TESTIMONY BEFORE THE ERISA ADVISORY COUNCIL WORKING GROUP ON PHASED RETIREMENT

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July 17, 2008

The Profit Sharing/401k Council of America (PSCA) is a non-profit national association of employers who sponsor defined contribution retirement plans for their workers. For over sixty years, PSCA has identified and shared best practices with its members, represented their interests in Washington, and provided analysis and reportage on the latest regulatory changes. PSCA members range in size from very small independent businesses to firms with hundreds of thousands of employees. Our members believe that profit sharing, 401(k), and related savings and incentive programs strengthen the free-enterprise system, empower and motivate the workforce, improve domestic and international competitiveness, and provide a vital source of retirement income.

The question is not should phased retirement be an option for American workers but rather how do we adjust to the current transition from traditional retirement, where workers abruptly and permanently leave the workforce, to retirement as a process where workers gradually reduce their engagement in the workplace over an extended period.

Accompanying this change in retirement has been the growth in the number of employer-sponsored defined contribution plan participants. According to Department of Labor Form 5500 data covering private sector plans, there are over 5½ times as many active participants in defined contribution plan in 2005 as their were in 1975. During this period the number of active participants in defined benefit plans declined by a fourth. In 2005 there were 20,310,000 active participants in defined benefit plans and 62,355,000 in defined contribution plans. Most private companies with more than a hundred employees, including those with a defined benefit plan, now offer a defined contribution plan. This is fortunate, as defined contribution plans can be designed to accommodate and even facilitate the phased retirement process.

A defined contribution plan can be designed to permit workers over the age of 59½ to continue working part time as long as they want while taking installment payments on which they pay only regular income tax. They can also continue to make tax advantaged contributions to the plan and receive company contributions. Potentially, this is already possible as nearly all defined contribution plan sponsors permit participants over the age of 59½ to take in-service distributions and many permit part-time employees to participate in their plans. According to PSCA's "50th Annual Survey of Profit Sharing and 401(k) Plans" reporting 2006 plan practice, 94% of employers permit their defined contribution plan participants who have attained the age of 59 ½ to withdraw assets from their defined contribution plan and continue working.

PSCA surveys are tracking a gradual but consistently increasing percentage of plans that permit participation by part-time workers. 44.2% of defined contribution plans permitted part-time workers to participate in 1997. 67.7% did so in 2006. Also, every plan about which I know permits participants to continue to accumulate assets in their accounts if they continue working past the age of 65. In fact, one major retail employer has thousands of employees over the age of 65 who participate in their defined contribution plan. Defined contribution plans would only have to be amended to allow those still in work status to receive periodic payments for this to be effective.

There is one legislative change that would be beneficial for plan sponsors and participants using their defined contribution plans to facilitate phased retirement. Since many considering phased retirement would like to do so as early as age 50 it would be helpful if the law could be changed so that workers under 59½ receiving periodic payments from qualified plans would not be subject to 10% early withdrawal penalty just like those taking such payments from an IRA.

It is true that because most employees today have not had the opportunity to accumulate assets in defined contribution plans over their working careers that many of those currently over 50 currently have insufficient accumulations in their employer plan to support such a program. However, many will in the future, especially if they bring into their current plan accumulations from the plans of previous employers.

I do not attribute the growth in defined contribution plan participation, nor the increasing availability of in-service withdrawals at age 50 9 1/2 and the growing number of plans that permit part-time workers to participate with the need to accommodate phased retirement. However, it is clear that these developments set in place the tools to facilitate phased retirement for companies that wish to do so.

I appreciate the opportunity the Council has given me to comment on this topic.

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