

Deferred Compensation Plan

BOARD REPORT 17-14

Date: April 18, 2017

To: Board of Deferred Compensation Administration

From: Staff

Subject: NAGDCA Legislative Priorities and Meetings Update

*Board of Deferred
Compensation Administration
John R. Mumma, Chairperson
Michael Amerian, Vice-Chairperson
Cliff Cannon, First Provisional Chair
Raymond Ciranna, Second Provisional Chair,
Wendy G. Macy, Third Provisional Chair
Linda P. Le
Thomas Moutes
Robert Schoonover
Don Thomas*

Recommendation:

That the Board of Deferred Compensation receive and file information regarding 2017 meetings of the Board of Directors for the National Association of Government Defined Contribution Administrators (NAGDCA) with Federal legislators and regulators regarding NAGDCA's legislative priorities.

Discussion:

As the Board is aware, staff member Steven Montagna is a member and current year President of the Board of Directors for the National Association of Government Defined Contribution Administrators (NAGDCA). NAGDCA has a unique role in representing state and local government sponsors of defined contribution plans. The NAGDCA Board conducts an annual visit to Washington D.C. to hold meetings with various regulatory agencies and offices of governmental officials. The purpose of these meetings is to present NAGDCA's annual legislative priorities and discuss issues that may impact the administration of these plans. This year's meetings took place April 3-4, 2017. For the Board's information, staff is providing a summary of NAGDCA's legislative priorities and the meetings that took place.

A. NAGDCA Legislative Priorities

NAGDCA's legislative priorities were streamlined this year to include a core set of what NAGDCA regards to be potentially actionable items that might be incorporated into a larger tax reform bill should one be passed by the current Congress. The items were chosen and packaged around a theme of asset consolidation within governmental plans, including in particular responding to the growing popularity of the Roth savings option.

To provide background, on September 27, 2010, President Obama signed into law the Small Business Jobs Act of 2010. The bill provided that effective January 1, 2011, governmental Internal Revenue Code Section 457(b) plans could offer a designated Roth contribution feature. The City was one of the first governmental plans to establish its Roth savings option, effective July 1, 2011. Presently over 6,000 Plan participants make Roth contributions, with assets of over \$60 million.

Roth Individual Retirement Accounts (IRAs) have a longer history. They were introduced in 1997. According to the Investment Company Institute (ICI), as of year-end 2016, approximately 21.9 million, or one quarter, of U.S. households, held assets in Roth IRAs, compared to 32.1 million, or one third, of U.S. households holding Traditional IRAs. Total Roth IRA assets as of year-end 2016 were estimated by ICI to be approximately \$660 billion, compared to \$6.7 trillion in Traditional IRAs.

When Roth 457 provisions were enacted in 2010, not all the implications of doing so were fully addressed, resulting in certain disparities in how Roth assets are treated. As a result, NAGDCA's focus is presently on updating the law to place both Roth and non-Roth assets on an equal footing. NAGDCA's proposed legislative improvements include both Roth-related as well as non-Roth related changes, summarized as follows:

Roth Provisions

- (1) **Permitting Rollovers of Roth IRAs into Defined Contribution Plans** – Current law permits traditional IRAs to be rolled into a defined contribution plan, but not Roth IRAs; NAGDCA proposes permitting Roth IRA rollovers so that participants can consolidate their Roth assets within their (typically lower cost) defined contribution accounts.
- (2) **Elimination of Required Minimum Distribution (RMD) Rules for Roth Balances in Defined Contribution Plans** – Presently contributory Roth assets in 401(k), 457 and 403(b) plans are subject to Required Minimum Distribution (RMD) rules at age 70½, but Roth IRA assets are not subject to RMD rules. This creates an incentive for those participants looking to avoid RMD distributions to roll their assets out of defined contribution plans and into generally higher-cost Roth IRAs. NAGDCA proposes equalizing the treatment of all Roth assets relative to the RMD rule to eliminate the incentive to roll out of defined contribution plans and into IRAs.
- (3) **Permitting Roth Assets for Purchase of Service Credit** – Presently contributory Roth defined contribution assets are not permitted to be used for purchase of service credit with a defined benefit plan, while pre-tax contributory assets can be used for this purpose. This represents another inconsistency in how Roth assets are treated, and a legislative change would place both pre-tax and Roth assets on equal footing with respect to purchase of service credit.

Non-Roth Provisions

- (4) **Permitting Non-Spousal Beneficiary Rollovers to Defined Contribution Plans** – Currently when a participant dies, a non-spouse beneficiary cannot consolidate his/her assets within the defined contribution plan as a spouse can. This proposed legislative change would permit non-spousal beneficiaries to consolidate their assets within the generally lower-cost defined contribution plan.
- (5) **Eliminate “First Day of the Month” Requirement** – Current law requires that new contributions or changes in contributions be effective no earlier than the month following a participant's enrollment or election to make a change. This provision is a legacy of the original enabling statute and was written at a time when deferral elections were largely paper driven. Modern technology allows for

faster processing, and NAGDCA believes eliminating this requirement would promote more retirement savings. The First Day of the Month limitation often manifests at year-end, when participants are attempting to make larger contributions to take full advantage of that year's annual contribution limit before it expires.

NAGDCA's Board also continued its ongoing advocacy for maintaining current important and successful legislative provisions, including the tax-advantaged nature of all contributions, the current contribution limit framework, flexible distribution rules, loan provisions, and exemption from the 10% early distribution penalty for Section 457 plan distributions prior to age 59½. With respect to the latter, NAGDCA is gathering information from key member plans to help document the frequency of distributions occurring before age 59½, to better support the important and valuable benefit that this exemption provides.

B. Meetings with Federal Offices

The NAGDCA Board meeting list for April 3-4 is provided as **Attachment A** to this report. In general, policy makers were receptive to the legislative priorities identified by NAGDCA. Much of the discussion focused on prospects for a tax reform vehicle within which these priorities might be incorporated.

As has been widely discussed in the media, the majority Republican party may use a special legislative process called "reconciliation" to facilitate enactment of tax legislation. Reconciliation is a process created by the Congressional Budget Act of 1974 and allows for expedited consideration of certain tax, spending, and debt limit legislation. Reconciliation bills aren't subject to filibuster and have limits with respect to the scope of amendments that can be incorporated. Congress can initiate a reconciliation process by adopting a budget resolution that incorporates reconciliation instructions.

Absent reconciliation, the alternative approach would involve drafting a bill through the normal legislative process. This would require some level of bipartisan agreement because such legislation would be subject to Senate filibuster.

C. Industry Roundtable

Many of the Federal representatives with whom the NAGDCA Board met will also be present at NAGDCA's annual "Industry Roundtable," a smaller educational event in which key NAGDCA industry members gather to discuss topics related to defined contribution plan administration. This year's Industry Roundtable is being held April 20-21, 2017. As NAGDCA's current year President, staff member Steven Montagna will be participating in the event.

Submitted by:

Steven Montagna

NAGDCA
Washington, D.C. Meetings
April 3-4, 2017

Monday, April 3

Preston Rutledge, Tax Counsel, Majority
Senate Committee on Finance

Robert Neis, Benefits Tax Counsel
Department of the Treasury

Steve Townsend, Legislative Assistant
Senator Mike Enzi (R-WY)
Chairman, Senate Committee on the Budget
Member, Senate Committee on Finance
Member, Senate Committee on Health, Education, Labor, and Pensions

Tiffany Smith, Co-Chief Tax Counsel, Minority
Senate Committee on Finance

Tuesday, April 4

Aharon Friedman, Tax Counsel, Majority
House Committee on Ways & Means

Beth Bell, Tax Counsel
Senator Ben Cardin (D-MD)
Member, Senate Committee on Finance

Representative Richard Neal, Ranking Member
House Committee on Ways & Means

Whitney Daffner, Legislative Director
Representative Pat Tiberi (R-OH)
Member, House Committee on Ways & Means
Subcommittee on Tax Policy