Senators Portman and Cardin Reintroduce Retirement Legislation, Include NAGDCA Priorities

On Tuesday, May 14, Senators Rob Portman (R-Ohio) and Ben Cardin (D-Md.) introduced the Retirement Security and Savings Act of 2019. The legislation, an updated version of a bill the two introduced late last year, includes a number of provisions which are **NAGDCA legislative priorities**. Referred to the Senate Finance Committee, provisions from the bill could be incorporated into a new package of bipartisan retirement legislation that committee leaders have indicated that they would like to develop in this Congress.

If enacted, the Portman-Cardin bill would make plans easier for state and local governments to administer, and help public employees save more for their retirement through the following NAGDCA-endorsed provisions:

Eliminate the "first day of the month" rule for 457(b) plans. Current law requires that deferral changes be made prior to the first day of the month in which the change is to commence. This was enacted as an administrative convenience prior to the advent of modern recordkeeping technology. Now it is an unnecessary impediment to participants' ability to manage their retirement assets.

Allow non-spousal beneficiaries of inherited IRA assets to roll these assets into their employer-sponsored governmental defined contribution, deferred compensation plans. This will allow participants to better coordinate their retirement savings and take advantage of the generally lower fees and administrative costs in 457(b), 401(k), 401(a), and 403(b) deferred contribution plans.

Enable use of collective investment trusts by 403(b) plans. This will provide public school employees with access to the same lower cost investment vehicles available to other state and local government employees.

Improve the functionality of Roth accounts in deferred contribution plans. Participants with Roth accounts in 457(b), 401(k), 401(a), and 403(b) plans will be allowed to roll Roth IRA assets into these plans. Under current law, if permitted by the respective plan, plan participants may make Roth contributions to a deferred contribution plan, but such plans are not permitted to accept rollovers of Roth IRA assets. Permitting rollover of Roth IRA assets into an employer-sponsored plan would help participants take advantage of lower fees and administrative costs, and aid in consolidation, enhanced portability, and administrative simplicity.

Exempt designated Roth contributions in governmental deferred contribution plans from required minimum distribution (RMD) rules. Under current law, Roth contributions in 457(b), 401(k), and 403(b) plans are subject to RMD rules and must be included when calculating the amount of a participant's RMD. The disparate treatment between Roth IRA assets, which are presently exempt, and Roth assets in 457(b), 401(k), and 403(b) plans creates an incentive for participants to roll their Roth assets to a Roth IRA to avoid the RMD rules. It would be beneficial for participants to maintain Roth assets in their employer-sponsored governmental deferred contribution plans as these plans generally offer lower administrative costs and fees than retail-market IRAs.

Permit 457(b), 401(a), 401(k), and 403(b) plan participants to make qualifying charitable distributions (QCDs). Current law allows QCDs of up to $100,000 from traditional or Roth IRA accounts to be excluded from gross income each year. The taxpayer's RMD may be considered a QCD and, as such, be distributed tax free directly to the qualifying organization. To take full advantage of a QCD, a participant in a governmental deferred contribution plan would have to roll plan assets to an IRA prior to the participant attaining age 70½. Allowing 457(b), 401(a), 401(k), and 403(b) plan participants to make QCDs from their plans, would eliminate the need for this rollover step and enable funds to remain in their plan until they chose to make QCDs.