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Build Back Better Act

After months of negotiations, the House recently passed the Build Back Better Act. Several provisions in the legislation apply to retirement plans. The legislation must now go through the Senate and the budget reconciliation process. While the Build Back Better Act is currently stalled in the Senate, if an agreement is reached, we anticipate some of the current provisions will be included in the final legislation.

What's in the legislation?

Closing the "back-door" Roth strategy: The back-door Roth strategy has received a lot of attention recently. Under this strategy, individuals and qualified plan participants who may otherwise be unable to make IRA contributions or reach the maximum annual addition in a defined contribution plan make after-tax contributions and then convert those contributions to Roth. The provision in the original legislation prohibits after-tax contributions from being converted to Roth effective January 1, 2022, and applies regardless of income level. We anticipate there will be a change to the effective date if the legislation passes in 2022.

Elimination of Roth conversions for high income taxpayers: The legislation also eliminates Roth conversions for IRAs and qualified plans for high income taxpayers, defined as:

- Single filers with taxable income over $400,000
- Joint filers with taxable income over $450,000
- Heads of Households with income over $425,000

These provisions would not apply until January 1, 2032. The delayed effective date gives taxpayers a significant amount of time to plan for and convert existing pre-tax accounts to Roth.

Limitation on IRA contributions for high income taxpayers with large retirement balances: Effective January 1, 2029, high income taxpayers (see above) would no longer be permitted to make IRA contributions if those contributions would cause the total value of the individual's retirement accounts (IRAs, Roth IRAs and defined contribution plans) as of the prior taxable year to exceed or further exceed $10 million. Individuals will have until the due date of their personal tax return to remove ineligible contributions. If not removed, they would be subject to a 6% excise tax.

Reporting of large balances: For plan years beginning after December 31, 2028, plan sponsors will need to begin reporting balances of at least $2.5 million to the IRS and the individual.

Additional Required Minimum Distributions ("RMDs") for high income individuals with large retirement balances: Under this provision, if an individual's retirement account balances (IRAs, Roth IRAs and defined contribution plans) exceed a combined $10 million at the end of a tax year, the individual will be required to take a RMD for the following year. This provision applies only to high income taxpayers (see above). In general, the minimum distribution amount is 50% of the amount by which the combined retirement account balances exceed $10 million. If the combined retirement

account balances exceed $20 million, an individual would first need to distribute the lesser of:

1. The amount needed to bring the combined retirement account balances down to $20 million; or
2. The total balance in Roth IRAs and then designated Roth accounts in qualified plans.

Once this requirement is satisfied, the individual has the option to select which account the RMD is paid from to meet the 50% rule. These provisions are effective for tax years beginning after December 31, 2028. The additional RMD requirement applies regardless of the individual's age. The early withdrawal penalty will not apply to these RMDs.

While many of the provisions in the Build Back Better legislation are aimed at limiting the tax advantages for high income taxpayers, the SECURE 2.0 legislation (summarized in an earlier newsletter) is aimed at expanding retirement plan coverage to a wider range of businesses and taxpayers.

We will keep you informed as the legislation continues through Congress. If you have any questions regarding these provisions, please contact us.

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