RETIRE Act Promotes Electronic Delivery of Retirement Plan Information

Tax reform legislation grabbed the headlines at the close of 2017. But another year-end bill could significantly change how retirement plans deliver participant and beneficiary communications. The *Receiving Electronic Statements To Improve Retiree Earnings (RETIRE) Act* would allow plan administrators to use electronic delivery as the default delivery method for virtually any required plan document. Participants and beneficiaries could still opt to receive paper copies of this information.

The bipartisan legislation (H.R. 4610) is sponsored by Representative (Rep.) Phil Roe (R-TN) and Rep. Jared Polis (D-CO), along with 26 Republican and Democratic cosponsors. It was previously introduced in 2015. Electronic-delivery proponents point out that consumers are increasingly handling their financial affairs online: they are more savvy with new technology, and many actually prefer to communicate and transact electronically.

Proponents also expect that electronic delivery will cost far less than printing and mailing paper notices, and these savings could be passed on to participants and beneficiaries. Electronic delivery could also reduce paper waste, create more efficient data storage, and provide greater security.

**System Requirements for Using E-Delivery**

To use electronic delivery as the default method for providing plan documentation, plan administrators must adhere to these requirements in the RETIRE Act.

1) The system for providing documents must be “designed to result in effective access to the document by the participant, beneficiary, or other specified individual through electronic means.” This can be done through
   - direct delivery of material to the recipient’s electronic address;
   - posting material to a website or other repository to which the recipient has access, if the plan administrator also provides a proper notice of the posting; or
   - “other electronic means reasonably calculated to ensure actual receipt” by the intended recipient.

2) The system must permit the recipient to
   - select from the various electronic methods that the employer makes available,
   - modify that selection at any time, and
   - elect to begin receiving paper versions at no additional direct cost.

3) The system must protect the confidentiality of personal information relating to the recipient’s accounts.

**Additional Requirements**

While the RETIRE Act streamlines administration through electronic delivery, it also requires safeguards to protect the recipient.

1) Plan administrators must provide a paper notice each year that describes the recipient’s
current method of receiving plan notifications, and
right to change the method at any time (or to receive free paper versions) and how to make the change.

2) The electronically delivered documents must
be provided in a way that reflects the original document (e.g., readability and content), and
inform the recipient of the document’s significance.

Effective Date and Plans Types Affected
The opportunity for retirement plans to deliver information electronically under the RETIRE Act method would become effective for plan years starting in 2019 and would apply to retirement plans governed by Title I of ERISA—generally described as “qualified plans”—and to 457 plans.

Conclusion
Plan administrators can currently deliver required plan notices and other information electronically. But the existing methods leave much to be desired: the detailed requirements can place big barriers on the path toward more efficient delivery. So the RETIRE Act would be a step in the right direction, balancing the importance of plan participants and beneficiaries getting important information with the need for employers to save time and money.