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WORKING FOR AMERICA'S RETIREMENT

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Comments Presented to the Committee on Small Business, Subcommittee on Finance and Tax, United States House of Representatives

Hearing on Pension Parity: Addressing the Inequities between Retirement Plan Options for Small and Large Businesses

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The American Society of Pension Professionals & Actuaries (ASPPA) appreciates this opportunity to testify before the House Small Business Committee on the issue of pension parity in the workplace. Ensuring that most employees have a vehicle available at the workplace to provide retirement savings is an important goal, and ASPPA supports those legislative proposals that promote such a goal without unduly burdening small employers and without discouraging formation and continued maintenance by employers of qualified retirement plans.

I am Sal Tripodi, the current President of ASPPA and founder of TRI Pension Services, a nationally-based employee benefits consulting practice that provides technical training in ERISA-related areas. Through my practice, I provide seminars around the country to groups involved in retirement plan services. I also author a five-volume reference book, aimed primarily at retirement plan service providers, consultants and advisors, regarding the legal and administrative requirements for retirement plans. In addition, I serve as an Adjunct Professor at the University of Denver Graduate Tax Program.

ASPPA is a national organization of more than 6,000 retirement plan professionals who provide consulting and administrative services for qualified retirement plans covering millions of American workers. ASPPA members are retirement professionals of all disciplines, including consultants, administrators, actuaries, accountants and attorneys. ASPPA's large and broad-based membership gives ASPPA unusual insight into current practical problems with ERISA and qualified retirement plans, with a particular focus on the issues faced by small to medium-sized employers. ASPPA's membership is diverse but united by a common dedication to the private retirement plan system.

Need for Expanded Coverage of Employees Working for Small Businesses

It is well known that small employers, particularly those with fewer than 25 employees, lag far behind larger firms in sponsoring retirement plans, leaving an unacceptably large percentage of workers without retirement plan coverage. Although tax incentives have helped increase the percentage of small businesses maintaining retirement plans, they haven't resulted in the levels of coverage that would be considered desirable. As of 2006, less than 27% of full-time workers in businesses with fewer than 25 employees were employed at firms that sponsored a retirement plan. Compare this to firms with 100 or more workers, where over 70% of such employers sponsor retirement plans. Are we capable of turning this around? ASPPA believes that we can, and there are some significant steps that can go a long way toward addressing the issue of inadequate coverage.

There is no question that the most effective way to get Americans to save for retirement is through workplace retirement plans. We would like to focus on two important proposals that can help us move toward the goal of better access to retirement plan savings: requiring payroll-deduction IRA savings opportunities at the workplace and an expanded SAVERs credit to target lower income workers.

Proposal to Expand Retirement Plan Coverage

One effective way to increase coverage of small business workers would be to require employers who do not maintain a retirement plan to at least provide a mechanism at the workplace by which its employees have an opportunity to save for retirement through payroll-deduction IRAs. Although an employee can simply establish an IRA on his or her own, statistics show that where an employee has a mechanism for making retirement contributions at the workplace, the percentage of employees who actually save for retirement dramatically increases. Employers who currently do not offer a qualified retirement plan would be required to offer workers the opportunity to contribute out of their paychecks for retirement savings through a payroll-deduction IRA. Employees who would have to be offered this arrangement would be those who have reached a specified age, have worked a minimum period of time with the employer, and are expected to earn a certain minimum amount of compensation in the current year. A tax credit would be provided to very small employers to help defray the cost of the program.

It is important, however, that this requirement be focused on employee-initiated savings, and not on employer contributions. Of course, employers should be encouraged to contribute to these plans, but it also is important to retain flexibility with respect to plan design, particularly in the small business context.

ASPPA's support for proposals of this type turns on preserving the incentive for employers to sponsor a qualified retirement plan in lieu of this required payroll-deduction IRA. To this end, we believe that any requirement to offer a payroll-deduction IRA program should be conditioned on the employer's not maintaining a qualified retirement plan with broad-based coverage. We believe it is critically important that employers, particularly small businesses, should not have to maintain two separate retirement savings programs. We believe it is vital to continue to encourage employers to offer qualified retirement plans for their workers, which will provide more substantial retirement benefits for workers than payroll-deduction IRAs or similar savings programs because of the operation of the nondiscrimination rules.

Forcing small businesses to maintain two separate programs would discourage such businesses from forming or “graduating” to a qualified plan. In particular, qualified plans can provide a means of accumulating retirement savings through employer contributions that are not contingent on whether an employee can afford to make meaningful contributions through payroll deduction. Encouraging such programs is critical to the realization of adequate retirement savings especially for those lower income hard-working Americans.

Some features that we believe would be a critical component of any required payroll-deduction IRA savings proposal include the following.

(1) *Rewarding companies that maintain broad-based qualified retirement plans.* An exemption for employers maintaining qualified plans in which the eligibility requirements do not exceed the statutory standards regarding minimum age (currently 21) and minimum service (currently 1 year of service, with limited exceptions). In addition, statutory standards allow the exclusion of employees covered by a collective bargaining agreement, where retirement benefits have been the subject of good faith collective bargaining. Preserving this exclusion in identifying which employers have to offer a payroll-deduction IRA savings program is critical to preserve the flexibility union workers and their employers have in fashioning compensation packages through the collective bargaining process. For purposes of our testimony, we’ll refer to plans that are limited to these statutory exclusions as Broad-Based Retirement Plans.

We recognize that complex coverage testing rules in the tax code would permit an employer to carve out a significant percentage of its workforce by job classification (other than the union exclusion) and still meet tax qualification standards, even though the plan does not cover the employees who would be eligible for a Broad-Based Retirement Plan. We do not believe that such programs would need to have an exemption from a payroll-deduction IRA requirement. Frankly, many small businesses do not use these more expansive job classification exclusions anyway.

(2) *Maintain flexibility in retirement plan delivery.* An employer should be able to satisfy the exemption described in our first point by treating two or more plans as a single plan. This preserves important flexibility for an employer to offer various qualified plans for components of its workforce without having the added requirement of a separate IRA-savings vehicle, provided that the plans examined as a whole would meet the Broad-Based Retirement Plan coverage standard.

(3) *Support the value of employer-funded plans outside of the 401(k) arena.* The exemption from a payroll-deduction IRA savings requirement should not be limited to employers that maintain qualified retirement plans that have elective savings features built into them, such as a section 401(k) plan or a section 403(b) plan. An employer should be able to maintain a Broad-Based Retirement Plan that is funded *solely* by the employer, such as a defined benefit plan or a profit sharing plan, without having to incur the additional administrative expense of a separate payroll-deduction savings program. Defined benefit plans are an important component of the private retirement savings landscape, and represent the sole “safety net” type of qualified plan. These plans have faced challenges with various other legislative and regulatory developments. Employers willing to fund these programs, which in particular have a better chance of providing adequate retirement income to lower-paid workers than an employee-provided payroll savings program, should not be faced with additional impediments. Profit sharing plans also can provide an important means of retirement savings

that does not depend on an employee's ability to make payroll deduction contributions. In this regard, ASPPA understands possible concerns that an employer might not contribute to a profit sharing plan for several years due to the discretionary contribution feature in such arrangements. Thus, the exemption from the payroll deduction IRA requirement for an employer maintaining a profit sharing plan should include a limitation where the exemption is available only if contributions have been made within a certain period of time or if the plan also contains a section 401(k) arrangement.

Carving out these reasonable exemptions from a payroll-deduction savings opportunity requirement would ease the administrative burden for most employers that already maintain, or may later adopt, qualified retirement plans, which facilitates compliance and reduces the chances of coverage errors. A more straightforward approach to the implementation and administration of any statutorily-required program also promotes better communication to employees, and a better chance of employees understanding the retirement savings opportunities that are available at their place of work.

Expanded SAVERs Credit

Another important initiative is to have a major expansion of the current law SAVERs credit. The SAVERs credit needs to be retooled to expand the number of households that would be eligible for the SAVERs credit, and to have more gradual phase-outs of the credit over a wider income bracket of eligibility. Furthermore, the credit should be transformed into a government match by requiring that the SAVERs credit be deposited directly into the taxpayer's IRA or the taxpayer's account in an employer-sponsored retirement savings plan if the employer would be so willing. In effect, small businesses that would be required to offer a payroll-deduction IRA savings opportunity at the workplace also would be given a government-subsidized matching program for lower income workers. Employers who already maintain a broad-based qualified retirement plan, or who choose to install such a plan in lieu of a payroll-deduction IRA program, would be able to provide a double match (a government match on top of any employer-provided match) for lower income workers.

ASPPA is very supportive of the expanded SAVERs credit initiatives and believes that they will contribute greatly to a more robust retirement savings landscape for American workers.

Answering the Call for Expanded Coverage

The employer-sponsored retirement plan system is often criticized for its lack of coverage. Depending on what data you look at, somewhere between 40-50 percent of the nation's workforce is not offered a qualified retirement plan by their employer, although as noted earlier, the percentage of coverage is far lower for employees of small businesses. This lack of universal coverage is often cited as a chief reason to propose new and/or expanded individual savings accounts as part of various tax reform proposals (e.g., significantly higher IRA limits or the offering of high dollar limit tax-favored savings accounts). ASPPA believes that a payroll-deduction IRA savings opportunity requirement, as discussed above, presents a far better alternative for American workers and small businesses, than expanded individual savings accounts. With payroll-deduction IRA programs required to be available at the workplace in the absence of a broad-based retirement plan, virtually all American workers would have access to an employer-based retirement savings program. This alleviates the need for expanded individual accounts that would undermine existing qualified retirement savings programs. Additionally, for lower income workers, those most at-risk respecting retirement savings, the expanded SAVERs credit would offer them an enhanced incentive to save. This greater, targeted incentive will likely produce a much higher level of savings by lower income individuals than savings through expanded individual account proposals. Also, and not insignificantly, a payroll-deduction IRA requirement would serve to institutionalize the employer-based model for delivering retirement benefits which statistically is the most effective way to enhance the level of retirement savings for American workers.

Preserving the Social Security Safety Net

In the midst of these legislative proposals to stimulate retirement savings at the workplace, the debate over the fate of our Social Security system continues. Initiatives like a payroll-deduction IRA requirements along the lines of what we describe above, and the expanded SAVERs credit proposals, will alleviate the need to mandate employer "add on" contributions to Social Security, which could have a detrimental impact on the financial resources available to employers to fund qualified retirement plans. Again, the most likely group affected by a diminishing of employer-funded retirement plans are the lower-income workers, who simply cannot afford to make the payroll deduction contributions necessary to build an adequate retirement savings. The initiatives discussed above will promote employer-funded programs, and enhance matching contributions to boost the retirement savings impact of the payroll deduction contributions that are within the financial wherewithal of a significant percentage of the working population.

Expanded Plan Sponsorship by Small Businesses

An added bonus of payroll-deduction IRA initiatives is that they will require tens of thousands of businesses, most of them smaller businesses, to have to consider offering a retirement savings program for workers, either through the payroll-deduction IRA savings opportunity or through the establishment of a broad-based retirement plan. Thus, it jump starts the conversation about whether to cover employees in a qualified retirement plan. Getting the employer to focus on the issue and have that discussion is the critical first step toward seeing a greater penetration of qualified retirement plans in the small business community. If all of these businesses are faced with having to provide the benefit, it is possible that many of them could be persuaded to take the further step of offering a qualified plan, such as a 401(k) plan or a defined benefit plan, where the business owners can save even more and, through nondiscrimination standards, the rank-and-file employees would enjoy higher levels of retirement savings as well. Further, even if businesses do not initially step up to a qualified plan, the fact they would then be familiar with offering a retirement savings program through the payroll-deduction IRA program, will make it more likely that they would be willing to move up to a qualified retirement plan at some point in the future. This would be a significant win for the state of retirement savings in this country.