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Congress Looking at Changes to Social Security

Two bills that would effectively privatize a portion of workers' social security contributions, as well as current surpluses in the social security trust funds were recently introduced in Congress by Rep. John Edward Porter (R-Ill.). The bills embody many of the measures touted by Porter and others at a hearing last August before the Subcommittee on Social Security and Family Policy of the Senate Committee on Finance.

Personal Investment Plans

Porter's Personal Investment Plan Act (H.R. 2953) is similar to a Senate bill (S. 824) of the same title introduced last May by Senators Robert Kerrey (D-Neb.) and Alan Simpson (R-Wyo.). The legislation would allow workers to voluntarily divert two percent of their social security payroll taxes to a personal investment plan (PIP), either an investment fund modeled after the Thrift Savings Plan available to federal employees or an IRS-type fund. Workers who choose the latter would be allowed to invest the PIP contributions in the types of options currently permitted for IRAs, including stocks, bonds and mutual funds.

At the August subcommittee hearing on privatization of some portion of the social security system, experts testified that self-directed investment plans would have numerous advantages. They said that investment in equities could be expected to produce higher returns than investment in treasury securities, and additional investment in stocks, bonds and mutual funds would spur economic growth. The personal savings rate could be expected to increase, along with a greater sense of personal responsibility for one's financial future, according to the experts.

Private Accounts for Trust Funds Surplus

Under the proposed Individual Social Security Retirement Account Act (H.R. 2952), the second bill introduced by Porter, the current surplus in the social security trust funds would be diverted to private individual accounts for every working American. The plan would prevent Congress from applying current surpluses (\$58 billion in 1994) towards the federal budget deficit. Under Porter's proposal, amounts not required to fund current benefits would be refunded into mandatory Individual Social Security Retirement Accounts (ISSRAs), similar to IRAs, that would accrue and reinvest interest, tax-free, through the worker's career. At retirement, the worker would purchase a lifetime annuity to supplement his or her adjusted social security benefits.

Cafeteria Plans are Excludable for FICA

The terms "cafeteria plan," "flexible benefit plan" and "flex plan" are used to describe an approach to compensating employees where employees may choose from a selection of different benefit options. Types of benefits offered under such arrangements may include accident and health benefits, group-term life insurance, dependent care assistance, group legal services, elective vacation days and health care "flexible spending accounts."

A typical flexible benefit plan provides a set of core benefits that the employee must accept as well as a set of optional levels of coverage or benefits. By choosing among these benefit options, employees are able to eliminate duplicative or unwanted coverage and select alternatives that meet their specific needs.

The terms "cafeteria plan" and "flexible benefit plan" are often used interchangeably. "Cafeteria plan" is, however, a term specifically used in Internal Revenue Code Section 125 to describe tax-preferred plans that provide employees a choice of two or more benefits consisting of cash and certain nontaxable benefits.

Under cafeteria plans, benefits are generally paid for with pretax credits or through salary reduction so that employees save both federal and state income taxes, as well as social security and/or medicare taxes. In turn, employers pay less social security and/or medicare taxes because the employees' taxable wages are reduced.

Kentucky governmental employers began implementing cafeteria plans in the early 1980s. Social security withholding requirements and definitions, until January 1, 1987, were based on Social Security Administration laws and interpretations. The SSA held, for any wages paid prior to January 1, 1987, that benefits under cafeteria plans were taxable for social security and medicare, but were exempt from federal income tax withholding.

On January 1, 1987, the withholding requirements for government employers were brought under IRS laws and regulations. IRS rules require uniform treatment for social security and medicare withholding, as well as, income tax withholding. Therefore, benefits under cafeteria plans or flexible spending accounts for periods after January 1, 1987, are not taxable for social security, medicare or federal income tax.

We Need Your Help

It is important to both our clients and the Division of Social Security that we maintain a high level of communication. For this reason, a form that will assist you in notifying the division of any address change accompanies the spring '96 Division of Social Security information release.

If there has been a change as to who should receive our information releases or where they should be sent, please complete the accompanying form and return it to:

Division of Social Security
P.O. Box 557
Frankfort, KY 40602-0557

DOSS Has Moved

The Division of Social Security has moved to Suite 101 of the Bush Building located at 403 Wapping St., Frankfort, 40601. The DOSS' telephone number (502/564-3952) remains the same, as does its FAX number (502/564-2124).

The division is also on-line to accept E-mail. The network address is The Finance and Administration Cabinet and the Bush Building is our mail box.

Substitute and Part-time Teachers May be Covered by Mandatory FICA

Substitute and part-time teachers under mandatory FICA must contribute to social security and medicare if they are not members of a Board of Education-sponsored, qualified retirement system, even though their full-time counterparts are excluded because of their participation in the Kentucky Teachers Retirement System. Substitute and part-time teachers may be excluded from social security if they are receiving KTRS retirement benefits and meet the IRS definition of a "rehired annuitant".

A teacher who has retired and is currently receiving retirement benefits from the KTRS but, who has returned to work as a substitute teacher (known to the IRS as a "rehired annuitant") in a KTRS position is excluded from mandatory social security.

PLEASE NOTE: Rehired annuitants who are substitute teachers must still contribute to Medicare. "Even though the services performed may be substantial, the services are not regular because they are performed on an 'as needed basis'," the IRS said.

EFTPS: The Sleeping Giant

If your employer deposited \$50,000 or more in federal employment taxes in 1995, preparation should begin to become a mandated user of the Electronic Federal Tax Payment System starting on January 1, 1997. There are a number of differences between EFTPS and TAXLINK, its predecessor and time will be needed to eliminate any bugs before the potential for noncompliance penalties begin, also on January 1, 1997.

The law requires that impacted employers deposit all federal employment taxes through EFTPS via a personal computer or, maybe, telephonically or Fedwire.

TAXLINK was developed with input from the payroll community and was tested by volunteer employers before being mandated by the North American Free Trade Agreement and has more than 50,000 users across the country. EFTPS is designed by contracted, non-government vendors who are using their own testing process. No employers have been involved. The contractors have a targeted delivery date of May 1, 1996, and letters from the Internal Revenue Service notifying more than one million employers that they must use EFTPS will be mailed shortly thereafter.

There is expected to be nearly a million employers using EFTPS and there is no automated enrollment process. Employers are strongly advised to complete and return the registration forms immediately after they are received from the IRS. Assuming forms will be mailed to employers in June and the enrollment process will require eight to 12 weeks, means that employers may not be able to use EFTPS (remember, an untested system) until mid-September. That gives employers just a few months, during payroll's busy season, to smooth out any problems.

An employer should begin preparation by:

- * Becoming familiar with EFTPS procedures, rules and revenue rulings,
- * Make sure a personal computer and modem that meet EFTPS specifications is on hand, and
- * Use TAXLINK enrollment forms to register with the IRS prior to the mailing of notifications (The IRS has said the TAXLINK forms can be used for EFTPS purposes.).

The Commonwealth of Kentucky does not discriminate on the basis of race, color, national origin, sex, religion, age or disability in employment or the providing of services and will provide, upon request, reasonable accommodation including auxiliary aids and services necessary to afford individuals with disabilities an equal opportunity to participate in all programs and activities.