Amendment 830 – Allowing Penalty-free Withdrawals from Retirement Accounts to Make Mortgage Payments

Allows for a temporary suspension of the 10 percent early withdrawal tax penalty for withdrawals from retirement accounts to allow struggling families to make monthly mortgage payments.

The nation is in the midst of unprecedented financial circumstances. Many Americans are having a hard time making their monthly home mortgage payment and face a real possibility of becoming delinquent on their payments or losing their home entirely.

In the midst of the current financial distress, Congress can help families stay in their homes and remain current on their monthly mortgage payments without spending any taxpayer money or creating a new program.

The tax code currently imposes a 10% penalty on withdrawals taken before the age of 59 1/2 from qualified 401(k) and IRA retirement accounts, in addition to other applicable income taxes.

More specifically, employers are not required to allow their employees who are under the age of 59 ½ or prior to formal separation access to their sponsored 401(k) or other defined-contribution plans. But if an employer does allow for withdrawals or loans from their sponsored retirement plan, it must be for a statutorily approved reason. One such reason is commonly called a hardship withdrawal, which requires employees to demonstrate true financial hardship. Statutorily recognized hardships include: certain medical expenses; costs related to purchase of a principal home; certain educational expenses; and even payments to prevent eviction or foreclosure on a mortgage. But even if an individual can demonstrate a true "hardship," they must still pay a 10% withdrawal penalty and pay income taxes on the withdrawal.

IRAs are treated a little different from defined-contribution plans (401(k)s). Funds from an IRA may be withdrawn for any reason, which means a person does not have to demonstrate financial hardship. However, any amount that is withdrawn before the age of 59 ½ is subject to the same 10% penalty and income taxes unless certain specific statutory requirements are satisfied.

This amendment paves the way for legislation that would temporarily suspend the 10% tax penalty associated with early withdrawals from qualified IRA and 401(k) plans for the purpose of making mortgage payments. The temporary suspension would be through January 1, 2011.

Specifically, this amendment will amend the deficit-neutral reserve fund relating to economic stabilization and growth (sec. 206) by adding to the list of housing programs that can be funded using the reserve fund---"legislation that allows for a temporary suspension of the 10 percent tax penalty in order for struggling

families to make an early withdrawal from their qualified retirement accounts to pay their monthly mortgage payments."

In short, this amendment would lead to legislation that would empower Americans to use their own savings to make their mortgage payments and stay in their homes.

<u>Tough economic circumstances has made making mortgage payments a challenge for some Americans.</u>

Many Americans are barely able to make their monthly mortgage payment.[1]

"*By the end of 2008, slightly more than 9 percent of all mortgages in the United States were either delinquent or in foreclosure, according to the Mortgage Bankers Association. The number of loans in foreclosure hit a new record of 2.3 million last year, more than double the volume in 2006, and industry analysts estimate that it will hit at least 3 million in 2009 in absence of government rescue*."[2]

<u>This amendment assists Americans struggling to pay their mortgage without creating a new program or spending tax dollars.</u>

In response to the housing and credit crisis, Americans should be enabled to withdrawal from their retirement savings without penalty. Self-determination is one of the founding principles of America.

This amendment offers quick relief to families without significantly straining the U.S Treasury or radically raising the national debt.

For illustration, a struggling family from Durant Oklahoma could avoid delinquency and foreclosure by redirecting money from their savings to apply to their immediate mortgage payment.

<u>Home ownership is the cornerstone of the American dream.</u>

For most Americans, their home is their primary asset in their financial portfolio.[3] Moreover, Americans often use the equity in their homes to gain access to additional capital.

In short, this amendment would create the possibility of Americans under the age of 59 ½, who otherwise would be hit with a 10 tax penalty, to temporarily make penalty free withdrawals from a qualified 401(k) or IRA retirement plan.

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[1] See http://www.nytimes.com/2009/02/17/washington/17housing.html?partner=rss
[2] See http://www.nytimes.com/2009/02/17/washington/17housing.html?partner=rss
[3] See http://www.freddiemac.com/corporate/buyown/english/preparing/right_for_you/why_own.html