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IN THIS ISSUE

The SECURE Act: A Retirement Solution?

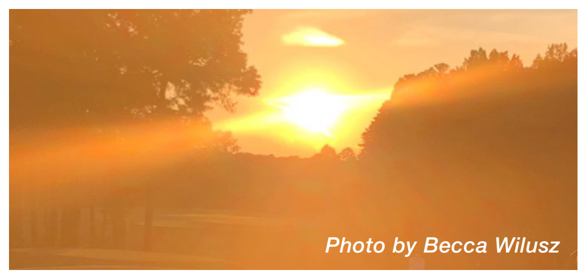

Photo by Becca Wilusz

BY RICHARD KONRAD

NEW YORK CITY – The National Institute on Retirement Security recently commissioned a study titled "Retirement Insecurity 2019: Americans' Views of the Retirement Crisis." Among the findings is that three-quarters of Americans say the nation faces a retirement crisis. Some 70% say the average worker cannot save enough on his or her own to guarantee a secure retirement, and 65% say it's likely they will have to work past retirement age to have enough money to retire.

According to the study: "When all working individuals are included – not just individuals with retirement accounts – the median retirement account balance is $0 among all working individuals. Even among workers who have accumulated savings in retirement accounts, the typical worker had a modest balance of only $40,000.

Washington has undertaken its first major reform of retirement accounts since the Pension Protection Act of 2006, with a particular focus on 401(k) plans. Many employers view these plans with angst, largely because of their perceived complexity and administrative and reporting rules and requirements. Many are asking, "Are these proposed changes going to simplify and help the process?"

IRAs and defined contribution plans have become a common feature of the U.S. retirement landscape. More than half of total U.S. retirement assets are held in such accounts, and a majority of U.S. households have a portion of their assets invested in them. According to Investment Company Institute, as of March 31, 2019, 401(k) plans held an estimated $5.7 trillion in assets and represented more than 19% of the $29.1 trillion in U.S. retirement assets, which includes employer-sponsored retirement plans (both defined benefit (DB) and defined contribution (DC) plans with private- and public-sector employers), individual retirement accounts (IRAs) and annuities. In comparison, in 2010, 401(k) assets were $3.1 trillion and represented 17% of the U.S. retirement market.

At the end of May, the House of Representatives passed the SECURE Act (Setting Every Community Up for Retirement Enhancement), but the path ahead for the bill remains unclear as the Senate is now focused on its version of retirement legislation, called the RESA Act (Retirement Enhancement and Security Act). Due to strong bipartisan support in both the Senate and House, it is anticipated that some form of RESA will pass, that the two bills will be reconciled and will subsequently become law.

The SECURE Act aims to make it easier for many Americans to save for retirement. Most of the provisions provide more flexibility to employers and reduce administrative costs regarding creation and implementation of employer-related retirement plans. These reforms may allow employers to create more robust retirement plans and encourage their employees to participate in such plans.

Among the key changes in the SECURE Act are several adjustments that may make it easier for workers to save for retirement, boost the amounts they save and create income streams once they retire.

Some of the changes contemplated:

1.) Delay withdrawals (required minimum distributions) from both IRAs and 401(k)s

2.) Facilitate the creation of Multiple Employer Plans (MEP)

3.) Remove annuity roadblocks

4.) Boost contribution rates

5.) Additional eligibility for part-time employees

6.) Greater flexibility in administration and setup.

Let's take a look at each of these provisions and their impact on retirement planning.

DELAYED WITHDRAWALS

This feature recognizes that Americans are living and working longer and consequently should not be forced to take money out of their plans prematurely.

MEET THE MEPS

Many small businesses do not have the resources to offer their employees a workplace retirement plan due to the costs and complexity involved to administer such a plan. Multiple Employer Plans allow multiple businesses to participate in a single qualified plan to benefit from economies of scale.

Currently, rules for creating a Multiple Employer Plan are somewhat restrictive and preventing unrelated employers from joining together solely to participate in a MEP (known as the "commonality" requirement). This requires employers to be part of a common group or association with substantial business purposes other than the MEP.

In addition, under current regulations, if one employer in the MEP fails to comply with tax, fiduciary or other rules, all employers faced potential liability (known as the "one bad apple" rule).

The SECURE Act would let a plan operate for workers of totally unrelated businesses, allowing open MEPs for employers that don't share common traits. In addition, the SECURE Act protects small employers in open MEPs from penalties if other members are found to have engaged in wrongdoing.

REMOVE ANNUITY ROADBLOCKS

Unlike defined benefit plans, defined contribution plans are oriented toward building a lump sum rather than providing lifetime income during retirement. This is done through providing an option to purchase or invest in an annuity. Employers have been concerned about being sued for breach of fiduciary duties if the selected annuity provider fails and about what the fiduciary responsibilities are for ongoing monitoring and oversight of that provider.

The SECURE Act creates a safe harbor that employers can use when choosing a group annuity to include as an investment option within a defined contribution plan, according to new provider selection rules.

Plan sponsors would be required to disclose annually an estimate of monthly payments participants would receive if their total account balance were used to purchase an annuity.

In addition, the SECURE Act allows for portability of annuity investments to another 401(k) or IRA without surrender charges.

BOOSTED CONTRIBUTION RATES

The bill increases the cap limit on contributions for safe harbor 401(k) plans from 10% to 15% of pay.

ADDITIONAL ELIGIBILITY FOR PART-TIME WORKERS

Currently, employers may exclude part-time workers (defined as those who work fewer than 1,000 hours annually) when providing a defined contribution plan.

The SECURE Act will require employers maintaining a 401(k) plan to have a dual eligibility requirement, in which an employee must complete either of the following to participate:

a.) Have one year of service and have worked at least 1,000 hours

b.) Have three consecutive years of service during which the employee works at least 500 hours.

FLEXIBILITY IN ADMINISTRATION AND SETUP

The SECURE Act allows employers more flexibility to retroactively adopt retirement plans. Currently, the plan is considered to have been established within the tax year that the plan is adopted. The SECURE Act allows qualified retirement plans adopted before the due date of the tax return for any taxable year to treat the plan as having been adopted as of the last day of the tax year.

In addition, it increases the tax credit for plan start-up costs, making it more affordable for small businesses to set up retirement plans.

CONCLUSION

Many aspects of the SECURE Act simplify and encourage the creation of qualified retirement plans and encourage auto-enrollment and higher savings.

But not all is likely positive. Although the SECURE Act's focus is on employer-related retirement plans, there are some potential negative provisions to the transfer of qualified retirement assets upon death, known as "stretch" provisions. Currently, beneficiaries who inherit such assets can elect to receive distributions from these plans over their remaining lifetimes.

Under the SECURE Act, instead of stretching the distributions over a lifetime, the beneficiary must withdraw all assets from the plan within 10 years of the decedent's death. This would accelerate the tax realization on the plan assets.

There are certain exceptions – spousal inheritance, for example – but investors with large qualified retirement account balances may want to consider whether any adjustment to their designated beneficiaries is warranted. Life insurance will likely become a more important planning tool as people may need a way for minor children to pay the income taxes without further eroding their inheritance. Roth IRAs and Roth 401(k)s may also provide a better way to pass wealth tax-free to younger generations.

The provisions for part-time employees may be problematic for some employers. Part-time employees working nine and a half hours per week will be mandated to receive employer-matching and profit-sharing contributions in order to satisfy non-discrimination provisions of qualified plans. As a result, some employers may decide to terminate these plans.

A potential solution lies in defined benefit plans, but these carry significant costs and liabilities. The SECURE Act and RESA only make changes to

401(k) and profit-sharing plans. Under the current proposals, there are no changes being proposed to defined benefit plans. Thus, to exclude part-time employees from a retirement plan, employers may wish to consider implementing a defined benefit plan instead of a defined contribution plan. There are significant advantages to a defined benefit plan, including higher contribution limits and the ability to make tax-free distributions for medical expenses, assuming the defined benefit plan has a 401(k) component (also known as a DB(k) plan or Eligible Combined Plan). But DB(k) plans are costly, requiring separate administration for each part of the plan. They also place the investment risks associated with market fluctuations and investment decision-making responsibility on the employer instead of the employee.

At this point, we think it makes sense for employers to consult their investment and retirement advisors, as well as estate planners, to prepare for the final form of this legislation. Even with the potential negatives, the proposed bill includes features that may be substantially beneficial for both plan sponsors and participants who want to increase retirement income security.

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Richard Konrad is director of value strategy at Roosevelt Investments. Prior to joining Roosevelt, he served as managing partner and CIO for Value Architects Asset Management and as a partner of Blueprint Financial Planning. Konrad earned a master's degree in finance from Northeastern University and completed the Harvard Business School Executive Program on behavioral investing. In addition, he holds the Chartered Financial Analyst and Certified Financial Planner designations. In his free time, Konrad is an adjunct instructor of retirement planning at NYU. With more than 40 years of experience, he is a resource to Roosevelt clients when it comes to investment management and retirement planning advice. Konrad can be reached at 646-452-6721.

Lost and Found: Providing Asset Location Services

BY DENNIS BREIER

NAPERVILLE, ILLINOIS – In today's competitive, changing funeral service landscape, you may be looking for simple, cost-effective and impactful ways to add value to the services you provide for families. One easy way to do this immediately is to concentrate on helping families with the inevitable estate closing they must face after services are complete. By doing this, you keep in contact with families after they leave your funeral home and provide a level of service not offered by your competitors.

A simple way to start this service is to offer families guidance in locating assets of the deceased. You can use a simple checklist or provide the services by conducting the searches for families. In either case, mentioning that you provide this service in arrangements and following up with the family regarding the success of the search will impress them beyond what you are currently offering. Additionally, families will be extremely grateful to your funeral home if they do indeed locate assets they may not have known existed.

Families don't always have an in-depth knowledge of the deceased's assets and financial situation. What's more, even if they do (or believe they do), when shown the types of items that can be searched for and possibly located, they often become interested in conducting the search. After all, it rarely hurts to be sure you have found everything the deceased family member owned. Following is a list you can use to help families search for assets and property and at the same time add value, increase referrals and set your funeral home apart from the competition with very little monetary outlay or great effort.

LIFE INSURANCE AND ANNUITIES: PERFORM AN NAIC SEARCH

The National Associate of Insurance Commissioners' (NAIC) life insurance policy locator service is a great tool to ensure that all insurance-related products of the deceased are located. By performing this simple search, a family will be directly contacted if any participating company has records of an active or inactive policy at the company. Typically, search results can take up to three months to return, but we have found success in running this search for families and find the ease of conducting the search worth the effort and of benefit to the family for which it is run. Run your search online at *https://eapps.naic.org/life-policy-locator/#/welcome.*

CREDIT CARDS, OPEN LINES OF CREDIT AND OTHER LIABILITIES

Federal law allows for everyone in the United States to access a free credit report once per year to make sure it is accurate and check for instances of identity theft or other credit issues. A*nnualcreditreport.com* makes it possible to pull official credit reports from Transunion, Equifax and Experian for the deceased. The benefit of this search is that all open and closed lines of credit will appear on the report. More importantly, the phone number and address of each company will be provided so that companies can be contacted and open lines of credit closed. We've found that families are often unaware of open credit lines, and this is an easy and effective way to alleviate that concern.

RETIREMENT ACCOUNTS, 401(k)s, WORK BENEFITS

A very good place to start on these types of accounts is with the deceased's tax return and corresponding W-2 and 1099 forms, which would show any contributions to or distributions from a retirement account. The family might also search the U.S. Department of Labor's Abandoned Plan Database, which can search for retirement plans in which the deceased may have been a participant but are now terminated. Run this search at *askebsa.dol.gov/abandonedplansearch.*

Lastly, an excellent way to find work benefits for the deceased is to contact the human resources departments at his or her last employer and inquire as executor as to what benefits may be available at the company.

BANK ACCOUNTS, STOCK DIVIDENDS, REFUNDS AND MISCELLANEOUS PAYMENTS

Oftentimes, especially in the event of a deceased family member who may have been ill for an extended period, checks sent to the now deceased family member can go uncashed and property can remain unclaimed. It's a simple and necessary process for each family to search for unclaimed property, and it can typically be done on a by-state basis. For example, in Illinois the website to find unclaimed property is *icash.illinoistreasurer.gov*. If your particular state does not have a dedicated website, another resource to find unclaimed property is *missingmoney.com,* which can locate state resources and run searches for the deceased at *missingmoney.com/en.*

SET YOURSELF APART

Differentiating your funeral home from the competition does not have to be an expensive, time-consuming, sea change for your funeral home. Incorporating a simple checklist and offering it to families is a simple change that leads to increased referrals and family loyalty. While providing a checklist in arrangements and following up with families is a great start, an even greater step is to incorporate this service into your funeral home, proactively following up with families and taking your aftercare program to another level in a smart, cost-effective manner.

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Dennis Breier is president of Guardian Estate Solutions, a company founded in March 2018 to bring simplicity to families struggling with the estate closing process.

House Repeals "Cadillac Tax"; Awaiting Senate Action

WASHINGTON, D.C. – The U.S. House of Representatives last week voted to repeal the "Cadillac tax" on high-cost, employer-provided health insurance. The voting margin was 419-6.

The tax, unpopular among both Democrats and Republicans, would impose a 40% excise tax beginning in 2022 on employer-provided health plans that exceed $11,200 for an individual and $30,100 for a family.

The goal of the tax initially was to keep healthcare costs down and help pay for the Affordable Care Act, but even congressional Democrats now say the tax would primarily hurt working families that have health coverage through their jobs.

Repealing the tax will add to the growing national deficit. According to the nonpartisan Congressional Budget Office, it was estimated that its repeal would add $197 billion to the deficit over 10 years.

A Senate version of the bill has bipartisan support, but Senate Majority Leader Mitch McConnell has not yet said whether or when he will bring it up for a vote.

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NFDA Revises Best Practices for Cremating Decedents Who Have Undergone Radioactive Medical Treatments

BROOKFIELD, WISCONSIN – NFDA has approved a revision to its best practices for funeral homes and crematories dealing with remains containing implanted medical devices or that have undergone radioactive medical treatments.

"While there have been a number of debates in the industry as to whether radioactive medical treatments pose a threat to crematory workers, we took a neutral position and simply laid out the steps funeral homes and crematories can take to protect personnel and equipment," commented T. Scott Gilligan, NFDA general counsel.

The change was approved by the NFDA Board of Directors at its July 11 meeting. The board made one change, which resulted in a change to the sample Cremation Authorization form NFDA posts online for its members to use.

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The Notebook

The NFDA POLICY BOARD amended the association's Professional Code of Conduct at its meeting in San Diego recently. The NFDA Code of Professional Conduct contained no prohibition against members engaging in defamation, defined as the making of false communications to third parties that injure the reputation of others. So, to protect the integrity of funeral service and NFDA, members must refrain from making false statements to third parties that damage the reputation of competitors, family members they serve or others as part of the code's requirements. The NFDA Code of Professional Conduct has been amended to read: "Members shall not engage in defamation nor in false or misleading advertising."

COMPANION PRESS has published a new book, *Healing Your Chronic Illness Grief,* by grief educator Dr. Alan Wolfelt and Jamie A. Wolfelt. Chronic illness is a type of loss. Depending on the condition and its course, one may be confronted with physical limitations, financial struggles, relationship challenges and more. In addition to good physical care, acknowledging and working through normal, necessary grief along the way is essential to living well with chronic illness. The 100 tips, affirmations and simple activities in the book will help readers tune in to and express their feelings each day and help them live their best life physically, cognitively, emotionally, socially and spiritually. Alan Wolfelt serves as director of the Center for Loss and Life Transition in Fort Collins, Colorado. Jamie Wolfelt is currently in the second year of her master's degree program in counseling at Regis University in Denver. She was diagnosed with Type 1 diabetes at age 9 and has learned to live with meaning and purpose despite her chronic health challenges. To order or learn more about Wolfelt's other books on grief and loss, visit *centerforloss.com* or call 970-226-6050.

THE DAVIS WHITEHALL CO. has updated its HeartFelt Tributes by Davis Whitehall Volume 3 catalog. Funeral professionals can use this catalog to more thoroughly inform families about cremation products and how they can be personalized and customized to capture the memories and celebrate the life lived. The 76-page, four-color catalog features the latest urns from Davis Whitehall. Among the new products featured:

- The Amish Series: a collection of eight urns handcrafted in the heart of Amish country by woodworkers using the knowledge passed down to them to create one-of-a-kind memorials
- Ambrosia Maple: a solid maple urn featuring unique graining and a contemporary design
- LoveUrns: a series of urns and keepsakes in various colors, finishes and themes, each handcrafted with love by LoveUrns
- Clarkston and Renaissance: individually handcrafted and detailed in solid wood; these new models join the Photo Urn collection
- Eco Series Additions: a new bamboo scattering model added to this beautiful, eco-friendly collection
- The Majestic Series: cultured marble urns handcrafted in America and featuring a 4-inch diameter opening for ease of filling.

The catalog also presents Davis Whitehall's new metal engraving capabilities. The company now offers the ability to personalize these urns and keepsakes with the use of a custom-designed engraver that provides precise engraving on metal urns and keepsakes. Until now, this level of detail could not be achieved using typical rotary engravers. View the catalog at *tinyurl.com/davis-whitehall.* Printed copies are available; call 800-818-8414 or email deonne@davis-whitehall.com.

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From the Editor's Desk…

Taking Stock of Funeral Service

While I was preparing this issue, which has a bit of a financial bent, an article circulated from Seeking Alpha, a crowd-sourced content service for financial markets, that cast a long shadow over some funeral service stocks and replayed some tired themes. The company examined every publicly traded funeral home and cemetery company's prospects.

Its read on funeral service included:

- Secular industry trends threaten the economics of funeral homes and cemeteries.
- Hidden problems are looming on the horizon.
- Shoppers are "emotionally impaired," and since most consumers only arrange one or two funerals in a lifetime, there is a "deep asymmetrical information advantage in favor of funeral directors, who are selling to unsophisticated customers."

These points are nothing we haven't heard before. Preneed has taken some of the sting out of being emotionally unprepared to do business with a funeral home, and to talk about "unsophisticated customers" is to turn the clock back at least 20 years.

While it can be argued that the article stands on some clichéd observations about funeral service, its final conclusion makes a striking and valid point: "The funeral home industry is an excellent case study illustrating how even an industry as unchanging as funeral [service] can be affected by evolution in consumer preferences."

Speaking of consumer preferences, next week, we will begin to unpack the results of the 2019 NFDA Consumer Awareness and Preferences Survey. While the Seeking Alpha report gives us a 32,000-foot overview in the build-up to its conclusions, NFDA's consumer data will present the numbers and delve into the issues affecting change.

One of the points of this survey I have talked about frequently in the past and will again as I share the results is that information about funerals is not something that should be left to nonfuneral service participants. If Sharing Alpha thinks funeral directors sell to unsophisticated consumers, it is incumbent on funeral service professionals to provide needed information to their respective service areas.

Ed.

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