

**Summary of the Automatic IRA Act of 2010**  
**Introduced by Rep. Richard Neal**  
**August 10, 2010**

Under the Automatic IRA Act of 2010, employees of firms with 10+ employees that do not sponsor a retirement plan would be automatically enrolled in IRAs at their workplace. Contributions would be purely voluntary; employees would be free to opt out at any time.

**A. Policy challenge.**

- Coverage gap. About half of American workers have no employer-provided retirement plan or other opportunity to save for retirement through workplace contributions. While these employees have the opportunity to contribute outside the workplace to IRA accounts, the IRA participation rate is very low – each year, less than one in ten employees contribute.
- Automatic IRA's reach. The Automatic IRA Act offers a common-sense solution to expand dramatically retirement savings in the United States. Tens of millions of workers will be eligible to save for retirement through a payroll deduction. Auto IRAs have been projected to result in new contributions to IRAs of roughly \$15 billion annually.
- Evidence from Automatic 401(k)s. Automatic enrollment of employees in 401(k) plans (giving employees the opportunity to affirmatively opt-out from enrollment or change default contribution levels) has been shown to dramatically increase participation in those plans. With automatic enrollment, 401(k) participation rates have tended to reach as high as 9 in 10 eligible employees.
- Employer friendly. The Automatic IRA proposal is designed to minimize employers' administrative functions and will involve little (if any) out-of-pocket employer cost. It is paired with a tax credit for employers that should cover any expenses of establishing Automatic IRA accounts.

**B. Covered employers and employees.**

- Size. The provision will apply only to firms with 10 or more employees (counting employees who earned more than \$5,000 in the prior year).
- Employers with qualified retirement plans generally exempted. An employer that already maintains a qualified retirement plan is generally not required to offer an Auto IRA. However, if such an employer generally does not cover employees in a division, subsidiary or other major business unit, the employer would have to provide an Auto IRA to those employees.
- Other exemptions. The provision will not apply to employers that have not been in existence for two full years. Nor will it apply to governmental or church employers.
- Tax credit. To offset administrative costs, employers will receive up to a \$250 tax credit for each of the first two years of Auto IRA operation.
- Covered employees. Employees who have been employed for at least 3 months and employees who have attained age 18 as of the beginning of the year are automatically enrolled in an Auto IRA.

- Penalty for employer failure to offer Auto IRA. An employer that fails to offer an Auto IRA for its employees is subject to an excise tax of \$100 for each employee who was supposed to be covered. Employers who make an innocent error will have the opportunity to self-correct to avoid penalties.

### **C. Contributions.**

- Amount. Employers will contribute a default percentage of an employee's paycheck into the employee's Auto IRA account. The bill sets the default at 3% (or such other percentage prescribed in regulations). Employees can raise or lower their contribution percentage, or can opt-out entirely from the program.
- Savers' credit. Contributions to Auto IRA accounts could qualify for the Savers' tax credit.
- Choice of IRA type. Employees will have the choice of contributing to either a traditional IRA or a Roth IRA. If no choice is made, automatic IRA accounts will be established, by default, as traditional IRA accounts.

### **D. Investment trustees.**

- Employer selection. An employer can select an IRA provider to which all Auto IRA contributions from their employees will be sent. A central online website developed by Treasury will assist employers in finding appropriate Auto IRA providers.
- Optional Employee choice. The employer may also allow each individual employee to send contributions to an Auto IRA provider selected by the employee.
- Default assignment. An employer may also send contributions for the purchase of a retirement bond (or R-bond) to be established by the Treasury Department. These contributions may be forwarded with payroll tax deposits under procedures established by the Treasury Secretary to ensure no undue burden on employers.

### **E. Investment options.**

- Uniformity. When the Auto IRA provider is selected by the employer, Auto IRAs will offer one of three standardized investment options: a Principal Preservation Fund, a Target Date/Lifecycle Option, or a Balanced Option, the latter two being defined by the Department of Labor previously as qualified default options.
- Portability and Fees. All accounts will be designed to be portable – without regard to employment status – and can be rolled into (and out of) other IRA and qualified plan accounts. A provider that chooses to offer Auto IRAs will not be permitted to assess unreasonable additional fees based solely on low account balances.

### **F. Fiduciary issues.**

- ERISA Exemption. Employers will have no ERISA fiduciary liability for worker investment decisions.
- Timely remittance. The employer must transmit employee contributions by the end of the month following the month in which the cash would have been paid had it not been contributed to the Automatic IRA. An excise tax will apply if the employer fails to remit on time.
- No self-dealing. Employers will be subject to self-dealing prohibitions.
- Disclosure. An employer's sole disclosure responsibility will be to provide the employee with a standardized form explaining the program and investment decisions.

### **G. Promoting qualified plans.**

- Start up credit. Current law offers a small business that adopts a new qualified plan a tax credit, which can apply for up to three years, equal to the lesser of (1) 50% of the employer's start-up costs, or (2) \$500. The bill increases the \$500 amount to \$1,000.
- Multiple employer plans. To address the low incidence of qualified plans among small businesses, Congress has authorized employers to band together and offer "multiple employer plans." But the risk that a noncompliant employer within the plan will taint the entire plan has stymied the expansion of such plans. The bill directs Treasury and DOL to issue administrative guidance for multiple employer plans (particularly to reduce disincentives to pooling) and model plan language.
- Advantages for qualified plans. For several reasons, extensive use of Auto IRAs can be expected to lead to expanded marketing and adoption of 401(k), SIMPLE, and other tax-favored employer plans.
- No employer match. Unlike qualified plans, Auto IRAs do not permit employer contributions, matching or otherwise.
- Lower maximum contribution amounts. The maximum permitted annual contribution to IRAs (currently \$5,000 with an additional \$1,000 for those aged 50 or older) exceeds employees' average 401(k) contribution but is not enough to satisfy the appetite for tax-favored saving of many business owners or decision makers. They will still have an incentive to adopt a SIMPLE plan, which allows tax-favored employee contributions of up to \$11,500, or a 401(k), with a limit of \$16,500. Together with employer contributions, which are allowed in the 401(k) and required in the SIMPLE, total contributions to a 401(k) can reach \$49,000 (increased for employees 50 or older).
- Lower employer start-up credit. The Auto IRA tax credit (\$250/year for two years) will be significantly smaller than the tax credit small employers receive when adopting new retirement plans (\$1000/year for three years). Any employer that drops or freezes a 401(k) or other qualified plan within a 2-year look-back period will be ineligible for the Auto IRA start-up tax credit.

### **H. Other issues.**

- Study on consolidating IRA accounts. The bill directs Treasury and DOL to conduct a study of

small accounts to receive periodic notices informing them about the location of these accounts and how they might be consolidated. The study will also consider using investment arrangements associated with Auto IRAs to assist in addressing the problem of abandoned accounts.

- Additional studies. The bill mandates that Treasury/DOL study and report to Congress on spousal consent and potential lifetime income options for Auto 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.