

Federal Update 2003-6
April 23, 2003

Portman Cardin: A Huge Bill with Good and Bad Points, but Mostly Questions

We are beginning to review the 207 pages of H.R. 1776, the “Pension Preservation and Savings Expansion Act of 2003.” Reps. Rob Portman (R-OH) and Ben Cardin (D-MD) introduced it on April 11.

Here are some items of interest. The bill would:

- 1) Repeal the sunset on the pension sections of the Economic Growth and Tax Relief Reconciliation Act of 2001 (EGATRRRA). The repeal of the sunset makes the sections permanent. If no change is made, the sections go out of existence in 2011. This is very good news as many NCTR members have adopted the helpful portability enhancements and other provisions of the Act.
- 2) Expand rollovers of pension funds, such as rollovers from retirement plans to Roth IRAs.
- 3) Increase the minimum age at which someone must begin to draw his/her pension. H.R. 1776 contains other provisions affecting the Minimum Distribution Rules (MDR), which we are still evaluating.
- 4) Allow employees to make pre-tax payments for retiree health. The concept is good and we are looking at how the provisions are structured.
- 5) Make inapplicable the 10 percent additional tax on early distributions of pension plans of public safety employees. This provision relates to distributions from Deferred Retirement Option Plans (DROPs) and includes a federal definition of a DROP. It has raised a number of questions. Shouldn't it apply to all public employees? Should federal law contain a definition of a DROP? Even if it should, is the definition in H.R. 1776 satisfactory, given the various DROPs around the country?
- 6) Exclude a small amount of annuity income from tax. H.R. 1776 would reduce the federal income tax on distributions from an annuity by five percent, rising to 10 percent in later years. The provision comes complete with a recapture tax and a phase-out for higher earners, but does not specify who would administer it. If enacted, the administration of this complex provision might fall onto retirement systems.
- 7) Require, as did last year's Post-Enron legislation, state and local government (SLG) plans to comply with various federal notice requirements. They pose problems because they address private plan situations that do not exactly apply to the circumstances of SLG plans. Moreover, the proposed requirements are essentially the same as existing SLG regulation. They would therefore impose on SLG plans a federal level of regulation that duplicates their existing rules. Finally, they create a precedent that allows further federal regulation of SLG plans.

As we obtain further information about H.R. 1776, we will be back in touch.