

## **Summary of Changes Proposed by House Reconciliation “Build Back Better” Bill**

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### **Provisions Affecting Only Affecting High-Income Taxpayers With Large Account Balances:**

- 1) Taxpayers fall into this category if they meet two tests – they must have BOTH aggregate vested balances in the combined total of all retirement accounts (including 401(k)s, 403(b)s, etc.) of over \$10,000,000 and have adjusted taxable income of \$400,000 for a single taxpayer, \$425,000 for a head of household taxpayer, or \$450,000 for a married taxpayer filing a joint return (all indexed for inflation).
- 2) No more contributions to a traditional or Roth IRA are permitted (Section 138301).
- 3) Employer-sponsored defined contribution plans (such as 401(k)s, 403(b)s, etc.) would have to report to the IRS and to the plan participant on aggregate account balances in excess of \$2,500,000 (Section 138301).
- 4) All qualified retirement plans and eligible deferred compensation plans are counted as one plan for purposes of determining required minimum distributions (Section 138302).
- 5) If the combined Roth IRAs, traditional IRAs and employer defined contribution plans exceed \$10,000,000 at the end of a taxable year, the required minimum distributions are increased for the following year to 100% of the amount necessary to bring all qualified retirement plans and eligible deferred compensation plans down to \$20,000,000, and 50% of the remaining balance over \$10,000,000 (indexed for inflation). The RMDs must be allocated first to Roth IRAs and then to designated Roth accounts under the 100% distribution rule, but taxpayers may choose how to satisfy the 50% distribution rule once the 100% distribution rule is satisfied (Section 138302).
- 6) These provisions apply to tax years beginning after December 31, 2021.

### **Provisions Affecting High-Income Taxpayers (Without Regard to Balances):**

#### **No more Roth Conversions or Rollovers for Hi-Income Taxpayers**

- 1) If a taxpayer is a High-Income Taxpayer (defined as a taxpayer who has adjusted taxable income of \$400,000 for a single taxpayer, \$425,000 for a head of household taxpayer, or \$450,000 for a married taxpayer filing a joint return (all indexed for inflation)), the taxpayer may only do a qualified rollover if it is made from another Roth IRA or from a designated Roth account (Section 138311).
- 2) If a taxpayer is a High-Income Taxpayer, Roth conversions of both IRAs and employer-sponsored plans are prohibited (Section 138311).

- 3) These provisions apply to distributions, transfers, and contributions made in taxable years beginning after December 31, 2031 (this date may be a typographical error which will be corrected) (Section 138311).

### **Provisions Affecting All Taxpayers Without Regard to Income or Balances:**

#### Prohibition of Investments Requiring Certifications

- 1) A restriction is added to the qualifications for an account to be an IRA by adding an additional paragraph (7) to Section 408(a), which states that no part of the trust funds will be invested in any security if the issuer of such security requires the individual on whose behalf the trust is maintained to make a representation to the issuer that such individual (A) has a specified minimum amount of income or assets (e.g. an accredited investor), (B) has completed a specified minimum level of education, or (C) holds a specific license or credential (Section 138312).
- 2) If, during any taxable year of the individual for whose benefit any individual retirement account is maintained, the investment of any part of the funds of such individual retirement account does not comply with Section 408(a)(7), *such account ceases to be an individual retirement account as of the first day of such taxable year* (Section 138312). In other words, if an IRA holds one of these prohibited investments the entire IRA is disqualified.
- 3) These requirements shall apply to tax years beginning after December 31, 2021. However, if an individual retirement account holds any such prohibited investment as of the date of enactment of the act, the amendments will apply to such prohibited investments for taxable years beginning after December 31, 2023. In other words, an IRA holding a prohibited investment must dispose of or distribute the asset by no later than December 31, 2023 or the IRA will cease to qualify as an IRA (Section 138312).

#### No More “Back Door” Roth Conversions

- 4) To slam the door on “back-door” Roth IRA strategies, the bill prohibits all after-tax contributions in both IRAs and employer-sponsored plans from being converted to Roth accounts, regardless of income level. This section applies to distributions, transfers, and contributions made in taxable years beginning after December 31, 2021 (Section 138311).

#### Extension of Statute of Limitations With Respect to IRA Non-Compliance

- 5) The bill expands the statute of limitations for IRA non-compliance from 3 years to 6 years for substantial errors in *valuation-related reporting* (whether willful or otherwise) and *prohibited transactions* (Section 138313).

#### Prohibition of Investments in Entities in Which the IRA Owner Has a Substantial Interest

- 6) The bill prohibits IRAs from investing in entities not tradable on an established securities market if the entity is owned 10% or more by the IRA owner, either directly or indirectly (down from 50%). Indirect ownership by the IRA owner includes the ownership interests of certain family members of the IRA owner. The bottom line is that if the IRA owner and certain family members of the IRA owner collectively own 10% or more of (1) the

combined voting power of all classes of stock entitle to vote or the total value of shares of all classes of stock of such corporation, 2) the capital interest or profits interest of such partnership or enterprise, or 3) the beneficial interest of such trust or estate, then such investment is prohibited and may not be held by the IRA (Section 138314).

- 7) The bill also prohibits IRAs from holding investments in which the IRA owner is an officer or director (or an individual having powers or responsibilities similar to officers or directors) of such corporation, partnership, or other unincorporated enterprise. In other words, a “checkbook control IRA-owned entity” is prohibited (Section 138314).
- 8) An IRA which holds one of these prohibited investments will *cease to be an IRA as of January 1 of the year in which the IRA acquires the asset*. However, if an IRA holds such an investment on the date of enactment of the Act, the rules will apply to such investments for taxable years beginning after December 31, 2023 (Section 138314). In other words, the IRA may continue to hold such prohibited investments until December 31, 2023, at which point the asset must be disposed of or distributed.

#### Clarification That IRA Owners Are Disqualified Persons For Purposes of The Prohibited Transactions Rules

- 9) The bill clarifies that the IRA owner is a disqualified person for purposes of the prohibited transactions rules by adding such an individual to the definition of a disqualified person in Section 4975(e)(2) of the Internal Revenue Code (Section 138315).