

DIGEST OF INFORMAL DISCUSSION

RETIREMENT PLANS FOR SELF-EMPLOYED

- A. What is the outlook for the passage of the Keogh Bill or similar legislation? Are there other more satisfactory approaches to the problem of pensions for the self-employed?
- B. What would be the principal problems and opportunities of the life insurance companies if legislation of the types currently under consideration were adopted? Would new types of individual policies with special policy provisions, cash values, and dividend assumptions be desirable or necessary?
- C. What mechanisms other than life insurance companies would participate in providing pensions under such legislation? To what extent?
- D. What has been the experience with similar legislation in Canada and Great Britain?

MR. HENRY F. ROOD of the Lincoln National provided a synopsis of action in recent days with respect to H.R. 10 relating to retirement benefits for the self-employed. On September 1, 1960 Congress adjourned without taking action on the amended bill H.R. 10 which had been released by the Senate Finance Committee for discussion on the Senate floor. After the May Senate hearing in which the Treasury Department got the Senate Committee to adopt its views with respect to limitations on corporate retirement plans, there had been so many protests to senators that they were reluctant to vote for retirement benefits for the self-employed in the face of the objections of those who were against corporate limitations.

It appears probable that, in the next session of Congress, bills will be introduced which return in principle to the basic House bill of 1959 which included restricted retirement policies, but with an additional qualified pension plan feature to cover employees of self-employed persons. This approach would have the effect of by-passing the Treasury objective of limiting certain corporation qualified pension plans. It appears that any bill which combines both the original proposal for coverage of self-employed persons and restrictions on certain corporate qualified pension plans would involve too many complications for any quick passage by the Senate.

The following points summarize briefly the 1959 bill as passed by the House:

1. It covers only self-employed persons, not employees.
2. Qualified pension plans were not involved. Instead a system of deductions was authorized for restricted retirement policies and funds.
3. Life insurance policies were specifically recognized.
4. The bill was passed by the House on March 17, 1959 by a large majority.
5. The Treasury objected because of loss of revenue and because it gave tax relief to a selected group.
6. The bill, when considered by the Senate, was amended in its entirety.

The following summarizes briefly the bill reported to the Senate in September:

1. Self-employed persons and their employees were covered. Owner-managers of corporations were also covered. These were defined to be persons who owned more than 10% of the outstanding stock of a corporation and this would affect many existing qualified pension plans.
2. The qualified pension plan was the basic method of implementing the self-employed retirement plan.
3. Restricted retirement policies were not mentioned.
4. Every qualified pension trustee was required to be a bank. Qualified bond purchase plans were to be established. The bill contained special definitions and was very complex because of the combination of self-employed, employees, and corporate stockholders under the 401.4 section of the Internal Revenue Code which was formerly limited to common law employees.

Mr. Rood felt that the following points need attention in this bill:

1. The requirement that a bank be a trustee should be eliminated so far as life insurance contracts are concerned.
2. While the 20% rule which was adopted by the Senate Finance Committee at the last minute is a tremendous improvement, this 20% should be raised to 30%.
3. The limitations for owner employees should provide for a cost to be measured under the 20% rule by an annuity-certain for preferably 10 years instead of a straight life annuity.
4. The type of contract that is permissible under the proposed law should be made clear.
5. The provision that presently qualified corporate plans would be subject to the limiting provision for taxable years after December 31, 1963 will result in a great number of terminations for such plans. There are no rules for such terminations and these rules should be definitely spelled out.
6. The law should be made clear to provide that existing plans can be endorsed for use in the qualified plan. If such a procedure is not provided for existing policies, then a lapse rate of alarming proportions can be expected.
7. The excess contribution rules should be revised and simplified.
 - a) It appears that level payment annuity arrangements would be extremely complex as the law provides for a money purchase basis.

- b) There is considerable question as to what the term "willful" excess contribution means.
 - c) For persons with fluctuating incomes the procedure for handling excess contributions should be revised.
8. A self-employed person without employees should be allowed to make a non-deductible contribution out of "income that has already been taxed," the same as anyone else is allowed to do.
 9. The contribution rules should be simplified or removed where they deal with the ownership of stock attributed to the employee because of shares owned by other members of his family.
 10. The provision that no benefits may be paid prior to age 59½ apparently conflicts with statutory cash surrender policy requirements to the extent that insurance coverage is allowable in qualified plans.

It is almost impossible to predict what will be the disposition of the owner-manager feature of the Treasury proposal. To secure passage of any form of bill, it is generally believed that it would be preferable to consider the corporate features separately from the self-employed retirement bill.

MR. JOSEPH B. CRIMMINS of Metropolitan reported that when it appeared likely that the original Simpson-Keogh Bill would be enacted, they had developed tentative plans for issuing policies designed to implement retirement programs for the self-employed. When the Treasury-sponsored amendments were added to the bill, this upset these plans completely.

Under the Senate bill, plans for the self-employed would be brought within the framework of existing legislation covering qualified plans for employees of corporate employers and at the same time new restrictions would be introduced on plans for employee groups. This would seem to hinder establishment of plans for the self-employed and also introduce new problems adversely affecting many existing plans.

1. Under the Senate bill a self-employed person would have to set up a formal plan, including either a trust or a group contract, defining benefits to be provided for present and future employees as well as for himself, even though there may not, at the present time or ever in the future, be any such employees.
2. The setting up of a retirement program for a self-employed person of modest means would be discouraged because of the additional expense involved in establishing a trust or a group contract and in providing for retirement benefits for any employees he may have.
3. The limitations and complexities of the bill would make it almost impossible for a self-employed person to estimate the actual benefits that may be expected after retirement.

4. The limitations on contributions and requirements for return of contributions in excess of deductible limits make it practically impossible for a self-employed person to utilize level premium insurance policies or annuity contracts as a funding medium. It would, in effect, encourage cancellation of any such existing contract.
5. The bill would impose new restrictions on many existing retirement plans that cover owner-employees.
6. The requirements for vesting and early eligibility would make existing plans more costly and, instead of bringing more coverage to more employees, could have the opposite effect by encouraging the lay-off of short service employees.
7. The bill apparently would limit the use of joint and survivorship options so that survivorship protection could be provided only for the spouse of covered employees.
8. It would make the federal government a competitor of insurance companies and savings institutions for retirement plans by the utilization of special type government bonds.

Mr. Crimmins thought that the original H.R. 10 was fundamentally sound and that it should be possible to work out some of the revisions sought by the Treasury within the framework of that Bill without adding new restrictions to existing legislation covering qualified plans or groups of employees.

MR. ALBERT PIKE, JR. of the L.I.A.A. reported on the prognosis for the ultimate passage of a bill. Regardless of the industry's feelings it must recognize that the Treasury Department made a real impression in the Senate with its arguments on the bill. Ultimate passage of the bill seemed to depend on whether the tie-in of revision of existing pension plan rules for employees with the proposed method of funding of retirement benefits for self-employed remains intact. Because of this, several organizations, including the N.A.L.U., have lost enthusiasm for the bill. Any bill that is ultimately passed will probably retain the feature that the self-employed person must include his employees in any retirement program. This will make any such retirement plan quite complicated and therefore more difficult for the ordinary agent to sell.

MR. JOHN R. TAYLOR of the Bankers Life Company pointed out that neither the Republican nor the Democratic national platforms made mention of retirement plans for the self-employed. The outlook for early passage of legislation affecting such retirement plans would not seem to be any brighter than it has been for several years for the following reasons:

1. The desire of many to thoroughly study the tax advantages under corporate retirement plans.
2. The desire of many to thoroughly study the entire revenue structure.
3. The possibility of increased expenditures under either a Democratic or Re-

publican administration could strengthen resistance to the lowering of revenues by passage of self-employed retirement legislation.

Representative Keogh is expected to introduce a bill substantially similar to H.R. 10 in the next Congress but passage is quite doubtful. It would appear that a study of the whole problem of self-employed retirement plans and revision of existing pension plan rules is necessary to avoid a patchwork bill. If and when legislation finally develops, Mr. Taylor felt that new plans will quite likely be brought out which may implement the legislation.

MR. THOMAS E. GILL of the London Life gave a brief report of Canadian experience. Although fairly substantial, sales are still relatively limited when compared with the number which had been expected. Legislation of this nature does create a demand by other financial institutions for immediate life annuities at retirement.