

*Nationwide produces this publication to provide public defined contribution plan sponsors with information about federal legislative and regulatory activity that may be relevant to plan administration and/or design.*

## Federal Legislative and Regulatory Report

March 2005

### ***I. Legislative and Regulatory Outlook***

*The full article can be found on page 2 of the full Federal Legislative and Regulatory Report.*

Debates on Social Security reform are continuing in Washington, with little bipartisan support for proposals that contain personal accounts. Hearings are being held in the House Ways and Means Committee and legislators are starting to prepare proposals to address Social Security reform, such as Senator Hagel, who recently introduced the *Saving Social Security Act of 2005* in the Senate. This bill includes a proposal to permit workers born after 1960 (age 44 and younger) to establish personal Social Security accounts. For these workers, it also would raise the retirement age for full benefits from 67 to 68 and impose other modifications on the Social Security benefits they would be eligible to receive.

As to the regulatory outlook, the SEC recently released final rules on mandatory redemption fees to address market timing. This will have significant impact on employers and participants in defined contribution/deferred compensation plans as there is no uniform or consistent approach mandated and mutual fund companies can establish their own rules and requirements for redemption fees.

### ***II. Legislative Proposals Impacting State and Local Government Employers***

*The full article can be found on page 4 of the full Federal Legislative and Regulatory Report.*

Two legislative proposals are being discussed that would have significant impact for public sector employers and employees. The first is the Security Fairness Act of 2005 that was introduced by Representative Howard McKeon. If enacted, this bill will repeal the Windfall Elimination Provision (WEP) and Government Pension Offset (GPO) that impact the Social Security benefits that certain public sector employees receive. The second proposal that is being discussed by the Bush Administration is a requirement that all state and local governments, including those with a current exemption, cover all new employees under Social Security.

### **III. LSA, RSA and ERSA Proposed Again**

*The full article can be found on page 5 of the full Federal Legislative and Regulatory Report.*

The Lifetime Savings Account (LSA), Retirement Savings Account (RSA) and Employer Retirement Savings Account (ERSA) proposals, previously announced by the Bush Administration, are again being considered in legislation that has been introduced as part of the “Savings Account Vehicle Enhancement” or SAVE initiative. Three separate bills to address these proposals are being introduced in both the House and the Senate. This is the first time that legislative language has been developed for the ERSA proposal. If enacted, this could have significant impact on public sector plans, as this new program is being modeled after 401(k) plans. Should this become law, State laws may need to be amended to conform to the ERSA provisions.

### **IV. Roth 401(k) – Proposed Regulations**

*The full article can be found on page 8 of the full Federal Legislative and Regulatory Report.*

The Internal Revenue Service released proposed regulations to provide guidance on Roth 401(k) plan contributions, which were established in the Economic Growth and Tax Relief Reconciliation Act (EGTRRA) and can be included in 401(k) and 403(b) plans beginning January 1, 2006. This is not permitted in Section 457 plans. The Roth 401(k) plan account is in addition to the deemed IRA (Roth and traditional) options that were also part of EGTRRA and can be offered in Section 457 plans of governmental employers, as well as 401(k) and 403(b) plans.

### **V. New Bill for Reservists**

*The full article can be found on page 11 of the full Federal Legislative and Regulatory Report.*

Senator Carl Levin introduced new legislation, *Standing with Our Troops Act of 2005*, to permit active duty members of the Reserves and National Guard who are called into active duty to withdraw 401(k) and 403(b) account balances without an early distribution penalty being applied. This proposal was originally introduced in 2004 in the *Guardsmen and Reservists Financial Relief Act* but, even with widespread support, was not enacted last year.

### **VI. IRS to Expand Enforcement Efforts**

*The full article can be found on page 13 of the full Federal Legislative and Regulatory Report.*

The Internal Revenue Service is stepping up its effort to establish a prominent enforcement presence in the benefits community by hiring more agents and building a special compliance unit. According to the IRS current work plan, audit initiatives are underway in multiemployer plans, 403(b) and 457 plans, 401(k) plans and Employee Plans Team Audit (EPTA) for large plans with more than 2,500 participants. Some of the audit problems that public sector employers need to be aware of pertain to administering loan programs, documenting financial emergency withdrawals, and applying rules for catch-up contributions.

### **VII. Important Notice Requirements**

*The full article can be found on page 14 of the full Federal Legislative and Regulatory Report.*

Beginning March 10, 2005, employers must post a notice regarding the rights of employees under the Uniformed Services Employment and Reemployment Rights Act (USERRA). This notice must be placed in a prominent place or delivered directly to employees and cover all matters included in the sample language provided by the Department of Labor. Employers can download the notice from the DoL Web site.

Starting this year, state and local government employers must also provide a notice to all new employees who are not covered under Social Security about the affects to their future benefits from the Windfall Elimination Provision (WEP) and/or the Government Pension Offset (GPO). This notice must explain how their employer's pension benefits could reduce the Social Security benefits that they may be entitled to in the future.

### ***VIII. Past Editions of this Report***

To read this month's *Federal Legislative & Regulatory Report* and to review past editions...

- Go to [nrsforu.com](http://nrsforu.com).
- Select the **Employer tab** from the home page.
- Click on the **Legislative / Regulatory tab**.
- Click on the **PDF Archive of Reports** link.
- Select link for the report you seek.

### ***IX. Keeping watch***

Nationwide continues to monitor investigations into mutual-fund trading practices and related issues. You can find the most recent information on these issues on the Employer page of your plan Web site. In addition, we report guidance on legislative and regulatory activity relevant to government sector defined contribution plans through these publications:

- *Plan Sponsor Voice* newsletter – distributed quarterly – next edition due in February, 2004
- *Federal Legislative and Regulatory Report* – distributed monthly
- *Legislative and Regulatory Alerts* – distributed on an ad hoc basis to announce breaking news



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