

**MEMO# 2883**

June 26, 1991

## **ROSTENKOWSKI INTRODUCES PENSION SIMPLIFICATION BILL**

June 26, 1991 TO: PENSION COMMITTEE NO. 17-91 RE: ROSTENKOWSKI INTRODUCES PENSION SIMPLIFICATION BILL \_\_\_\_\_

House Ways and Means Committee Chairman Rostenkowski recently introduced H.R. 2730, the Pension Access and Simplification Act of 1991. A copy of the bill and the Record statement is attached. The bill addresses many of the same matters contained in the Chandler simplification bill (see Institute Memorandum to Pension Committee No. 15-91, dated June 24, 1991), and would repeal rollover restrictions, modify 401(k) discrimination rules and improve the SARSEP. In addition to allowing rollover of all plan distributions except after-tax contribution and required minimum distributions, the bill requires all qualified plans to allow participants to elect to have their eligible rollover distributions transferred directly to an IRA or other eligible retirement plan. The bill repeals 5 and 10 year forward averaging. With regard to 401(k) discrimination rules, the bill would allow discrimination testing for each plan year to be based on non-highly compensated employee deferrals from the previous plan year. A similar rule would apply to matching contributions under section 401(m) of the Code. The bill would make 401(k) plans available to tax-exempt employers in 1992, and to state and local governments beginning in 1995. The bill would revise the SARSEP rules so that employers with not more than 100 eligible employees in the preceding year could sponsor the program. Employees could contribute up to \$5,000 per year (adjusted for cost of living) on a salary deferral basis. The employer could match employees contributions up to 50 percent. Employers would be required to contribute 3 percent of compensation (limited to \$100,000, adjusted for cost of living) on behalf of each eligible employee without regard to whether the employee makes an elective contribution. This "base" contribution is increased to 5 percent if the employer maintained a qualified plan other than a SEP during either of the 2 years preceding the year in which the SARSEP is established. The bill contains provisions regarding the responsibilities of sponsors of prototype plans which were referenced, but not explained, in the Administration's POWER proposal. (See Institute Memorandum to Pension Members No. 17-91, dated May 1, 1991.) Specifically, the bill creates a system of sponsor accountability, subject to IRS monitoring, for the protection of master and prototype plan adopters. The bill authorizes the IRS to prescribe duties including, but not limited to, maintaining current lists of adopting employers and filing annual notices to such employers and the IRS. The bill would also impose administrative service duties on the prototype plan sponsor. The Congressional Record states that the bill is not intended to obligate sponsors to undertake the complete day-to-day administration of the plans they sponsor, but to protect employers against loss of qualification because of ignorance of the need to arrange for such services. The Record also states that the bill should not be construed as creating fiduciary relationships or responsibilities under Title I of ERISA that would not exist in the absence of

the provision. Finally, the Treasury Secretary is authorized to issue regulations that permit the relaxation of the anti-cutback rules contained in section 411(d)(6) of the Code to facilitate an employer's replacement of an individually designed plan with a prototype plan. We will keep you informed of further developments. W. Richard Mason Assistant Counsel - Pension Attachments

---

Copyright © by the Investment Company Institute. All rights reserved. Information may be abridged and therefore incomplete. Communications from the Institute do not constitute, and should not be considered a substitute for, legal advice.