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Washington Update

A Summary of Key Legislative and Regulatory Developments Affecting Retirement Savings

APRIL 2022

The Second Session of the 117th Congress – What to Expect this Election Year

The second session of the 117th Congress is well underway, with the focus in Washington today centered both on domestic and on foreign policy. While at some point this spring the domestic policy agenda will shift to election-year politics, foreign policy will continue to remain in focus for the foreseeable future, and in particular regarding Ukraine.

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With the 2022 mid-term elections approaching, and the primary season beginning in earnest in May, the legislative process will slow considerably in the coming months as Members turn their attention towards their re-election campaigns. While a small number of high-profile legislative priorities will remain viable in the coming months, most remaining legislation will likely have to await the post-election lame-duck session for consideration, if at all, this Congress.

One of the few remaining legislative priorities for both parties in Congress pertains to addressing American competitiveness. Competing bills that have separately passed the Senate (S. 1260, the United States Innovation and Competition Act), and the House (H.R. 4521, the America Competes Act of 2022) are at the stage in the legislative process where differences between Senate and House versions of the legislation must be settled in conference.

The other remaining domestic policy priority, for both the Biden Administration and Congressional Democratic Leadership, remains the President's Build Back Better agenda, the social spending proposal that passed the House in November of 2021. Below we discuss what remains of the originally proposed Build Back Better initiative, and its prospects for enactment at some point this year.

Of course, retirement legislation also remains a viable policy option for Congress this year, despite the various competing priorities and a shortened legislative calendar this spring and summer. While there is a low probability that retirement legislation moves through Congress prior to the mid-term elections, nonetheless its passage by the House on March 29, with strong bipartisan support, enhances its prospects for consideration either this summer or, as more likely will happen, as part of a larger legislative package considered in the anticipated lame-duck session following the mid-term elections.

Legislation

The Build Back Better Act – a Path Forward?

On November 19, 2021, the House passed H.R. 5376, the Build Back Better Act, a $1.7 trillion spending package that included roughly $1.4 trillion in tax increases therein to help offset the cost of the legislation.[1] At the time of House passage, Senate Democratic Leadership indicated its intent to bring the legislation to the floor for a vote in the Senate if assured the legislation could achieve the necessary 50 vote threshold to pass via reconciliation. By late December 2021, it became clear that the Senate lacked the votes necessary to pass the House-passed version of the Build Back Better Act, and that has not changed in the intervening months. Now, the focus has shifted towards pursuing a less comprehensive version of Build Back Better that can achieve consensus within the Democratic caucus in the Senate, while also allowing for House passage as well.

Should a compromise package emerge, it is anticipated that many (if not all) of the revenue items that were included in Build Back Better as passed by the House could remain within that compromise package. As these revenue provisions have already been voted upon in the House, having them included in a compromise legislative package may be considered politically more viable than requiring Members to vote on newly included tax items just as the mid-term elections come into full view. Thus, below are a sampling of some of those provisions from the House-passed version of Build Back Better that remain viable as options going forward – that pertain to individual taxpayers:[2]

- A 5% surtax on Modified Adjusted Gross Income (MAGI) (defined in the legislation as adjusted gross income less investment interest expense) above $10 million ($5 million for single filer); and an additional 3% surtax on MAGI above $25 million ($12.5 million for single filer)
- Increase the State and Local Tax (SALT) deduction cap from $10,000 up to $80,000
  - Effective through 2030
  - In 2031 the cap would revert to $10,000
  - In 2032 the cap would expire
- Impose a $10 million cap on retirement accounts (aggregate across an individual's IRAs and DC plans) – effective in 2029
  - Impose limits on contributions that would cause the cap to be exceeded
  - Require accelerated Required Minimum Distributions when the cap is exceeded
- Eliminate "Backdoor Roth IRAs" – effective after 12/31/21
- Eliminate Roth Conversions – effective after 12/31/31
- Limit the Qualified Small Business Stock ("QSBS") exclusion for taxpayers with an AGI of $400,000 or more to the lesser of $10M or 50% of the gain (or 50% of ten times basis, whichever is greatest)
  - effective for sales occurring after 9/13/21 absent a binding contract in effect prior to that date
- Apply the 3.8% net investment income tax to active business income of pass-through firms - effective after 12/31/2021
  - Applies to those making over $400k (single) or $500k (joint)
- Make permanent the active pass-through loss limitation that was enacted in the Tax Cuts and Jobs Act of 2017 – effective after 12/31/20

Outlook for Build Back Better

At this point in 2022, the only realistic chance for the Biden Administration's Build Back Better proposal to become law this year is if Democratic Congressional Leadership and the White House can reach an agreement on a scaled-back version of the House-passed Build Back Better Act. With a razor thin majority in the House, and a 50-50 Senate, reaching agreement on a proposal that can pass both Chambers will be difficult to achieve.

Timing also becomes an issue, as the Budget Reconciliation instructions that allows for the 50-vote threshold in the Senate will expire on September 30. Thereafter, Build Back Better would require 60 votes for passage in the Senate, an almost impossible outcome in the equally divided Senate. Thus, the likely timeframe to achieve an agreement on even a slimmed-down Build Back Better Act, if possible, is in the summer months before Congress adjourns for its traditional August recess.[3]

A Look at Retirement Policy

Separate from the discrete retirement provisions that were included in the House-passed Build Back Better Act (see above) and despite the looming mid-term elections, Members remain committed to addressing retirement security policy during this second session of the 117th

Legislation (cont.)

Congress. While it seems incongruous that retirement legislation can be enacted into law during an election year, when other policy priorities grind to a halt, the bipartisan nature of retirement policy allows for an exception. Yet rather than moving separately via its own momentum, it is almost inevitable that retirement legislation must await another legislative vehicle upon which it can be attached prior to enactment.

While numerous retirement-focused bills are introduced each Congress, we highlight three bills below that will likely form the basis for retirement legislation that will emerge for consideration later this year -- H.R. 2954 and H.R. 5891 in the House, and S. 1770 in the Senate. While we highlight only a sampling of what is included in each of these measures, these provisions are indicative of the retirement policy focus of the bill's sponsors. We also highlight other retirement legislation that has been introduced in the months since the most recent Washington Update, and while most of these bills will not move this Congress (these most recent and earlier highlighted bills), nonetheless their sponsors may play key roles in fashioning what ultimately will be considered this year, possibly allowing for discrete provisions from these bills to receive consideration.

House of Representatives

H.R 2954, the "*Securing a Strong Retirement Act of 2021*," (Neal (D-MA) and Brady (R-TX)) - bipartisan legislation that seeks to enhance retirement savings opportunities for workers and others, and to allow those savings to remain invested on a tax-favored basis for a longer period of time.

Among the policy priorities included in H.R. 2954 are the following (a sampling):

For Individuals:

- Increase the Required Minimum Distribution ("RMD") beginning date gradually to age 75 by the year 2033
- Index IRA catch-up limit (for individuals who have attained age 50) beginning in 2023
- Increase the catch-up contribution limit to $10,000 for 401(k) plans and $5,000 for SIMPLE Plans for individuals who have attained age 62, 63, and 64 (but not age 65)
- Expand the ability to make charitable distributions from an IRA for individuals age 70 ½ or older – to allow a one-time distribution to charities through charitable gift annuities, charitable remainder unitrusts, and charitable remainder annuity trusts
- Expand IRA charitable distribution provisions to allow for a one-time $50,000 distribution to charities through charitable gift annuities; charitable remainder trusts; and charitable remainder annuity trusts
- Would index for inflation the annual IRA charitable distribution limit of $100,000
- Reduce the excise tax penalty for failure to take an RMD – from 50% down to 25%; and if corrected in a timely manner – further reduce to 10%.

Employer Provisions:

- Require **new** 401(k), 403(b), and SIMPLE plans to automatically enroll participants upon becoming eligible (with opt out allowed) at a minimum of 3% of pay (and up to 10% of pay) and increasing in 1% increments until reaching 10% of pay)
    - Plans in existence on the effective date of the legislation would be grandfathered
    - Employers with 10 or fewer employees would be exempt
    - Would not require plan sponsorship – only that new plans going forward after date of enactment would be subject to the auto-enrollment and auto escalation requirements unless somehow exempt
- Enhance the small business tax credit for start-up costs (for employers with up to 50 employees) by increasing the credit to 100% of administrative costs (with a phase-down over 5 years)
- Treat employee student loan payments as elective deferrals for purposes of matching contributions in a defined contribution plan
- Allow employers to offer, as an incentive for employees to contribute to a 401(k) plan, small immediate de minimis financial incentives (e.g., gift cards)
- Make it easier for employees to find lost retirement accounts by creating a national, online database of lost accounts

Revenue-Raising Provisions:

- Allow SIMPLE and SEPs to permit employees to elect Roth treatment of both employer and employee contributions
- Require catch-up contributions to 401(k), 403(b), and governmental 457(b) plans to be made on a Roth basis (would not apply to SIMPLEs and SEPs)

Legislation (cont.)

- Allow employers to permit employees to elect to treat as Roth contributions some or all of their matching contributions to a 401(k), 403(b), or governmental 457(b) plan

View the section-by-section analysis of H.R. 2954, as well as the legislative text:

The Securing a Strong Retirement Act of 2021

H.R. 5891, the "*Retirement Improvement and Savings Enhancement (RISE) Act*," (Scott (D-VA) and Foxx (D-NC), was introduced on November 5, 2021 – bipartisan legislation that itself seeks also to enhance the ability of Americans to prepare and save for their retirement.

Among the policy priorities included in H.R. 5891 are the following (not inclusive):

- Allow 403(b) plans to participate in multiple employer plans and pooled employer plans
- Establish an online "Retirement Lost and Found" database at the Department of Labor, that would be searchable, to assist individuals in locating retirement savings
- Increase to $7,000 the limit under which employers would be allowed to transfer former employees' retirement accounts to an IRA
- Allow employers to provide de minimis financial incentives to encourage 401(k) and 403(b) participation
- Reduce the service requirement for part-time employees (who complete at least 500 hours of service) to 2 years for eligibility to participate in a 401(k) plan
    - Make the rule applicable to ERISA-covered 403(b) plans (in addition to 401(k) plans)
- Require the Department of Labor to, within 1 year after enactment, modify its guidelines regarding benchmarking investments, such as target-date funds, that include a mix of assets

Senate

S. 1770, the "*Retirement Security & Savings Act*" (Cardin (D-MD) and Portman (R-OH)), was introduced in the Senate on May 21, 2021, and awaits consideration by the Senate Finance Committee. Below is a summary of the main provisions of S. 1770 as introduced in the Senate (a sampling):

For Individuals:

- Raise the RMD age from 72 up to age 75 by 2032
- Exempt from the RMD rules individuals with $100k or less in aggregate retirement savings
- Increase the 401(k) "catch-up" contribution limit to $10,000 for individuals age 60 and older
- Extend the Roth IRA exemption from the pre-death RMD rules to Roth amounts held in plans
- Extend the charitable distribution rules to plan participants that have attained age 70 ½ for distributions made directly from the plan to a charitable organization
- Allow a surviving spouse of a deceased plan participant to be treated as the employee for purposes of the RMD rules
- Index catch-up contribution to Individual Retirement Accounts (IRAs)
- Reduce the current penalty for failing to take a required minimum distribution from 50% down to 25% (and as low as 10% if self-correct)
- Expand the Saver's Credit income thresholds; make the credit refundable; and require it to be contributed directly to a retirement plan or IRA
- Expand rollover options for non-spouse beneficiaries to allow for a 60-day period within which to roll into an inherited IRA
- Allow non-spouse beneficiaries to consolidate their beneficiary assets in their 401(k), 403(b), and/or 457(b) accounts

Employer Provisions:

- Provide new tax incentives to encourage employers to offer more generous auto enrollment plans for their employees (at 6% of pay in addition to the existing safe harbor at 3%)
- Enhance small business start-up credit for employers with fewer than 25 employees Expand availability of 401(k) plans to part-time workers that complete between 500 and 1,000 hours of service for two consecutive years
- Treat student loan payments as elective deferrals for purposes of employer matching contributions
- Allow 403(b) plans to invest in collective trusts
- Ease ability of military spouses who change jobs frequently to save for retirement
- Extend to S corporations the ability to defer tax on gain from the sale of employer securities to an Employee Stock Ownership Plan ("ESOP")

Legislation (cont.)

- Allow SIMPLE IRAs to be offered on a Roth basis
- Allow Roth IRA amounts to be rolled into plans

View legislative text of S. 1770, along with press releases from Senators Cardin and Portman:

Portman, Cardin Renew Call for Sweeping Reforms to Strengthen Retirement Security

Cardin, Portman Renew Call for Sweeping Reforms to Strengthen Retirement Security

Other Retirement Legislation Introduced this Session of the 117th Congress (Sampling):[4]

H.R. 6746 – the "Lifetime Income for Employee Act" (Norcross, D-NJ)

- Would allow a "covered annuity contract" as defined in the bill to be annuities to be included as a Qualified Default Investment Alternative in a defined contribution plan
- Would limit any default annuity component to no more than 50% of contributions and no more than 50% of the total account value

S. 3712 – the "Auto Reenroll Act of 2022" (Kaine, D-VA)

- Would amend law requiring employers sponsoring an existing qualified automatic enrollment arrangement or eligible automatic enrollment arrangement – to re-enroll employees at least every three years (who opted out of automatic enrollment)
- Would require new automatic contribution arrangements to provide for automatic re-enrollment every three years

S. 3641 – the "Part-Time Worker Bill of Rights Act" (Warren, D-MA)

- Would allow part-time workers with at least 500 hours of service for two consecutive years to participate in their employers' qualified retirement plan

View the legislative text of H.R. 6746, S. 3712 and S. 3641.

Outlook

On March 29, 2022, the House of Representatives considered and passed a H.R. 2954, The Securing a Strong Retirement Act of 2021, that combined elements of the legislation with those of H.R. 5891. The Retirement Improvement and Savings Enhancement Act. This combined bill was passed with a strong bipartisan vote of 414 to 5, and now moves to the Senate for consideration.

With the House having acted, the Senate will, at least at the Committee level, consider similar retirement legislation in the coming months. While S. 1770 should form the basis for Senate Finance Committee consideration of retirement legislation, the committee will likely incorporate provisions from H.R. 2954 therein, as well as other provisions that are in neither piece of legislation. A similar process is also anticipated for the Senate Health Education Labor and Pensions (HELP) Committee.

While both the Senate Finance and HELP Committees may separately act on retirement legislation this summer, it is not anticipated that the full Senate will vote on a combined bill, as occurred in the House. Rather, committee activity in the Senate is more of a process that will ease Senate consideration of a combined House/Senate bill later this fall that would likely be attached to legislation Congress considers in the lame-duck session following the mid-term elections.

Regulatory

Traditional Regulatory Agenda

PENSION BENEFIT GUARANTY CORPORATION

Special Financial Assistance by PBGC

On July 12, 2021, the Pension Benefit Guaranty Corporation ("PBGC") published in the Federal Register an interim final rule (with a request for comments) that sets forth the requirements for financially troubled multiemployer defined benefit pension plans to apply for and receive special financial assistance in amounts necessary/required to pay all benefits due through the plan year ending in 2051.

Comments on the interim final rule were due to the PBGC by August 11, 2021. View a copy of the interim final rule, along with supporting documents prepared by the PBGC:

American Rescue Plan (ARP) Special Financial Assistance Program

American Rescue Plan Act FAQs

DEPARTMENT OF LABOR

Compliance Assistance Release No. 2022-01 – 401(k) Plan Investments in "Cryptocurrencies"

On March 10, 2022, DOL published Compliance Assistance Release No. 2022-01 to "caution[s] plan fiduciaries to exercise extreme care before they consider adding a cryptocurrency option to a 401(k) plan's investment menu." The Release announces DOL's intention to "conduct an investigative program aimed at plans that offer participant investments in cryptocurrencies and related products" and that, as a part of this investigative program, "plan fiduciaries responsible for overseeing such investment options or allowing such investments through brokerage windows should expect to be questioned about how they can square their actions with their duties of prudence and loyalty" in light of the risks that DOL sets forth in the Release. View a copy of the Release.

Request for Information on Possible Agency Actions to Protect Life Savings and Pensions from Threats of Climate-Related Financial Risk

On February 14, 2022, DOL published in the Federal Register a Request for Information ("RFI") to seek public input on possible actions DOL can take under the Employee Retirement Income Security Act of 1974 ("ERISA") and the Federal Employees' Retirement System Act of 1986 (FERSA) to "protect the life savings and pension of U.S. workers and families from the threats of climate-related financial risk." The RFI was published to further the goals set forth in Executive Order 14030 on Climate-Related Financial Risks, signed by President Biden on May 20, 2021, and in the Report, released by the Biden Administration on October 15, 2021, and entitled "A Roadmap to Build a Climate-Resilient Economy" ("Roadmap")

Comments in response to the RFI are due to DOL by May 16, 2022. View a copy of the RFI.

View copies of Executive Order 14030 and the subsequent "Roadmap."

Procedures Governing the Filing and Processing of Prohibited Transaction Exemptions

On March 15, 2022, DOL published in the Federal Register a notice of proposed rulemaking to update the procedure governing the filing and processing of applications for administrative exemptions from ERISA's prohibited transaction provisions.

Comments on the proposed changes are due to DOL by April 14, 2022. The applicability date for the proposed rules would be for taxable years beginning on or after 1/1/2022 (for earlier taxable years, the rules of 26 CFR 54.4974-2 (revised as of 4/1/21) would apply. View a copy of the proposed rule.

Investment Advice – Class Exemption and Temporary Enforcement Policy

On December 18, 2020, DOL published in the Federal Register Prohibited Transaction Exemption 2020-02 (PTE 2020-02), Improving Investment Advice for Workers and Retirees (the "Exemption"), to allow investment advice fiduciaries under both ERISA and the Internal Revenue Code to "receive compensation, including as a result of advice to roll over assets from a Plan to an IRA, and to engage in principal transactions, that would otherwise violate the prohibited transaction provisions of Title I and the Code." The Exemption applies to registered investment advisers (SEC and state-registered), broker-dealers, banks, insurance companies, and their employees, agents, and representatives that are investment advice fiduciaries.

Regulatory (cont.)

PTE 2020-02 became effective on February 16, 2021, with DOL providing transition relief through December 20, 2021, including the continuation of the agency's temporary enforcement policy that it announced via Field Assistance Bulletin 2018-02, until December 20, 2021.

On October 15, 2021, DOL issued Field Assistance Bulletin No. 2021-02, announcing a temporary enforcement policy related to Prohibited Transaction Exemption 2020-02, to provide additional transitional relief to investment advice fiduciaries, including:

- Non-pursuit of prohibited transaction claims against investment advice fiduciaries – who are working diligently and in good faith to comply with the Impartial Conduct Standards for transactions exempted in PTE 2020-02; and
- Non-enforcement of the specific documentation/disclosure requirements for rollovers in PTE 2020-02 – through June 30, 2022
- All other requirements of PTE 2020-02 will be subject to full enforcement as of February 1, 2022

View a copy of PTE 2020-02.

View a copy of Field Assistance Bulletin 2021-02.

Financial Factors in Selecting Plan Investments

On October 14, 2021, DOL published in the federal register a Notice of Proposed Rulemaking pertaining to "Prudence and Loyalty in Selecting Plan Investments and Exercising Shareholder Rights". The proposed rule would amend Title I of the Employee Retirement Income Security Act ("ERISA") to "clarify the application of ERISA's fiduciary duties of prudence and loyalty to selecting investments and investment courses of action, including selecting qualified default investment alternatives, exercising shareholder rights, such as proxy voting, and the use of written proxy voting policies and guidelines."

Comments on the proposed rule were due to DOL by December 13, 2021. View a copy of the proposed rule.

Proposed Revision of Annual Information Returns/Reports

On September 15, 2021, DOL, the Treasury Department, and the Pension Benefit Guaranty Corporation, jointly published in the Federal Register proposed changes to the Form 5500 Annual Return/Report forms that are filed for pension and welfare plans under ERISA and the Internal Revenue Code.

Comments on the proposed revisions were due to DOL by November 1, 2021. View a copy of the proposal.

Simultaneous with the publication of the proposed revisions to Form 5500, DOL also published a Proposed Rule to amend its regulations relating to annual reporting requirements under Title I of ERISA to conform those reporting regulations to the proposed Form 5500 revisions.

Comments on the proposed rule were due to DOL by November 1, 2021. View a copy of the proposed rule.

DEPARTMENT OF TREASURY

On February 22, 2022 the Treasury Department released its second quarter update to the 2021-2022 Priority Guidance Plan, setting forth the projects on which the Treasury Department intends to work, as priorities, during the plan year ending June 30, 2022. Included in this most recent Guidance Plan are several priorities pertaining to retirement benefits, including the following (a sampling):

- Regulations/guidance under §72(t) relating to the 10% additional tax on early distributions
- Updating IRA regulations under §§219, 408, 408A, and 4973
- Regulations updating electronic delivery rules and guidance re providing applicable notices and making participant elections
- SECURE Act modifications pertaining to 401(a)(9), and to certain rules governing 401(k) plans (see below)

View a copy of the 2021-2022 Priority Guidance Plan.

Internal Revenue Service – Multiple Employer Plans

On March 28, 2022, the Department of the Treasury/Internal Revenue Service published in the Federal Register proposed regulations to provide relief from the application of the "unified plan rule" for Multiple Employer Plans ("MEPs") in the event of a failure by one or more employers participating in the plan to satisfy the Internal Revenue Code requirements applicable to such plans. The publication also withdraws an earlier proposed regulation that was published on July 3, 2019.

Regulatory (cont.)

Comments on the proposed rule are due to the IRS by May 27, 2022, with a hearing on the proposed rule scheduled for June 22, 2022. View a copy of the proposed rule.

Internal Revenue Service – Required Minimum Distributions

On February 24, 2022, the Internal Revenue Service ("IRS") published in the Federal Register a notice of proposed rulemaking related to required minimum distributions ("RMD") under 401(a)(9) of the Internal Revenue Code ("Code") from qualified plans; Section 403(b) annuity contracts, custodial accounts, and retirement income accounts; individual retirement accounts and annuities; and eligible deferred compensation plans under Section 457. The proposed rules address required minimum distribution requirements for qualified plans since the last published update of the rules, and further are being updated to reflect the amendments made to the RMD rules via enactment of the Setting Every Community Up for Retirement Enhancement Act of 2019 (P.L. 116-94) on December 20, 2019.

Comments on the proposed rule are due to the IRS by May 25, 2022. View a copy of the proposed rule.

Miscellaneous

Simply for reference, below we provide inflation adjusted amounts, applicable for calendar year 2022, that pertain to social security benefits, retirement benefits; health savings accounts; and the estate and gift tax exclusion amounts:

Social Security Benefits for 2022:

- Social Security and Supplemental Security Income beneficiaries:
  - 5.9% Cost of Living Adjustment for 2021
- Taxable Wage Base:
  - $147,000
- Retirement Earnings Test Exempt Amounts:
  - Pre-full retirement age: $19,560/year or $1,630 per month
    - $1 in benefits withheld for every $2 in earnings above the limit
  - The year an individual reaches full retirement age: $51,960/year or $4,330 per month
    - Applies only to earnings for months prior to attaining full retirement age
    - $1 in benefits withheld for every $3 in earnings above the limit
  - Beginning the month an individual reaches full retirement age:
    - No earnings limit

View the 2022 Social Security Changes fact sheet.

Retirement Plan Limits

For quick reference, selected 2022 plan limits are as follows:

- Elective deferral (contribution limit) for 401(k), 403(b), 457 plans – **$20,500**
- Catch-up contribution limit for 401(k), 403(b), 457 plans – **$6,500**
- Annual contribution to traditional and Roth IRAs – **$6,000**
- Catch-up contribution limit for IRAs – **$1,000 (is not indexed)**
- SIMPLE employee deferrals – **$14,000**
- SIMPLE catch-up limit – **$3,000**
- Simplified Employee Pensions (SEPs) minimum compensation threshold – **$650**
- SEP maximum compensation limit – **$305,000**
- Annual Defined Contribution limit – **$61,000**
- Annual Defined Contribution limit (age 50 and older) including catch-up contributions – **$67,500**
- Annual Compensation limit for calculating contributions – **$305,000**
- Limit on annual benefit provided through a defined benefit plan – **$245,000**
- Employee Stock Ownership Plan ("ESOP") maximum account balance – **$1,230,000**

View Notice 2021-61.

Health Savings Accounts (Inflation Adjusted Amounts for 2022)

For employees to be eligible to participate in a Health Savings Account, they must be enrolled in a High Deductible Health Plan ("HDHP"). For 2022, the limits for both HDHP's and HSA's are provided below:

- HSA contribution limit – self only:
  - **2022 – $3,650**
- HSA contribution limit – family:
  - **2022 – $7,300**
- HSA catch-up contribution limit (age 55+)
  - **2022 – $1,000 (not inflation adjusted)**
- The minimum HDHP deductible – self only:
  - **2022 – $1,400**
- The minimum HDHP deductible – family:
  - **2022 – $2,800**
- Annual out-of-pocket expenses are capped at – self only:
  - **2022 – $7,050**
- Annual out-of-pocket expenses are capped at – family:
  - **2022 – $14,100 ($14,000 in 2021)**

View Rev. Proc. 2021-25.

Estate and Gift Tax Exclusion Amounts

For an estate of any decedent dying in calendar year 2022, the basic exclusion amount is **$12,060,000** (inflation adjusted).

For calendar year 2022, the first **$16,000** of gifts to any person is not included in the total amount of taxable gifts made during the year. View the inflation-adjusted amounts for 2022.

[1] The version of the Build Back Better Act (H.R. 5376) that passed the House was Rules Committee Print 117-18, including a managers Amendment thereto, both of which can be accessed via the following links: https://rules.house.gov/sites/democrats.rules.house.gov/files/BILLS-117HR5376RH-RCP117-18.pdf https://amendments-rules.house.gov/amendments/YARMUT_026_xml211118163438621.pdf

[2] While a significant portion of the revenue items from the House-passed Build Back Better Act focused on businesses, they are not included in this Update.

[3] It is not anticipated that Congress will pass a FY 2023 Budget Resolution this fall such that it would include Reconciliation instructions, meaning after September 30, 2022, reconciliation would no longer be available as an option.

[4] Prior editions of the Washington Update highlight other retirement focused legislation introduced in the first session of the 117th Congress

