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**The Washington Report:
 Retirement Security and
 Individual Responsibility**

Moderator:
 Mindy Harris, Multnomah County, NAGDCA Past
 President and Legislative Committee Chair

Featured Speakers:
 Rod Crane, TIAA-CREF
 Jerry Golden, Nationwide Retirement Solutions
 Susan White, NAGDCA Legislative Counsel



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Washington Report

Susan J. White, Legislative Counsel
 National Association of Government Defined
 Contribution Administrators
 Annual Conference
 Austin, TX
 September 14, 2009



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The 111th Congress

Senate	House
59 D	255 D
40 R	178 R

One vacancy in the Senate
Two vacancies in the House

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Leadership		
	House	Senate
Speaker	Nancy Pelosi (D-CA)	
Majority Leader	Steny Hoyer (D-MD)	Harry Reid (D-NV)
Minority Leader	John Boehner (R-OH)	Mitch McConnell (R-KY)
Whip	James Clyburn (D-SC)	Eric Cantor (R-VA)
Caucus Chair	John Larson (D-CT)	
Conference Chair	Mike Pence (R-IN)	
Current Chairmen		
	Democratic	Republican
Senate Committee on Finance	Max Baucus (D-MT)	Charles Grassley (R-IA)
Senate Committee on Health, Education, Labor & Pensions	Vacant	Michael Enzi (R-WY)
House Committee on Ways & Means	Charles Rangel (D-NY)	Dave Camp (R-MI)
House Committee on Education and Labor	George Miller (D-CA)	Howard McKeon (R-CA)

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111th Congress: Issues/Forecast

- 2011 Federal Budget
- Appropriations Legislation
- H.R. 1 American Recovery and Reinvestment Act
- Health Reform

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Retirement Legislation

- Presidential Proposals
 - Savers Credit
 - Automatic IRA
- Fee Disclosure Legislation
 - Chairman George Miller (D-CA), House Committee on Education and Labor passed H.R. 2989 (401(k)Fair Disclosure and Pension Security Act of 2009)
 - House Committee on Ways & Means
 - Senate
- Financial Literacy

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National Save for Retirement Week

- House Resolution 662
 - Co-Sponsored by Representatives Allyson Schwartz (D-PA) and Sam Johnson (R-TX)
 - Passed on Suspension Calendar on July 31, 2009
- Senate Resolution 234
 - Co-Sponsored by Senators Mike Enzi (R-WY) and Kent Conrad (D-ND)
 - Passed by Unanimous Consent August 3, 2009

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NAGDCA Legislative Priorities

- Roth 457- passed for federal employees as part of H.R. 1256 (Family Smoking Prevention and Tobacco Control Act)
- Maintain Important Distinctions Between Governmental Defined Contribution Plans
- Support Transparent and Balanced Defined Contribution Plans, Fees and Disclosure of Fees
- Ensure Parity

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Legislative Priorities (Cont.)

- Maintain Exemption from Early withdrawal penalty
- Permit Non-Spousal Beneficiaries to Roll Assets to 457 and 403(b) Plans
- Extend the "National Save for Retirement Week" Resolution
- Increase population cap for Low Income Savers Tax Credit
- Maximize Unused Flexible Account Dollars

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Washington Report II

Jerry Golden
Director of Government Relations
Nationwide Insurance and Financial Services

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Congressional Activity

PRIORITIES & TIMING

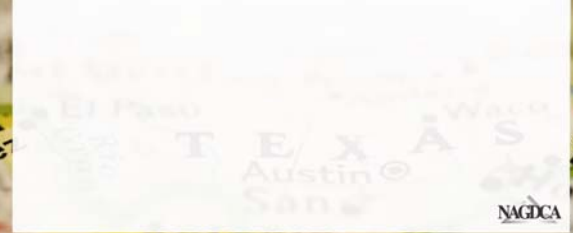
- Education and Labor Committee
- Senate HELP Committee
- House Ways and Means Committee
- Senate Finance Committee

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Congressional Activity

- Auto-Annuitization Proposals
- Investment Advice

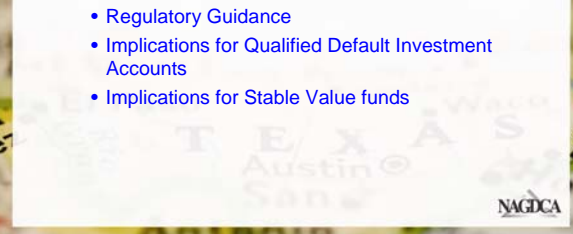


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Congressional Activity

- Life Cycle and Target Date Funds
 - Senate Aging and SEC/DOL hearings
 - Political Prognosis
 - Regulatory Guidance
 - Implications for Qualified Default Investment Accounts
 - Implications for Stable Value funds




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Obama Administration

- Auto-Enrollment
- Save a Portion of Tax Refunds
- Enable Workers to Convert Unused Vacation Time
- Help Workers and Employers Understand their Options for Tax-Favored Retirement Saving



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National Save For Retirement Week

- Annual Actions
 - Planning
 - Marketing Materials
 - Activities
 - Proclamations
- Sources
- Benefits
 - Employees
 - Employers

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Implementing New Legislation

Technical Corrections & Regulatory Guidance

- HEART Act
- WRER Act
- QDIA Regulations
- 403(b) Final Regulations
- IRS Audit Activities

Roderick B. Crane, JD
 Director, Institutional Development & Sales, Public Markets
 TIAA-CREF

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Heroes Earnings Assistance and Relief Tax Act of 2008 (HEART)

- 10% early withdrawal penalty does not apply to withdrawals from retirement plans for individuals called to active military duty – PPA provision made permanent
- Retirement plan accruals on differential wage payments for individuals called to active military duty
- Tax-free distribution of unused benefits in a health flexible spending arrangement to individuals called to active duty
- Eligibility for retirement plan survivor benefits for military duty deaths

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The Worker, Retiree, and Employer Recovery Act of 2008 (H.R. 7327)

- **PPA Technical Corrections**

- Public safety retirees can use up to \$3,000/ year to make tax free medical premium payments directly from their retirement plans even for self-insured health plans
- Allows HRAs funded by a medical trust that is part of a public retirement system to include individuals other than a qualifying spouse or dependent as beneficiaries of employees' HRAs



The Worker, Retiree, and Employer Recovery Act of 2008 (H.R. 7327)

- **Required Minimum Distribution (RMDs)**

- Temporarily suspends minimum distribution requirements applicable to 401(k), 401(a), 457, 403(b) and IRAs, for the 2009 tax year
- New withholding tables may create under withholding issues for some individuals



The Worker, Retiree, and Employer Recovery Act of 2008 (H.R. 7327)

- **Rollovers**

- Requires plans to permit rollovers by non-spousal beneficiaries for plan years beginning after 12-31-2009

- **Rollovers From Roth 401(k) and 403(b) Plans to Roth IRA**

- Rollovers from Roth 401(k) and 403(b) plans to a Roth IRA are not subject to gross income inclusion or adjusted gross income contribution limits



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QDIA Final Regulations

- **Eligible automatic contribution arrangements (EACA)**
 - PPA added IRC 414(w)
 - 401(k), 403(b) or 457(b) plans may allow employees to elect to withdraw EACA contributions no later than 90 days from the date these contributions first start, without incurring the 10% early withdrawal tax

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QDIA – IRS Final Regulations

- **Uniformity Requirement**
 - The EACA default election must be a uniform percentage of compensation
- **Timing of 90-day period**
 - Begins the date the deferral amounts would have been included in gross income
 - Plan may set an earlier deadline, as long as the election period is at least 30 days

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QDIA – IRS Final Regulations

- **Withdrawal Fees and Date of Distribution**
 - The withdrawal distribution may be reduced by any fees that otherwise apply to distributions under the plan
 - The plan cannot charge a higher fee for an EACA withdrawal than it would charge for any other distribution under the plan.
 - Distribution must be processed and distributed the same as any other distribution under the plan.

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QDIA – IRS Final Regulations

- **Forfeiture of Matching Contributions**
 - Matching contributions must be forfeited and adjusted for gains and losses.
 - No match is required if the elective deferrals are withdrawn prior to the date the matching contribution would have been allocated



QDIA – IRS Final Regulations

- **Tax Consequences and Reporting of Withdrawal**
 - Included in the employee's gross income for the taxable year in which the distribution is made
 - Reported on Form 1099-R
 - Not included in elective deferral limits
 - Exempt from early distribution tax under Section 72(t)



QDIA – IRS Final Regulations

- **Required EACA Notice**
 - Must provide a description of the default investment method
 - Must be provided "within a reasonable period before each plan year"
 - At least 30 days, and no more than 90 days, before the beginning of each plan year
 - Special rules for employees who becomes eligible after the 90th day before the beginning of the plan year, and employees for whom the notice cannot be provided before they become eligible
 - The final regulations on EACAs apply to plan years beginning on or after January 1, 2010




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403(b) Final Regulations

- Effective January 1, 2009
- Plan document deadlines delayed
- Information sharing requirements
- Plan fiduciary issues increasing
- Prototype program – IRS Announcement 2009-34
 - Determination letter program coming later

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403(b) Final Regulations

- Information sharing requirements
- Plan fiduciary issues increasing
- EPCRS Program

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IRS Audit Activities For Governmental Plans

- 457(b)
- 403(b)
- Qualified 401(a) and (k)

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IRS Audit Focus

- **Deferral Limit Violations**
 - Poor internal controls
 - Failure to aggregate deferrals made to multiple plans
 - Violations of the 403(b) 15-year catch up rule
- **Universal Availability**
 - Part-Time Employees That Would Qualify to Participate
- **Excess 415 Contributions**
- **Plan Loans**
 - Failure to make required payments
 - Poor documentation
 - Loans from multiple vendors that in the aggregate exceed the IRC 72(p) limits.

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IRS Audit Focus

- **Hardship and Unforeseeable Emergency Distribution Failures**
 - Inadequate documentation
 - Distributions from multiple vendors that in the aggregate exceed the amount needed
- **Ineligible Plan Sponsors**
 - E.g., Charitable hospital with a 403(b) plan being taken over by a local government entity

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Questions?

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