, CPA
Chief Retirement Strategist
Ed Slott and Company