

Peter Lindsley
P. O. Box 1737, El Prado, NM 87529-1737
lindsley@taosnet.com

March 8, 2010

U. S. Department of Labor
Office of Regulations and Interpretations
Employee Benefits Security Administration
N-5655
200 Constitution Avenue, NW
Washington, DC, 20210

Re: Lifetime Income RFI

This letter is written to provide input for the recent request for information on the very important and far reaching subject of lifetime income for retiring workers in the United States. For the reader's perspective I am writing this as a private citizen who has been retired for over a decade following college, military service and 35 years with a sizable corporate enterprise. I have no affiliation with or vested interest in any private or public entity that might stand to gain should current laws or practices of post-employment income change or remain the same.

I would like to begin by sharing a true story in order to illustrate that (in spite of the current system's shortcomings) we have come a long way in providing employee security. My step-father was born in the year 1900 to a large family of limited financial resources in New Jersey. Of necessity, he dropped out of school at age 16 and obtained employment in a heavy industrial plant. Typical of early 20th century American business, working conditions were as follows: 1) 60 hour work week consisting of 10 hour days. 2) No worker's compensation insurance protection since these state by state laws were just beginning to emerge. 3) No health, disability, or retirement benefits were provided as well. The upshot of this is that this 16 year old boy suffered multiple industrial accidents during his several year tenure with this firm, including loss of several fingers operating heavy machinery that lacked even basic safety features or guarding. His only recourse was to sue the enterprise for financial relief; a virtual impossibility for a family with limited finances. Fortunately, the story has a better ending in that he later formed a successful business with several family members and ultimately retired to Florida to live out the remainder of his years.

Yes, significant progress has been made in the last century. Worker's compensation laws have been enacted in all states providing both medical care and short/long term disability benefits for work related accident and sickness. The social security system was created prior to World War II; initially to provide a source of retirement income and later expanded to include long term disability benefits. Defined benefit (traditional) retirement plans emerged following the War in response to a combination of collective bargaining demands by labor unions and the growing realization that social security was inadequate as a primary source of retirement income for the majority of workers.

Although not directly related to retirement income, a number of other significant worker benefits have come into being. The "at will" employment doctrine has been correctly eroded by laws prohibiting workplace discrimination regarding age, sex, disability, race, etc. Important legislation commonly known as ERISA was enacted to segregate funds set aside for future retiree benefits as well as a reporting system to minimize fraud and abuse.

Another significant change began to emerge regarding the type of retirement plan best suited to rapidly changing attitudes about "work" by both employers and employees. Employers increasingly questioned the cost and philosophy of traditional defined benefit retirement plans. Demographics, population shifts, growing trend toward working couples and other factors were resulting in more frequent job changes. In other words, fewer people were spending all (or even a major portion) of their working years with a single firm, thus eroding much of the advantages of defined benefit plans, since they largely compute benefits based years of service and late career income. Thus the rise of defined contribution plans which emphasize portability as people change employers and carry earnings forward to ultimate retirement.

Another subtle, but significant, driving force behind these changes was a shifting "unwritten employment contract" between employee and employer. Employers increasingly rejected the notion of "cradle to grave" pay and benefits and insisted that workers perform well and adapt to changing expectations of highly competitive National and global economies. In turn, employees demanded compensation and benefits based on individual ability rather than part of a group. This introduces an important element in which each employee is responsible to provide for individual (and family) adequacy of retirement income. Clearly, the advent of defined contribution plans was a large step in reinforcing this kind of individual responsibility by: 1) building a nest egg via both employer and employee contributions; 2) giving employees choices in both kind and amount of contributions, and 3) portability to roll over funds without creating taxable events when changing jobs.

In spite of the above enhancements to the work experience and improvements in long term retirement security (along with many not covered here) we are facing some significant challenges as we move into this century, and the following come to mind:

Distribution of Wealth. There are clear indications that we are becoming a two class society of economic haves and have-nots. The traditional broad middle income earners have been a stabilizing factor politically, economically and culturally. They purchase homes, pay taxes, act responsibly and accumulate assets for retirement years. To the degree that a growing segment of our society is living from paycheck to paycheck (or unable to find decent paying work), it increases the difficulty of crafting any meaningful programs to enhance retirement incomes. There will simply not be adequate revenue to pay for such programs.

Taxation. It should come as a surprise to no one that the American savings rate is among the lowest of any modern economy. There are many reasons for this sad fact, however a major cause surely is our antiquated and overly complex income tax system. It is absurd that at a time when we want citizens to assume greater fiscal responsibility for retirement we perpetuate a system that rewards consumption and does little to encourage saving. I have heard numerous reasons for decades why a VAT taxation based system is not practical. If it is the right thing to do, we can figure out a way to make it happen.

Fiscal Responsibility. Irrespective of one's political party affiliation, it is clear that spending at both federal and state levels is out of control and we continue to amass debt that will negatively impact current and future generations. Unless this trend is reversed, the ability to enhance retirement income for a broader spectrum of Americans is largely a moot point.

Social Responsibility. The current highly polarized state of our two major political groups, particularly in Washington, makes it difficult (if not impossible) to reach consensus on what is our collective responsibility to help our citizens enjoy a reasonable and secure living standard during retirement. Are we to adopt an attitude of limited responsibility in a free market society wherein each person is largely

on their own to provide for future needs or suffer the consequences? Or should we opt for the more socialized approach wherein the "government" will take care of everyone with little regard to personal responsibility? Frankly, neither of these will work and as a "democratic republic" we must both encourage individual initiative and responsibility while recognizing a collective need to assist those who are less fortunate.

Recommendations:

Define the problem, including the pros and cons of the current state of retirement income sources and adequacy in the United States.

Identify the relative responsibility between individual citizens, government and the private business sector to achieve desired objectives.

Determine the relative importance and priority of enhanced retirement income among other demands for budget dollars. Figure out ways to reduce spending in other areas if this is really important!

Recommend changes to the present income tax laws that encourage (and reward) higher individual savings rates. Move away from a purely income based approach.

Tighten up regulations to reward defined benefit plan rollovers when changing jobs and make it harder to take lump sum distributions, particularly for employer contributions as well as questionable withdrawal reasons. After all, these are retirement plans, not vehicles to purchase for current wants!

Determine ways to integrate any recommendations with existing sources of retirement income, such as Social Security, defined contribution and defined benefit plans, long term disability retirement programs, Individual retirement plans (such as IRA's), private life insurance and tax advantaged annuity programs, etc. Let's simplify programs and not create another bureaucracy!

Assess the potential for creation of 401k defined contribution group or governmental sponsored programs for small businesses who do not (or cannot afford) to provide retirement plans.

Thank you for the opportunity to provide input.

Sincerely,

Peter Lundby