Employer Responsibilities and Plan Design

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Employer Responsibility to Be Limited

- 100012(a)(3) "With simplicity, ease of administration for participating employers, and portability of benefits."
- 100034 (b) "*An employer shall not bear responsibility for the administration,* investment, or investment performance of the program. An employer shall not be liable with regard to investment returns, program design, and benefits paid to program participants."

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But can't be avoided

- Employer responsibilities:
  - Distribute enrollment materials
  - Initial opt-out (or "active choice")/change of withholding elections
  - Open enrollment/ re-enrollment windows
  - Withholding (and forwarding) employee contributions
    - Auto-escalation
  - Withdrawal forms – provide or advise employees/ former employees who to contact

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Automatic Enrollment

- Increases % saving for retirement*
  - Vanguard found participation rates for new hires making less than $30,000 were 87% with auto-enrollment and only 22% for voluntary enrollment.
  - For $30,000-$49,999 the rates were 90% and 41% respectively.
- Opt-outs increased from 11% to 19% for workers earning less than $30,000 per year when initial rate increased from 3% to 6%.
- Without automatic escalation, a substantial portion of workers will not increase their contribution rate.

*Clark, Utkus, and Young, 2015. "Automatic enrollment: The power of the default" Vanguard Research.

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Simple Design

- Automatically enroll new employees at 6% of pay
  - Opportunity to opt-out or contribute a different % or dollar amount
- For those contributing less than 6%, auto-enroll at 6% in even-numbered years
- No auto-escalation

Note: 6% is an example, not a recommendation

Simple Design

- Pros:
  - Minimizes opportunity for employer error
    - Most contributing at the same rate, and once correct rate is in the system, low maintenance
  - Easy to remind employers and employees of re-enrollment period.
  - Employees moving from one covered employer to another will have no disruption in contribution rate
- Concerns:
  - Initial contribution rate becomes more critical than if there was auto-escalation

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Auto-escalation Design 1

- Automatically enroll new employees at 3% of pay
  - Opportunity to opt-out or contribute __% or $___
- Default auto-escalation (with opt-out)
  - Contribution rate increases 1% per year on anniversary of employment
- If a new employee contributed to the plan through a previous employer, auto-enroll at the greater of their last contribution rate or 3%.
- For those contributing less than 3%, periodically auto-enroll at 3%

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Auto-escalation Design 1

- Pros:
  - Employees can start contributing at a modest rate, but most will end up with a more substantial rate of savings
- Concerns:
  - More time consuming for the employer
  - More to track means more opportunities for error
    - Easy to forget to increase contributions on anniversary date, or increase for someone who opted out
    - Easy to forget to check on past covered employment/contribution rates
    - Variety of contribution rates so harder to spot errors

Auto-escalation Design 2

- Automatically enroll new employees at 3% of pay
  - Opportunity to opt-out or contribute __%
- Default auto-escalation (with opt-out)
  - Contribution rate increases 1% per year on ~~anniversary of employment~~ January 1 if employed on the previous July 1.
- ~~If a new employee contributed to the plan through a previous employer, auto-enroll at the greater of their last contribution rate or 3%.~~
- For those contributing less than 3%, periodically auto-enroll at 3%

Auto-escalation Design 2

- Pros:
  - Employees can start contributing at a modest rate, but most will end up with a more substantial rate of savings
- Concerns:
  - More time consuming for the employer, but increases limited to once per year.
  - More to track means more opportunities for error
    - ~~Easy to~~ May forget to increase contributions ~~on anniversary date~~, or increase for someone who opted out.
    - ~~Easy to forget to check on past covered employment/contribution rates~~
    - Variety of contribution rates so harder to spot errors
  - Employees who switch jobs likely to have reduced contribution rate

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Auto-escalation Design 3

- Initial auto-escalation *for program as a whole*
  - For example, program opens in 2017. Auto-enroll at 3% with 1% increases to begin January 1, 2019.
  - January 1, 2019, rate goes to 4% for new and existing auto-enrollees,
  - January 1, 2020 rate goes to 5% for new and existing auto-enrollees,
  - and so on until the ultimate rate is reached for the plan as a whole.

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Auto-escalation Design 3

- Pros:
  - Less initial contribution withholding shock for the thousands of employees initially enrolled in the program
  - Upcoming increases can be easily communicated to employers and employees
  - Employees moving from one employer to another will continue on the upward contribution path
- Cons:
  - Too high an initial rate after phase-in could affect take-up.

Balancing Act?

- Contribution goals:
  - What is your rate of contribution target?
  - After the plan has been in effect for x years, would it be reasonable/effective to enroll newly cover employees at that rate?
  - How will you get there?
    - Fixed auto-enroll/ active enroll rate?
    - With auto-escalation?
      - Individual level
      - Plan level

Balancing Act?

- Employer's involvement:
  - The more frequently an employer has to review contribution rates, increase contribution rates, or re-enroll opt-out employees, the more opportunity there is to miss something or someone.
- Simpler is better:
  - Less opportunity for error means more satisfaction for employers and employees.