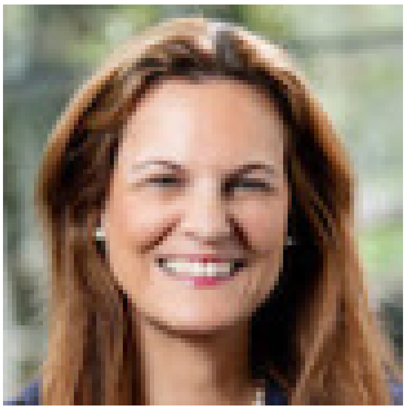
House Passes Family Savings Act of 2018

By Wagner Law Group *Thu, Oct 25, 2018*

This bill could open a path to great changes in retirement plans. The Senate may take action on it during the lame-duck session, a new bulletin from Wagner Law Group said. (Photo: Marcia Wagner)



Last month, the House of Representatives, as part of Tax Reform 2.0, adopted the Family Savings Act of 2018 ("Act"). No action will be taken on this bill until after the mid-term elections, but there is a possibility that the Senate will take action on this issue during the lame-duck session, and attempt to reconcile it with the Retirement Enhancement and Savings Act of 2018, a bipartisan bill originated by Senators Hatch and Wyden.

In addition to some technical changes, the Act would make a number of changes to the rules governing retirement plans. The Act would exempt individuals with less than $50,000 across all eligible retirement plans (other than defined benefit pension plans) from the required minimum distribution rules. It would also repeal the maximum age for contributions to a traditional IRA, which is currently 70½. The Act would permit penalty free withdrawal from retirement plans for individuals in the case of birth or adoption of a child, and would allow those funds to be recontributed.

The Act would also permit open multiple employer plans, and eliminate the "one bad apple" rule which causes the plans of all participating employers in the multiple employer plan to be adversely affected by an action of one participating employer that affects the plan's tax qualified plan status.

The Act would also allow employees who have an annuity in a 401(k) plan or similar plan to transfer the annuity to an individual retirement account without paying taxes on the distribution.

The Act also contains a safe harbor for the election of annuity providers, which is intended to encourage the adoption of annuities as a distribution option in 401(k) plans and other defined contribution plans. The Act would modify the nondiscrimination rules for frozen defined benefit plans to allow older, longer service, and frequently highly compensated employees to continue to accrue benefits, provided certain conditions are satisfied. The Act would prohibit tax-qualified plans from making loans through credit cards, and allow an extended period of time for a tax qualified plan to be adopted. Under current law, it must be adopted by the last day of an employer’s taxable year, but the proposal would permit adoption through the date of filing the employer’s tax return (including extensions). The Act would also change the rules for the nonelective contribution 401(k) safe harbor, such as the elimination of the safe harbor notice requirements and delaying the adoption of provisions for such safe harbor contributions.

The Act would also permit an individual to establish a universal savings account, to which an individual could contribute an amount not in excess of $2,500 annually, and withdraw those funds tax free and without penalty at any time and for any purpose. The Act would also make four modifications to Internal Revenue Code Section 529 Education Savings Plans. First, the proposal allows distributions to be used for higher education expenses to apply to expenses for books, supplies, equipment, and fees for participation in an apprenticeship program. Second, the bill would allow distributions to be used for home schooling expenses, an item that was deleted from the Tax Cuts and Jobs Act at the last moment on technical procedural grounds. Third, the bill allows expenses for fees, academic tutoring, special needs services, books supplies and other equipment as additional qualifying expenses for elementary and secondary schools. Fourth, the proposal allows some distributions to be used to make payments of principal or interest on a qualified education loan.