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Subject: **Automatic IRA Act of 2010 Introduced in the House and Senate**

Major References: [H.R. 6099](#) and [S. 3760](#)

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THE CONCLUSION OF THIS WASHINGTON REPORT.**

Congressman Richard Neal (D-MA) and Senator Jeff Bingaman (D-NM) introduced similar bills in the House (H.R. 6099) and Senate (S. 3760) which would create automatic IRA arrangements (the "Automatic IRA Act of 2010"). Under both versions, employers with ten or more employees who do not sponsor qualified retirement plans will be required generally to deduct 3% of an employee's compensation and pay such amounts as contributions to an IRA or similar vehicle on behalf of its employees.

An employee who does not wish to be subject to an automatic IRA arrangement can opt out or, alternatively, make an election to increase or decrease the contribution amount. The payroll reduction contributions will be treated as ordinary traditional or Roth IRA contributions and, as such, will be subject to the limitations on such accounts. Generally, an employee's contributions would be deposited into his or her own automatic IRA, managed by any of the same banks, mutual funds, insurance carriers and other institutions that currently provide IRAs. The bills have been referred to the Senate Finance Committee or the House Ways and Means Committee, as appropriate, but no further Congressional action has yet been taken.

The rules, effective in 2012, would require an employer with at least ten employees in the previous calendar year to implement a program to make payroll reduction contributions to an automatic IRA arrangement if the employer does not maintain a qualified plan. The Senate's version of the bill, however, contains a transition period for employers that would be covered by the rules. Initially only employers with

100 or more employees in the prior year (2011) would have to begin making contributions to an automatic IRA arrangement. In 2013, employers with 50 or more employees in the prior year (2012) would be subject to the rules; in 2014, employers with 25 or more employees in the prior year (2013) would be subject to the rules. The transition period ends in 2015, and all employers with at least ten employees in the prior year will have to implement automatic IRA arrangements. Employers in existence less than two years, along with churches and governmental employers, are exempt from these rules.

A covered employer must offer its employees, who are age 18 or older and who have at least three months of service, the opportunity to make payroll deductions to be used as contributions to an IRA or for the purchase of retirement bonds on behalf of the employee. If an employee does not specifically make such an election, the employer must automatically deduct a default percentage of compensation from the employee's pay and contribute that amount to an IRA or purchase retirement bonds on behalf of the employee. The proposed legislation sets the default percentage at 3% of compensation, but both bills grant authority to the Department of Treasury to raise or lower the default percentage. Regardless of the applicable default percentage established by the Treasury, employees will be able to increase or decrease their contribution percentage, or can opt-out entirely from the program.

Contributions made to traditional and Roth IRAs under an automatic IRA arrangement will be treated as though such contributions were made directly by the employee to the IRAs. As a result, contributions made to a traditional or Roth IRA under an automatic IRA arrangement continue to be subject to the IRA contribution limitations, holding periods and distribution limitations. Retirement bonds are bonds that will be established by the Treasury to provide new savers a convenient, low-cost investment option suitable for the initial accumulation of small automatic IRA contributions. Two types of bonds will be available, a Roth bond and a traditional bond, and the bonds would be treated similarly to IRAs. Thus, all rules regarding contribution limits, holding periods and distributions applicable to traditional and Roth IRAs would apply to traditional and Roth retirement bonds. The employer designates the method for investment unless it opts to permit employees to designate the investment method and/or the investment option.

Both bills favor principal preservation funds and life-cycle/target date funds as investment options within these arrangements. However, the House version does not specifically identify the investment options that must be made available when the employee designates the IRA to which contributions should be sent. In contrast, the Senate version requires that all automatic IRAs (regardless of whether the employer or employee designates the provider) offer a principal preservation fund, a life-cycle or other blended investment option, and an alternative option that includes a somewhat higher concentration of equities than the life-cycle or blended option. The House bill permits employers to use a principal preservation fund, a life-cycle/target date/lifecycle option or a balance option as the default investment fund, while the Senate version requires the default investment for contributions be a principal preservation fund until the participant's balance reaches \$5,000, after which the default investment for future contribution will be a life-cycle or balanced fund.

Employers will not be subject to ERISA under the Senate version of the bill if they use a provider that is on the list of approved providers or if they use contributions to purchase retirement bonds. The House version extends the ERISA exemption to include programs under which the participants select IRA providers.

In order to assist smaller employers with startup costs, the bills provide for a tax credit of up to \$250 per year for employers with 100 or less employees for the first two years of the automatic IRA enrollment arrangement.

In order to prevent the migration of employers from qualified plans to automatic IRA arrangements, certain provisions of the bills have been included to promote qualified plans over automatic IRA

arrangements. For example, the tax credit for a small employer adopting a new qualified plan would be increased to the lesser of (i) 50% of the employer's startup costs, or (ii) \$1,000 (up from \$500). Additionally, to address the obstacles presented to small employers wanting to pool together to establish multiple employer plans, the bill directs the Treasury and Labor Departments to issue administrative guidance for multiple employer plans (particularly to reduce disincentives to pooling), along with model language for multiple employer plan documents. Furthermore, the summaries of the bills note that no matching contributions may be made to automatic IRA arrangements, and that the contribution limits for IRAs are significantly lower than the limits for qualified plans

The proposed legislation also mandates that the Treasury and Labor Departments study and report to Congress on potential lifetime income options for automatic IRAs, as well as possible procedures by which amounts saved by employees in retirement bonds could be automatically transferred into diversified investments provided by the private sector.

Any AALU member who wishes to obtain a copy of H.R. 6099 and S. 3760 may do so through the following means: (1) use hyperlink above next to "Major References," (2) log onto the AALU website at www.aalu.org and enter the *Member Portal* with your last name and birth date and select *Current Washington Report* for linkage to source material or (3) email Anthony Raglani at raglani@aalu.org and include a reference to this *Washington Report*.

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