Please note: This is a transcription so there may be slight grammatical errors.

Hello, and welcome to Revamping Retirement, a podcast brought to you by CAPTRUST where we explore the opportunities and challenges facing today's retirement plan sponsors and fiduciaries. Our hosts, Jennifer Doss and Scott Matheson, lead the employer-sponsored retirement plan practice at CAPTRUST, one of the largest registered investment advisors in the US and a thought leader in the retirement plan advisory and consulting space. We hope you enjoy Revamping Retirement.

Jennifer Doss:

Welcome everyone to another episode of Revamping Retirement. I'm Jennifer Doss and I'm joined by my co-host, Scott Matheson. As we round out 2021, which is just really unbelievable for me to fathom, I'm sure it is for all of you, we wanted to start focusing on what's coming next in 2022. For this podcast specifically, what might come out of Washington in 2022, and then what impact that could have on retirement plan sponsors.

Jennifer Doss:

For that, we are very excited to have Jeff Bush with us today. Jeff Bush is a professional speaker and author who's known for his unique ability to decode difficult and confusing tax and fiscal information that is coming out of Washington, which I think is pretty much everything. Jeff is an integral part of The Washington Update with Andy Friedman, an industry thought leader that guides clients through those complex and ever-changing US political and tax environments that we have.

Jennifer Doss:

Jeff does more than 300 presentations yearly in the US. Wow. And abroad to a client base that includes a Who's Who, Fortune 500 firms from Wall Street to Main Street and everywhere in between. Jeff has been featured in InvestmentNews and has also been an analyst on POTUS SiriusXM Radio. Jeff is a 30 plus year veteran of the financial industry. He holds a bachelor of science degree in business administration and management with an emphasis in accounting and philosophy from William Jewell College. So Jeff, thank you so much for joining us today. That's a great bio you have. Really appreciate you being with us.

Jeff Bush:

Well, thank you for having me, Jennifer.

Jennifer Doss:

Absolutely. I know we have a lot to talk about, so I'm going to dive right in. To start out, I know in previous conversations we've had with you, you have a really great quote that I think frames Washington D.C. very well. Do you mind sharing that with the audience?

Jeff Bush:

No. And I know exactly what quote you're talking about. It's that politics is the art of looking for trouble, finding it everywhere, diagnosing it incorrectly, and of course, applying all the wrong remedies. Groucho Marx actually gave us that quote of all people.

Scott Matheson:

Yeah, that sounds like when you said trouble everywhere, Jeff, I thought you were talking about my kids for a second, but so let me continue here because we all knew December it was going to be a crazy month in Congress. Frankly, it always is. Maybe just tell us where are we all from with the mandatory legislation that needs to get done such as debt ceiling and government funding to get us started?

Jeff Bush:

Actually they're doing fairly well. They have law significant deadlines and they were going to be very controversial, but they seem to have worked through them in fairly good order. We know they pass another continuing resolution to fund the government until February 18th, which of course, sets up another debt line in early 2022. But then just last week, they paved a way to increase the debt ceiling with Democrat-only votes, and they're working on the national defense authorization. And I think certainly that's a bipartisan effort. So it should be no issue in getting that done. So I think they're going to check the boxes of the things they have to do here in December.

Scott Matheson:

Yeah, you said paved, which made me think about the infrastructure bill that we've been hearing about. Can you give our audience a quick overview of that and where that stands?

Jeff Bush:

Yes, that's a great segue. I appreciate that. Right. We're talking about the hard infrastructure law. At this point, it was signed into law and Mitch Landrieu was a point the person to implement that hard infrastructure bill and it's $550 billion of additional funding on top of the $450 billion that we're always going to spend on hard infrastructure over the next five years.

Jeff Bush:

And it really does fund roads, bridges, ports, airports, things like that that we normally think of. But we also know there are some other priorities. For example, replacing those lead water supply lines around the country. It's not just Flint, Michigan, broadband access, electric vehicle charging stations, as well as other initiatives. But bottom line, these are shovel ready projects. And I know that's a bad term to use. But keep in mind your governors and mayors have been anticipating this federal money for almost a decade now. So they have a backlog projects that they've been developing and planning for and so forth.

Jeff Bush:

So I think we'll see quite a few orange cones sooner rather than later. From your client's perspective, they may also will be interested in how they're actually is paying for this bipartisan law. And there are some dubious areas of funding, things like collection of unemployment fraud. That was that federal unemployment program that sat on top of the state unemployment program that was paid out through the pandemic. They think they can collect back about $50 billion from that fraudulently paid benefits as well as putting off the implementation of President Trump's Medicare Part D rebate rule, which actually costs money to Medicare. So they're counting that non-spending as funding for a law.

Jeff Bush:

There's also some crypto transaction reporting requirements, very similar to banking reporting requirements on cash transaction, as well as just economic growth. The belief there is if you build a new highway around your city, businesses will pop up along that highway. And when they become profitable, they'll pay more in federal revenues. But they also put in some very dubious things such as pension smoothing, which is nothing more than Washington DC speak for continuing to underfund pension obligations, as well as once again, delaying the mandatory sequester.

Jeff Bush:

Now, that probably sounds shiver up your spine from the failed super committee back in 2011. And the penalty failure back in 2011 is that Congress was going to be forced to make actual dollar cut to the budget. Now, show of hands, how many of us ever thought Congress would cut a dollar spending, be it Republican or Democrat? So all of those things lead me to believe the bill will come in short. The congressional budget office should suggested it will, saying that out the $550 billion of new spending on hard infrastructure is going to come in about $256 billion shore. It's almost half.

Jeff Bush:

But the other question your audience might be wondering is, is $550 billion adequate to the overall infrastructure needs in our country? Well, according to the American Society of Civil Engineers, if you want to get to an above average grade, so I'm guessing a C plus or a B minus, you need to have over $2 trillion of infrastructure investment in our country over the next 10 years. And if you're so bold to think the United States deserves world class infrastructure, the number's north of $4 trillion. So while $550 billion is certainly a step in the right direction, it's still somewhat inadequate to the overall infrastructure needs in our country.

Jennifer Doss:

Man, as much as I like talking about debt and deficit, maybe we can go deeper on that another time because $4 trillion sounds like quite a bit and I have a small checkbook. So, I do want to make sure or we get your views on the Build Back Better Act. That's obviously been in the news a lot. First of all, can you tell us, I guess at a high level, what's in that bill and what might be on the chopping block for the Senate?

Jeff Bush:

Absolutely. We can break the Build Back Better Program into large categories, if you will. But first one being health. The Democrats want to expand Medicare to include hearing benefits. Originally they wouldn't include dental and vision, but when the bill was cut from $3.5 trillion down to $1.75 trillion, just some things had to go. So dental and vision were pulled out of the House framework bill that passed. Now, there are some progressive Democrats in the Senate that want to add those things back. But it obviously, if they add it back, the Bill's going to cost more, they'd have to find additional revenue.

Jeff Bush:

They also want to increase Medicaid payments for in-home and community-based services so Americans can age in place more effectively. And expand the Affordable Care Act premium credits to the 12 states that chose not to expand Medicaid under the Affordable Care Act. There's also some drug pricing reforms for Medicare beneficiaries in there, allowing Medicare to negotiate nationally for a very small subset of drugs starting in 2025. But it would cap out pocket cost for seniors at $2,000 a year. So it's a significant changes around the area of health.

Jeff Bush:

In-housing, the Democrats want to make a $150 billion investment in affordable housing, both in an urban and a rural environment. But one of the larger categories that Democrats want to focus on is on early education and childcare costs. They wanted to fund at 100% a universal pre-K program across our country. It got proved to be too expensive. So they had to pair that back. Now the federal government would spend 90% or fund 90% of a universal pre-K program and dwindle that down to 60% over 60 years.

Jeff Bush:

Now, the challenge with that is that means the states will have to pick up the difference. And I don't know about your state, but my state doesn't have a lot of extra money sitting around. And because it does require a state participation, that means the governors can opt out of it, not to somehow to how they opted out of Medicaid expansion under the ACA. It would expand those or extend those expanded child tax credits through 2022, pardon me, 2022, as well as cap the out-of-pocket cost for childcare at 7% of pay.

Jeff Bush:

Now, initially that would be only for individual families at the state's median wage or lower, but over three years, that would graduate up to 250% of the state's median wage. And I don't know my state's median wage, I doubt you do either, but just for example, for a family of four in the United States, the 250% of a state median wage would be a family earning $300,000 or less. So it would still cover the majority of American families in our country.

Jeff Bush:

It also includes four weeks at paid family and medical leave. We know that the original version include 12 weeks that got paired back due to funding to four weeks, but understand that the Senate has already said they're really not interested in paid family and medical leave as a part of their bill. So I do anticipate that paid family medical leave will be pulled out. Senator Manchin from West Virginia to suggest that he is supportive of paid family and medical leave. But as a standalone, bipartisan bill paid for through employer and employee payroll taxes, not through the Build Back Better plan.

Jeff Bush:

But the largest investment that's being made within the Build Back Better framework is around climate and climate change mitigation. It would afford 10-year tax credits for utility scale, as well as residential clean energy generation, distribution, and storage. And they would also incent you and I with solar panels on our roof and electric vehicles and so forth. The best example I can give you of the electric vehicle tax credit is that new Ford F-150 all-electric pickup, the base price is $39,000 a year. And because it's electric vehicle, you're eligible for one tax credit. Because it's made in the United States, you'd be eligible for a second tax credit. And because Ford happens to be a union shop, you would actually be eligible for a third tax credit, bringing the price of that $39,000 pickup all the way down to $26,500.

Jeff Bush:

Now, as you can imagine, Canada and Mexico are really pushing back on that native America tax credit. And there are some Democrat senators pushing back on the union tax credit because they build vehicles and they're safe, but in a non-union shops. There's also a big investment in research and development around next generation technologies like long storage batteries, modular nuclear stations. So these would be modular or nuclear power stations built on a factory line and delivered to your local community to power a portion of your community.

Jeff Bush:

In addition to that, the one final thing I'd make you aware of inside the Build Back Better is the house initiative around immigration. The challenge with that is that under Senate rules of reconciliation, which is how the Democrats are trying to pass this bill with Democrat only votes, it has to be a budget or a tax item. And the Senate parliamentarian is the staff person that decides whether something's a budgetary item or not. And she's already said no to the Democrats first writing of the immigration wording. She said no to the second wording. Now the Democrats are working on a third set of writing and hopes of trying to get immigration into that reconciliation bill. I tend to think they will not be successful. That immigration effort was to provide a pathway to permanent works status for about six and a half million people here in our country.

Scott Matheson:

Well, Jeff, while you were talking, I'm not going to lie, I was Googling the Ford website to see if I could order one of those trucks. Turns out I can't get it for two more years because of supply chain issues.

Jeff Bush:

I was going to say, get in line.

Scott Matheson:

Yeah, right. But all sincerity, obviously this sounds like a very significant undertaking largely driven by the Democrats and in the spirit of a billion here or these days, I guess a trillion here, trillion there, sooner or later adds up to real money. I'm sure these expenditures have to be paid for. So I'm curious will turn our attention or love your insights on what impact this will or could have on taxes and maybe both personal and corporate because it's on the minds of a lot of our listeners.

Jeff Bush:

Absolutely. The president, Nancy Pelosi, Chuck Schumer have all said this bill will be paid for and they'll pay for that by asking the wealthiest few and big corporations to pay their fair share. That's a quote from Nancy Pelosi. And I was actually shocked when the House framework came out, just how few Americans individually would be impacted by these tax changes. Not that they're not significant, they are. It's just a very small subset of our population. For example, Kyrsten Sinema, the Senator from Arizona suggested she would not entertain any rate increases on individuals, corporations, or capital gains.

Jeff Bush:

Well, that really challenged the Democrats then to raise enough revenue to count this bill is paid for. So on the individual side, they would apply a 5% surtax on incomes above $10 million. In additional, 3% surtax on incomes above $25 million. So very, very few people will be impacted by that. Other than the fact that that $10 million and $25 million is based on modified adjusted gross income, which includes capital gains. So there are some scenarios of executive cashing positions or private business owners having a liquidity event selling their business or the like, or that could be subject to that higher surtax. So just be aware of that.

Jeff Bush:

Now the trust income thresholds for that 5% and 8% surtax is $200,000 at the trust level and $500,000 for the additional 3%. So it is a little more punitive on trust income, but that's a very, even a smaller subset of trust that pay tax at that level. Probably the challenge for the Democrats is around the assault deduction. That's a state local tax deduction. Right now we know that Tax Cuts and Jobs Act cap that at $10,000, and a lot of blue state Democrats suggest that they wouldn't vote anything unless they got rid of that $10,000 cap. The problem is, it generates a ton of revenue to the federal government.

Jeff Bush:

So the house framework took a very simple approach. They just raised that $10,000 cap to $80,000 through 2030. And then in 2031, it would go back to $10,000. Now, what's interesting is, that would actually apply to this tax year forward. So it would include on this year's tax returns. Now, the other way that Democrats are trying to raise revenue is to close what's called the tax gap. The tax gap has nothing more than the difference between what the IRS is legitimately owed and what they collect on an annual basis.

Jeff Bush:

And believe it or not, most experts think that's about $500 billion to $600 billion a year in legitimately owed taxes that are not collected. Well, originally they had a reporting requirement on any account with gross inflows or outflows of $600 that proved to be politically untenable. So they raised the $600 to $10,000 and guess what? It was just as politically untenable. So they dropped that entire reporting requirement within the House framework and they're solely focused on hiring additional IRS agents and arming them with new technology.

Jeff Bush:

The goal there is to increase the number of audits on individuals and families earning over $400,000 a year tenfold. Not 10%, tenfold. Now, I know that sounds really scary, but keep in mind, the IRS has been woefully underfunded for the last decade and the audit rate has plummeted. So by a tenfold increase, it bring it up to about 1% of those individuals and families being audited each year, which is really the historic norm. So it really is just bringing the IRS audit level back to what it was. But nonetheless, it's a big increase in the number of audit.

Jeff Bush:

Probably the change that will impact most of your audiences more directly would be the changes around retirement. For example, backdoor Roth strategy that would no longer be available to people after 2021. And between 2031 or 2022 and 2031, only pre-taxed dollars would be able to be converted to Roth IRA. And after 2031, only individuals and families under a certain income threshold would be eligible to do any Roth conversion of pre-tax money.

Jeff Bush:

Now, a lot of progressive has suggested why are we giving this tax giveaway to the wealthy for the next 10 years? Well, the reason's obvious. When you convert a 401k, traditional 401k to a Roth, it's a taxable event. And so the federal government gets that tax revenue. So it was just a money-raising approach. There are some very [draconian] distribution requirements in the house framework for individuals with aggregated retirement account balances. So that would include a Roth IRA, 401k, all added together. Over $10 million, they'd be subject to a 50% distribution on that amount over $10 million. And if someone's fortunate enough to have over $20 million in aggregated retirement accounts, that's even more [inaudible]. They'd have to take out via distribution, via amount necessary to bring it down to $20 million or 100% of their rock monies, the lesser of those two things.

Jeff Bush:

So a significant change there. In addition to that, anyone that does have an aggregated retirement account balance of $10 million or above, they will no longer be able to participate in a retirement plan. So it may make for individuals even before their required minimum distribution age to start taking some small withdrawals out in order to manage that total exposure away from those significant distributions.

Jeff Bush:

On the corporate tax side, they would raise the corporate, excuse me, it would not raise the corporate rate. Kyrsten Sinema said she would not vote for that. So they went back to something Joe Biden ran on, which is a 15% minimum book profit on corporations. Now, that's a little techy. Bottom line, what it is is an alternative minimum tax code sitting alongside the existing tax code. And we know there are corporations that pay sizeably less than 15% in tax rate. And one reason why is, they're making big investments as they grow. Tesla's building a new plant in Texas to build additional electric cars. Companies are investing in research and development, all legitimate and good investments in their corporations. But now there would be a 15% alternative minimum tax that they would be subject to. So it could somewhat pervert that corporate decision making process. I'm not a big fan of the book profit tax. But Kyrsten Sinema put them in a box and they had to come up with something.

Jeff Bush:

There is a 1% stock buyback tax, as well as a 15% global minimum tax. Now, that's only going up from 13%, so it's not a big tax increase. However, the big change is that 15% global minimum tax would be calculated on a country by country basis. And we know Corporate America has spent billions of dollars a year, moving profits around the world to advantage themselves back here in the United States. And that just wouldn't be effective moving forward. If you were in profit in a country that only tax corporation's at say 5%, you would owe 10% back here in the United States. If you were in that profit in the country that tax corporations at 20%, then you don't owe anything. So the companies that are really going to be hurt in that situation or companies, for example, like Apple, Apple move their intellectual property to Ireland for tax reasons. And now they're still going to owe some minimum tax back here in the United States on that intellectual profits.

Jeff Bush:

The other changes I want to make you aware of are through pass through entity owners. Pass through entity owners are being exposed to two new taxes should this bill move forward. It would permanently extend the limitation that restricts the use of business losses to offset nonbusiness income. A lot of pass through business owners will own multiple pass through entities, and they can use profits from one to offset losses and the other and so forth to manage their overall tax exposure and that would be limited moving forward. It also closes the Medicare self-employment tax loophole by taxing that net investment income at a Medicare tax level. So really the combination of those two things could be a significant tax increase on certain pass-through business owners.

Jeff Bush:

But what's also important to point out, the House has passed their framework. So they're "done." But the Senate is under no obligation to pass what the House passed. As a matter of fact, I guarantee you, they won't. So if there's a mismatch between the bills, the House will have a choice. The House can either just pass a Senate bill as is, no changes, or they can force it to conference. And as they force it to Congress, that's when we enter a very technical phase of legislative negotiations. And that technical phase has a name and that name is spaghetti throwing. And I say that jokingly, of course, but what I mean by that is if they go to conference, anything and everything is back on the table.

Jeff Bush:

We can see an early sunset to the tate tax changes as the House had originally proposed. We can see changes around capital gains taxation, whether capital gains would be due at gifting or no stepped up basis of death, or perhaps Kyrsten Sinema could soften on her position about no rate increases to Corporate America or income individuals or work capital gains. For your pass-through business owners, we can see a limitation to the 199A deduction. The lion share of that 199A deduction goes to very large pass-through business and Democrats can cap that at a certain income level.

Jeff Bush:

So at that point, once we enter that spaghetti throwing stage and we end up there, anything and everything is back on the table. So my prognostication at this point is, I do believe that Democrats will pass something in the Senate this year. They're trying to get it done before Christmas. It's certainly possible that that could get done. That would leave the House time to come back into session between Christmas and new years to pass what the Senate passed. But if it goes to conference, it'll head in well into 2020.

Jeff Bush:

So I tend to think because the Democrats feel so much pressure to get something done right away, and they want these changes to happen as soon as January 1st, the House will likely then pass what the Senate passes unless there's something just had warrant in there to them. So that's my prediction at this point. I think the odds are, they will. Certainly not a guarantee. Goodness knows the Democrats have dragged this process out significantly, and there's no reason it couldn't get dragged out further. So I, I really appreciate the time with you today. And hopefully that gives you a good synopsis of what's happening in Washington, DC.

Scott Matheson:

It does. I enjoy that. I'm sure everybody enjoyed hearing your predictions there. Unfortunately, you didn't predict the spaghetti throwing contest, but obviously a lot of good talk on taxes and good information. And I do know our listeners are definitely following all the developments closely as it relates to taxes because of the implications for their own business, but obviously they're employees too and benefit packages and programs that they're offering. So I'm sure they're glad to hear your 2022 predictions. We of course, will not hold you to them because it is Washington DC.

Scott Matheson:

It was a real treat, Jeff, to have you here with us today to tap into your very clearly immense knowledge. So I just can't thank you enough for being with us and for sharing your insights on what's going on inside the beltway of our nation's cap. We'll pivot now over to our Minute with Mike session where he'll be talking about another fun topic on hardship distributions. And then Jennifer and I we'll be back to discuss our views on some more relevant items for plan sponsors, cuing off of what Jeff just talked about in addition to sharing a few other predictions we have for 2022. With that, take it away, Mike.

Mike Webb:

Thanks, Scott. Mike Webb here with another Minute with Mike. Let's took hardship distributions for a minute. While there are common plan provision meant to help participants in times in need, they've also been known to destroy the retirement savings of many participants. Why? Well, hardship distributions are taxable as ordinary income and by design people generally take them while they're still employed, which means they will likely pay more in taxes on those distributions than they would've on the same distribution in retirement.

Mike Webb:

And almost everyone who takes a hardship distribution is under 59 and a half, meaning they will owe the IRS a mature distribution penalty of 10% on top of any ordinary income tax they owe. Thus in high tax areas, participants will end up paying half or even more of their hardship distribution amount in the form of taxes, particularly if their hardship distribution is large. In addition, many participants don't realize that these taxes aren't paid at the time of distribution unless they elect to withhold them. This can lead to a tax time shot the following year.

Mike Webb:

For participants unable to cover their increased tax burden at the time of filing, the issue is compounded by owing the IRS, which can be a worse situation than owing any creditors for whom the hardship distribution may have been taken in the first place. Finally, younger employees are often the ones who takes hardship distributions and do the time value of money, these distributions can end up costing the participant tens or even hundreds of thousands of dollars in additional assets at retirement age. Thus hardship distributions should truly be viewed as a last resort.

Mike Webb:

Participants should instead be steered toward retirement plan loans or other financial assistance like credit counseling. And when hardship distributions are taken, participants should be encouraged to ask the record keeper about the ability to withhold all estimated applicable taxes penalties at the time of distribution so that there aren't any surprises at tax time. For Revamping Retirement, I'm Mike Webb. And this has been your Minute with Mike. Now back to Jennifer and Scott.

Scott Matheson:

Thanks as always, Mike, for the valuable insights. Okay, Jennifer, I don't know about you, but I could have spent a couple hours chatting with Jeff and asking him questions.

Jennifer Doss:

Yeah, the lawmaking process in our country, I just think is really immensely fascinating if you dig into it, probably just more fascinating, just everything that goes on behind the scenes, but I'm guessing that the majority of our listeners just would not hang around for as long if we were to just fully geek out on these topics. So we should probably move along.

Scott Matheson:

Yeah, I do fear you're right. And I suppose most people don't really want to see how the sausage is made?

Jennifer Doss:

No. And I will add while this just seems like a forever, there's just always just a ton going on. You listen to Jeff and he had so much, and I know there were so many things he didn't get to talk about. There's just so many things going on on the regulatory and legislative front that in some cases will impact retirement plan sponsors.

Scott Matheson:

Yeah, no doubt. And actually that's what I want to spend our final minutes digging in on. Over the past few years, you have been what caught sucked in. I think you volunteered, but you've been sucked into the world of government affairs. And I got to tell you the fact that you have the voice into these issues that are so important to our clients and their participants helps me rest a little easier at night.

Jennifer Doss:

Well, thank you. I do have a seat at the table these days, but as you know, from your past experience doing the same before me, I'm not really sure how influential that voice is, but we are definitely trying to do the right thing by our plan sponsor shaping these laws and regs the best way that we can.

Scott Matheson:

Yeah, well, that's all you can do. You're right there. All right. Well, it's time for you to pull out that crystal the ball you have and share a few predictions for 2022 with our listeners. With that, what are your top predictions on the legislative front for 2022?

Jennifer Doss:

Well, I'd start with the Build Back Better Act that Jeff discussed a few minutes ago and specific to the retirement space. All eyes are really going to be focused on what they call or we call pay-fors related to the proposed bill. He talked about the Build Back Better Act and obviously there's the infrastructure bill as well. There's some pretty robust plans to spend money.

Jennifer Doss:

So the question is then how do you pay for it which he talked about a little bit? But in short here, the pay-for is funded by tax increases as he laid out. And from what I'm hearing, I would predict that sometime in the early pay part of 2022, we will have a solidified Build Back Better Act and really know what that final impact should be on the retirement-related issues like a backdoor Roth and changes to any of the required minimum distribution roles.

Scott Matheson:

Yeah. Well, now many people get excited about higher taxes, but I do think people get excited for clarity. What else is going on in the legislative front?

Jennifer Doss:

So SECURE Act 2.0 is a big topic. I'm sure that's something folks have heard about as well. I know Jeff didn't really touch on that one, but that's a big one we expect we'll get over the goal line next year. So the House this year released Securing a Strong Retirement Act of 2021, and then the Senate lease the Retirement Security and Savings Act. And really next year we think these bills are going to... Because they contain so many overlapping provisions, they're going to be combined next year to create what, again, we're all lovingly referring to in the industry as SECURE Act 2.0.

Jennifer Doss:

Some common elements that have a really good chance of making it into that final bill include things like the use of Collective Investment Trust by 403(b) plans, clearinghouse for missing participants, higher catch-up limits for those that are nearing retirement, potentially another increase in the RMD or required minimum distribution age. If you remember, we just got an increase from 70 and a half to 72 with SECURE Act 1.0, and now we're talking about maybe taking it to 75. And then things like treatment of student loan repayments as elective deferral. So plan sponsors can help people that are trying to pay back their student loan debt also save for retirement. And much of this legislation, I think there's about 45 provisions if I remembering correctly, it's really just focused on increasing retirement savings and coverage overall.

Scott Matheson:

I sure hope you're right on the SECURE Act 2.0 getting through because there are a lot of really great features in that proposal. I don't know all 45 of them to be honest, but I do know a lot of good common sense changes are baked in there like open up those Collective Investment Trust to 403(b) plans. So that would be great. Switch-

Jennifer Doss:

Yeah.

Scott Matheson:

Yeah. Yeah, switch gears a little bit here and go on the regulatory front. What should our plan sponsors or plan sponsors out there listening expect out of the Department of Labor in particular next year?

Jennifer Doss:

Couple things I would point to, the final ESG role. So the comment period for that proposed role just ended on the 13th of December. So they're going to take a few months. I think there were 4,000 comment letters that were submitted. So that's going to take a little while to go through. So this isn't going to be like they're back in January with a final rule. We're probably looking at the spring at the earliest. It's going to kick off a lot of conversation around that topic though.

Jennifer Doss:

The Department of Labor also plans to revisit the definition of fiduciary supposed to be released obviously as a proposal we're making by the end of December. I don't think that's likely to happen at this point. If we're closer to that, then we all want to admit. So it's going to bleed into 2022 and that combined with the Prohibited Transaction Exemption 2020-02, which is just a fantastic name, that's going to go into full effect in mid-2022 as well. Those two things combined are just really going to put a spotlight on who is a fiduciary and specifically impact rollover interactions.

Jennifer Doss:

And then I do hope this is more of maybe a hope that we get some guidance on PEP structure. So Pooled Employer Plan structures that came out of the SECURE Act 1.0, what's allowable, what needs a prohibited transaction exemption in addition to hopefully a changing of the minds of some of the audit requirements that they've put out for Group of Plans, which is another aggregate plan solutions just like similar to PEPs that came out of SECURE Act. Just a lot of acronyms, I apologize, to have individual audits in addition to having a group plan audit, which takes away from one of the main reasons that you would be in a Group of Plans. So I hope that that's all revisited in 2022.

Scott Matheson:

I'm so glad you mentioned Group of Plans because that might be my favorite acronym of this year because it's GoPs.

Jennifer Doss:

Yeah.

Scott Matheson:

Yeah, absolute favorite. All right. Well, once again, no shortage of coming attractions for retirement plan sponsors to keep an eye on as we head into the new year. And it looks like that's about all the time we have for this episode of Revamping Retirement. I've definitely had fun making these episodes with you this year, Jennifer and I got one more prediction, one more ask of you, read those tea leaves. Do you think that our producer Cara McAuley will have us back in 2022?

Jennifer Doss:

Ooh, that is the hardest one you've asked me so far. My crystal ball's a little hazier on that one. If I had to guess, I say I'm definitely getting my contract extended. I can't speak for you. That's a little hard to say. I don't know, like 50-50 odds.

Scott Matheson:

It's actually way better than I thought. So I'll take it. All right. Well, for Jennifer Doss, Mike Webb, our producer Cara McAuley and on behalf of the whole CAPTRUSTs family, we want to wish you all a safe and happy holiday season. We'll be talking to you next year.

Jennifer Doss:

Yeah, and don't forget to subscribe and like our podcast so we can hopefully increase Scott's odds of staying on as my co-host. Thanks everyone.

Voice Over Talent:

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