OREGON RETIREMENT SAVINGS BOARD
PLAN DESIGN WORK GROUP

Notes of discussion from 4/12/2016 meeting

(1) "Employer" definition

The bill establishing the Oregon Retirement Savings Plan mandates participation by employers but does not define that term. There was agreement that it would be helpful to use an existing definition. The Unemployment Insurance definition is narrower, the tax withholding definition is broader.

Some group members noted that seasonal and temporary workers should not be excluded; even a few dollars saved may be worthwhile for them. Many employees work for small employers and may work briefly for multiple employers. However, very small accounts can have high administrative expenses which would have to be borne by other plan participants. We want broad coverage, but the definition should exclude occasional/casual labor. For an employer with a very small payroll (e.g. a casual laborer for a few weeks), participation could be onerous. One group member commented that the definition should not be forward-looking (i.e. should not be based on what happens in the future) – the employer should know up front whether participation is required. In addition, the employer should not be required to participate if the employer has no eligible employees.

The UI definition may be the most appropriate. Group members were asked to look more closely at this definition and send comments regarding whether it strikes the right balance.

(2) Employer phase-in

The plan will begin accepting funds on July 1, 2017, but it may make sense to phase in participation over a period of time. The UK has a 5-year phase-in. Group members suggested an 18-month phase-in for our plan.

One possibility would be to start with voluntary participants. However, it is unknown whether DOL rules will permit this. Another possibility would be to start with large employers – but not those with qualified plans, which could present more complexity. Group members also commented that the plan may be more complex to implement with respect to very small employers. A third option would be to start with those using an automated payroll system or service. Those with 50+ employees will almost always have separate HR functions and will use an automated payroll system or service. One group member commented that it is rare to see an employer with 25+ employees doing payroll by hand. A possible phase-in approach could be to start with large employers (25+ or 50+) in July 2017; add mid-sized employers (10+) that use payroll system or service in January 2018; add small employers and those doing manual payroll in July 2018. How to add new employers also needs to be addressed.

- There are approximately 130,000-140,000 employers in Oregon
- About 77% of employers have 10 or fewer employees (employing 308,000 employees)
- The retirement planning task force was told about 30,000 employers do payroll manually

(3) Qualified Plan exclusion

The group discussed the meaning of the exemption for employers offering a "qualified plan." There was general agreement that a "qualified plan" is one meeting the IRS definition. One workgroup member anticipated that because ERISA allows sponsors of qualified plans to exclude certain workers from their plans, requiring those employers to enroll such excluded workers in the Oregon Retirement Saving Plan would likely generate legal challenges. Often a qualified plan will exclude part-time employees, as well as employees during their first year of employment. In addition, a 457 plan may have limited availability. Several group members expressed frustration with the federal rules that make it difficult for an employer to expand qualified plans to include broader groups of employees.

The group discussed but did not reach any consensus on this issue. Approximately 220,000 Oregon employees work for an employer offering a plan that does not include them. There was disagreement about the extent to which participation in the ORSP would be confusing or burdensome for an employer offering a qualified plan. One member commented that the retirement industry is assuming employers with qualified plans are completely excluded. This issue may need further analysis and clarification. One option might be to plan a later phase-in of this group, to give time for this additional analysis. A meeting participant who been involved with Oregon's Retirement Savings Task Force restated for the group that it was important to consider the objectives of the ORSP as proposed, which were to provide retirement savings coverage for people who are not currently covered, and to allow small employers in, stating 'they want in'.

(4) Eligible employees

There was general agreement that to be eligible, a person must be employed in Oregon – place of employment is the determining factor, not the employee's residence or the employer's HQ. Some group members said there may be regulatory restrictions on auto-enrollment for someone under age 18. The UI definition may include a minimum number of hours worked.

There was agreement that some waiting period is needed after hire, to give time for employee notices and opt-out. In addition, the plan should avoid micro-accounts for persons who work only a few weeks. Many benefits start 60 to 90 days after hire. At least 30 days is needed for notices. However, a long waiting period means new employees would have gotten used to a larger paycheck. Enrollment 30 to 60 days after hire may be appropriate.