Summary of Discussion Draft: Retirement Improvements and Savings Enhancements (RISE) Act of 2016

Senate Finance Committee Ranking Member,
Senator Ron Wyden

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Summary of the Discussion Draft

Title I – Encouragement of Retirement Savings

Create a Matching Contribution for Retirement Savings

Current law includes a nonrefundable tax credit for eligible taxpayers who make elective deferrals to tax-favored retirement plans or contributions to IRAs (i.e., the Saver's Credit). The discussion draft would increase the income levels at which the Saver's Credit is available and make the credit refundable so that those without any tax liability receive a benefit. The discussion draft also would require the credit amount be contributed directly to a tax-favored retirement plan, in essence making the credit more like a "matching contribution." For example, under the legislation, if you contribute $1,000 to your 401(k) plan, you would receive a $500 government matching contribution that would be sent directly to your retirement account. If you and your spouse each contributes $1,000, each of you would receive a $500 government matching contribution.

Repeal of Maximum Age for Traditional IRA Contributions

Under current law, taxpayers can make contributions to a traditional IRA up until the year they turn age 70 ½. This age limit on contributions does not apply to Roth IRAs. The discussion draft would repeal the maximum age for traditional IRA contributions, which would allow taxpayers to continue making traditional and Roth IRA contributions after age 70 ½.

Allow All Inherited Plan and IRA Balances to be Rolled Over Within 60 Days

To eliminate a trap for the unwary and create parity between rollover methods available to spouse and non-spouse beneficiaries, the discussion draft would expand the options that are available to non-spouse beneficiaries under a qualified retirement plan or IRA to allow such beneficiaries to move assets via a 60-day rollover.

Allow Employers to Make Retirement Matching Contributions on Student Loan Repayments

The discussion draft would allow employers to make matching contributions to their 401(k) retirement plans on behalf of their employees who made student loan payments but were unable to afford to also contribute to their 401(k) plans. It is difficult for many Americans, especially younger workers, to save for retirement while also paying off their student loans. However, those employees miss out on essentially "free money" by not taking advantage of employer matching contributions to 401(k) plans.

Under the proposal, for purposes of the rules relating to matching contributions, a plan may elect to treat student loan payments the same as an elective contribution to a 401(k) plan. Assume that the proposal is adopted and the employer has incorporated the new rule into its 401(k) plan. Also assume that in the employer's plan, the employer matches 100% of elective contributions up to 4% of an employee's pay. Assume further that an employee earns $5,000 per month, and the employee makes loan repayments of $500 per month. In this situation, the employer would make a matching contribution for the month on behalf of the employee equal to 4% of $5,000, i.e., $200. That would be the same matching contribution that the employer would have made, had the employee made a $500 contribution to the plan.

Title II – Treatment of Roth IRAs/Minimum Required Distribution Rules

Fairness for "Mega Roth IRAs"

As of 2011, 2,000 to 5,000 taxpayers had aggregated IRA balances over $5 million, which also include Roth IRAs. The estimated fair market value of their Roth IRAs totaled $8-13 billion as of 2011. There are even press reports of executives in the high tech industry with Roth IRAs with balances $30 million to more than $90 million. Yet contrast that with the account balances of most Americans. In 2013, the median IRA account balance was $25,438.

The discussion draft would prohibit further contributions to a Roth IRA if the total value of an individual's Roth IRA exceeds the greater of (i) $5 million or (ii) the balance as of December 31, 2016. The discussion draft also would require distributions of amounts over the cap.

Eliminate Roth Conversions

The purpose of this proposal is to essentially "reinstate" the income limits on contributions to Roth IRAs, and limit Roth contributions to the amounts allowable each year as initial contributions to Roth IRAs and Roth accounts under 401(k) type employer-sponsored retirement plans. (For 2016, these limits are $5,500 (plus $1,000 catch up for individuals over age 50) for Roth IRAs and $18,000 (plus $6,000 catch up for employees over age 50) for Roth accounts under employer-sponsored plans.) These contributions are also limited by the individual's compensation for the year if less. Starting in 2010, the income limits for Roth IRA conversions were repealed, which opened the "back door" to allow anyone to contribute to a Roth IRA, either directly or indirectly. If you exceed the Roth IRA income limits, you can make a nondeductible contribution to your traditional IRA – and then shortly thereafter, you convert your nondeductible contribution from the traditional IRA to your Roth IRA. Further, although only IRA contributions and elective deferrals can be contributed as Roth amounts under present law, other amounts can be converted to Roth form after contribution. To shut down the so-called "back door" Roth IRA and prevent other amounts not permitted to be contributed initially as Roth contributions to become Roth contributions, the proposal would eliminate Roth conversions, for both IRAs and employer-sponsored plans.

Apply Lifetime Required Minimum Distribution Rules to Roth IRAs

Today lifetime required minimum distribution rules do not apply to Roth IRAs but do apply to traditional IRAs and employer-sponsored retirement plans, including Roth accounts under such plans. The discussion draft would harmonize the rules and apply the lifetime required minimum distribution rules to Roth IRAs.

Increase the Required Minimum Distribution (RMD) Age

Under current law, participants are generally required to begin taking distributions from their retirement plan at age 70 ½. The policy behind this rule is to ensure that individuals spend their retirement savings during their lifetime and not use their retirement plans for estate planning purposes to transfer wealth to beneficiaries. However, the age 70 ½ was first applied in the retirement plan context in the early 1960s and has never been adjusted to take into account increases in life expectancy. Therefore, the discussion draft would increase the RMD age from 70 ½ to 71 in 2018. The age would be increased further to 72 in 2023, 73 in 2028 and, thereafter, would be adjusted in a manner proportional to increases in life expectancy.

Exception from RMD Rules when Retirement Savings is Less than $150,000

As noted above, under current law, participants are generally required to begin taking distributions from their retirement plan at age 70 ½. However, unfortunately, for most Americans, they have small retirement account balances and will need their retirement savings during their lifetimes. Therefore, the discussion draft would provide that participants with a balance in their retirement plans of less than $150,000 on their 70 ½ birthday (or later age as the age is adjusted) are not required to comply with the RMD rules.

Elimination of Stretch IRAs

Under current law, holders of IRAs and 401(k)-type accounts are required to begin taking taxable distributions from those accounts once they reach age 70 ½. However, after their death, those distributions can be stretched over many years if they leave their account to a very young beneficiary. When the account holder dies, the taxation of the account is then spread over the life of the beneficiary. This provision would require the retirement savings accounts to be distributed within five years of the death of the account holder, unless the beneficiary is within 10 years of the account holder's age, an individual with special needs, a minor, or the account holder's spouse. The provision also applies to qualified annuities and defined benefit pension benefits. This provision is designed to close an estate-tax planning loophole.

Title III – Anti-abuse Rules Relating to IRAs

Address Valuation Concerns

The discussion draft provides that no individual retirement account funds would be invested in assets acquired for less than fair market value. The discussion draft also provides that in the case of an asset for which no public market value is available, the fair market value of such asset would be determined by means of a qualified appraisal.

Expand the Statute of Limitations on IRA Noncompliance

The discussion draft would expand the statute of limitations for IRA noncompliance to six years to help IRS pursue valuation-related misreporting and prohibited transactions that may have originated outside the current statute's three year window.

Strengthen Rules Disallowing Investment of IRA Assets in Entities in which the IRA Owner has a "Controlling" Interest

To prevent self-dealing, under the prohibited transaction rules, an IRA owner cannot invest his IRA assets in a corporation, partnership, trust, or estate in which he has a 50% or greater interest. But that means an IRA owner can invest his IRA assets in a business where he owns one-third of the business and he is the CEO of the business. The discussion draft would adjust the 50% threshold to 10% and any interest held by the individual retirement account in a corporation, partnership, trust, or estate would be attributed to the owner in determining if this rule is violated. Further, the discussion draft would modify the rule to be an IRA requirement, rather than a prohibited transaction rule (i.e., in order to be an IRA, it must meet this requirement).

Update Prohibited Transaction Rules with respect to IRAs

The discussion draft clarifies that, for purposes of applying the prohibited transaction rules with respect to an IRA, the IRA owner (including for this purpose an individual who inherits an IRA as beneficiary after the IRA owner's death) is always a disqualified person.

Request for Comment

Comments are requested on all aspects of the discussion draft, as well as other topics related to retirement savings, *within 90 days of this release*. Comments on the additional issues listed below are of particular interest to the Ranking Member. All comments should be submitted electronically (preferred) to Retirement_Savings@finance.senate.gov; or to: Senate Committee on Finance, 219 Dirksen Senate Office Building, Washington, DC 20510.
Additional issues the Ranking Member is considering are listed below:

- **Exception from RMD Rules when Retirement Savings is Less than $150,000:** The discussion draft would provide that participants with a balance in their retirement plans of less than $150,000 on their 70 ½ birthday (or later RMD age as discussed above) are not required to comply with the RMD rules. Some have suggested that this provision would be difficult for service providers and employers to administer. The Ranking Member requests comments on measures to simplify the administration of the provision.
    - It may be difficult for service providers and employers to know whether a taxpayer's aggregate applicable retirement plan balance is less than $150,000 at his or her RMD age. The Ranking Member requests comments on ways to address this issue (e.g., a self-certification by employees of eligibility for the exception).
    - The discussion draft includes a phase out to avoid a cliff when aggregate retirement account balances exceed $150,000. The Ranking Member requests comments on whether the phase out provides a material benefit to taxpayers that outweighs the added complexity.
    - The discussion draft includes an exception from the definition of aggregate applicable retirement plan balance for life annuity payments that are in pay status from a defined benefit plan. The Ranking Member requests comments on whether this exception should be expanded to include all benefits under a defined

benefit plan, regardless of whether they are being paid out. Alternatively, if the provision is not expanded to exclude defined benefit plans, should the exception for life annuity payments being paid out from a defined benefit plan be extended to life annuity payments being made under a commercial annuity purchased through a defined contribution plan or an IRA. Or if there is an exception for all defined benefit plan benefits, comments are requested on whether that exception also should apply to life annuity contracts distributed under a defined contribution plan or IRA.

- **Elimination of Stretch IRAs:** The discussion draft would generally require retirement savings accounts to be distributed within five years of the death of the account holder with certain exceptions. The Ranking Member requests comments on whether an exception to the rule should be made for annuities that have been distributed from both a terminated and ongoing retirement plan where the insurance company has no authority to amend the insurance contracts and certificates to comply with the new law. The Ranking Member also requests comments on whether an exception to the rule should be made for annuity payments from defined benefit plans or other forms of payment. Furthermore, the discussion draft would not subject individuals with special needs to the new rule. The Ranking Member requests comments on whether and how to improve the definition of an individual with special needs.

- **Additional Suggestions to Simplify the RMD Rules:** The discussion draft includes a number of reforms that would simplify the RMD rules for taxpayers. The Ranking Member requests comments on additional suggestions to simplify RMD administration.

- **Valuation of IRA Assets:** The discussion draft requires an appraisal of any IRA asset being acquired, unless where there is an established market price for the asset. The Ranking Member requests comments on whether the draft's determination of which assets need not be appraised is broad enough or whether additional types of assets should be added. Also, comments are requested on possible rules that could reduce any unnecessary burdens in the appraisal process without undermining the purpose of the provision.

- **Strengthen Rules Disallowing Investment of IRA Assets in Entities in which the IRA Owner has a "Controlling" Interest:** The discussion draft would modify the prohibited transaction rules to provide that an IRA owner cannot invest his IRA assets in a corporation, partnership, trust, or estate in which he has a 10% or greater interest. The Ranking Member requests comments on whether the provision should be amended to include a transition rule for existing investments or a grace period.