



SPECTRUM
PENSION CONSULTANTS

Retirement Plans in Times of Change

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Current Political/Legislative Landscape

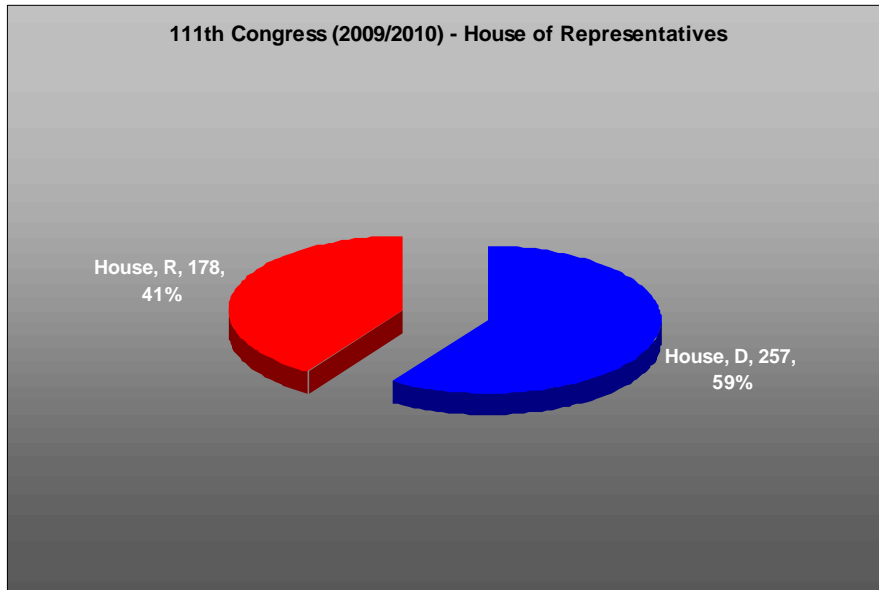
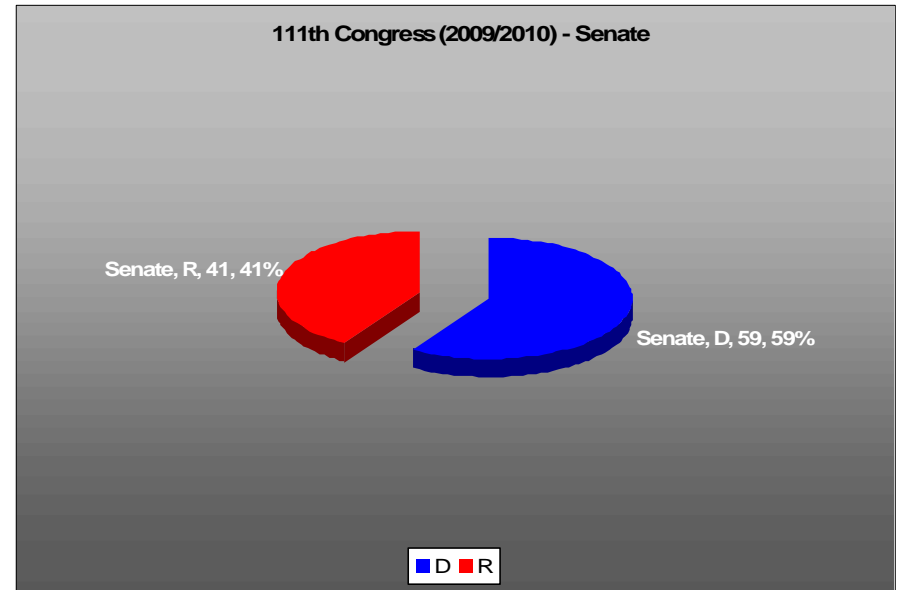
Fiduciary Responsibility and Crisis Management

Strategic Plan Designs in Economic Uncertainty

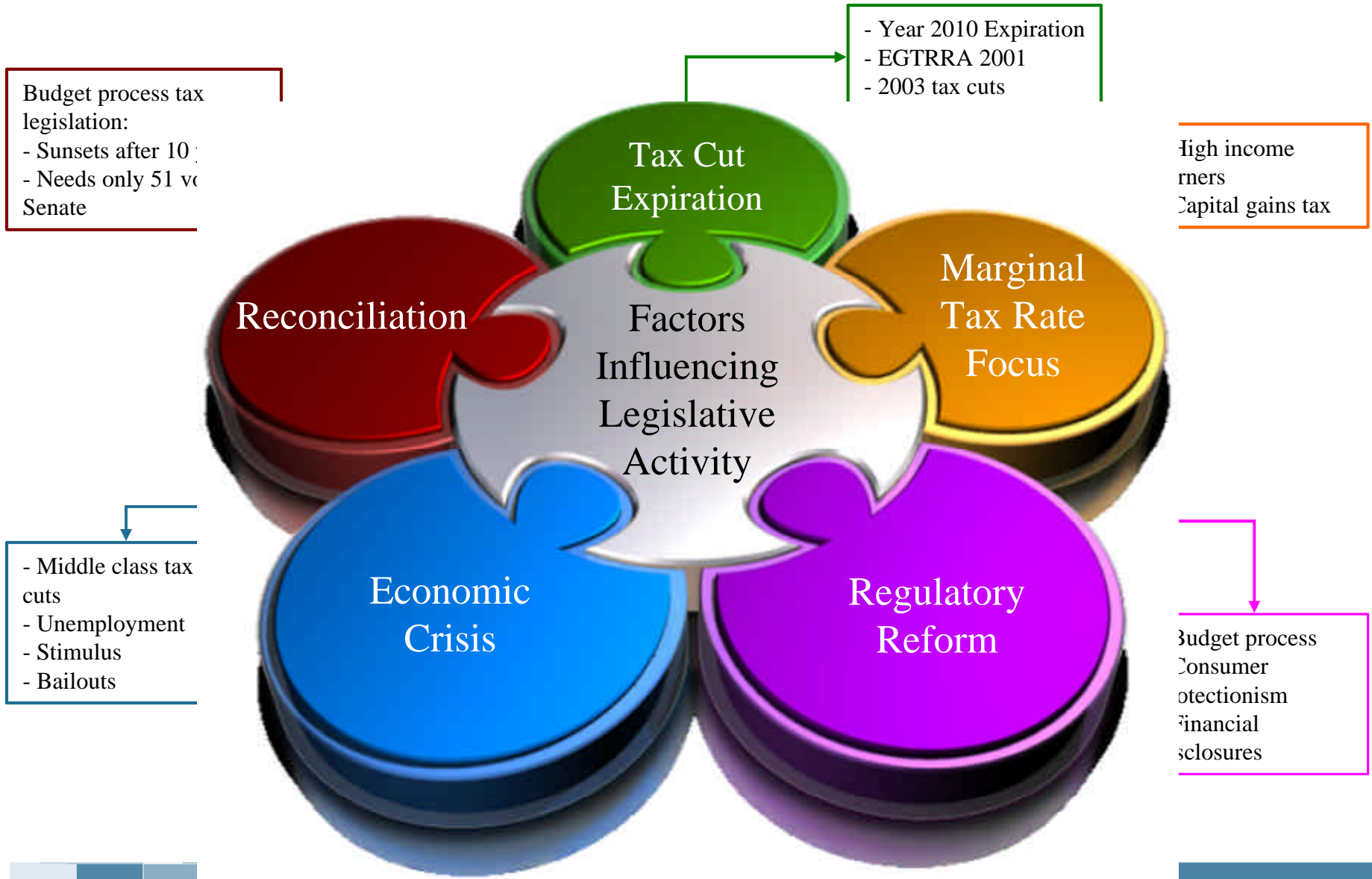
Predictions: The Future of Retirement Plans

Summary and Recap

Current Political Landscape



Current Political Landscape





The Sense of Congress

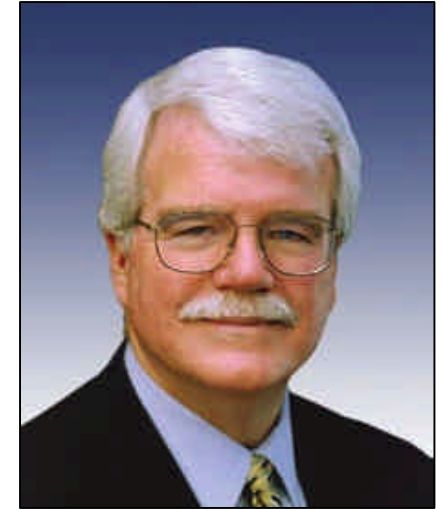
“Congress should enact...legislation to improve the lives of middle class families to provide them with greater opportunity to achieve the American dream by...enhancing the *incentives* and *protections* to help middle class families adequately meet their needs in retirement.” (Emphasis Added)

What does the Obama Administration and Congress mean by “incentives” and “protections”?

Recent Legislative, Regulative Update



- Rep. George Miller (D - CA)
- Chairman, Committee on Education & Labor
- Opening Statement from Hearing on “Strengthening Worker Retirement Security,” February 24, 2009



“For too many Americans, 401(k) plans have become little more than a *high stakes crap shoot*. ... While 401(k)s are a fact of life, this committee has found that these plans in their current form do not and *will not provide sufficient retirement security* for the vast majority of Americans. ... That is why in the short term, we must preserve and strengthen 401(k)s. ... In the short term, Congress must address ways to improve defined contribution plans. ... But, we must also ask the difficult questions about the state of our nation’s retirement system as a whole and look to see whether we need to *create a new leg of retirement security*.”

(Emphasis Added)

Legislative Activities – National and State



Congress Examining Pension Funding Relief

- Employer Assumes Defined Benefit Plan Investment Risk
- Assets Shrunk
- 40-60%
- No Safe Asset Class
- Required Contributions Higher
- 2.5 to 3 x More
- Amortize 2008 Losses over 2 years
- Less Terminations

Worker, Retiree and Employer Recovery Act

- WRERA of 2008
- Required Minimum Distributions in 2009
- Waived
- Media speculated relief for 2008
- Not granted
- Forced 2008 RMDs, but none in 2009

Washington State Senate Bill 5791

- Washington rejected bill, Senate persisted
- \$3.4M in Startup costs, \$2.0M Ongoing
- State Governments exempt from ERISA, private Employers non-exempt
- Bad Legislation, State Looking for Revenues

Congressional Hearings on Retirement Plans



House Education & Labor Committee

- Government plans
- Incentivizing or requiring lifetime annuitization

Senate Aging Committee

- Target date funds (2040, 2035, 2030, etc.)
- Lack of regulation and consumer protection

House Small Business Committee

- Safe harbor relief
- Keep plan “operational” during economically challenging times



Automatic Enrollment

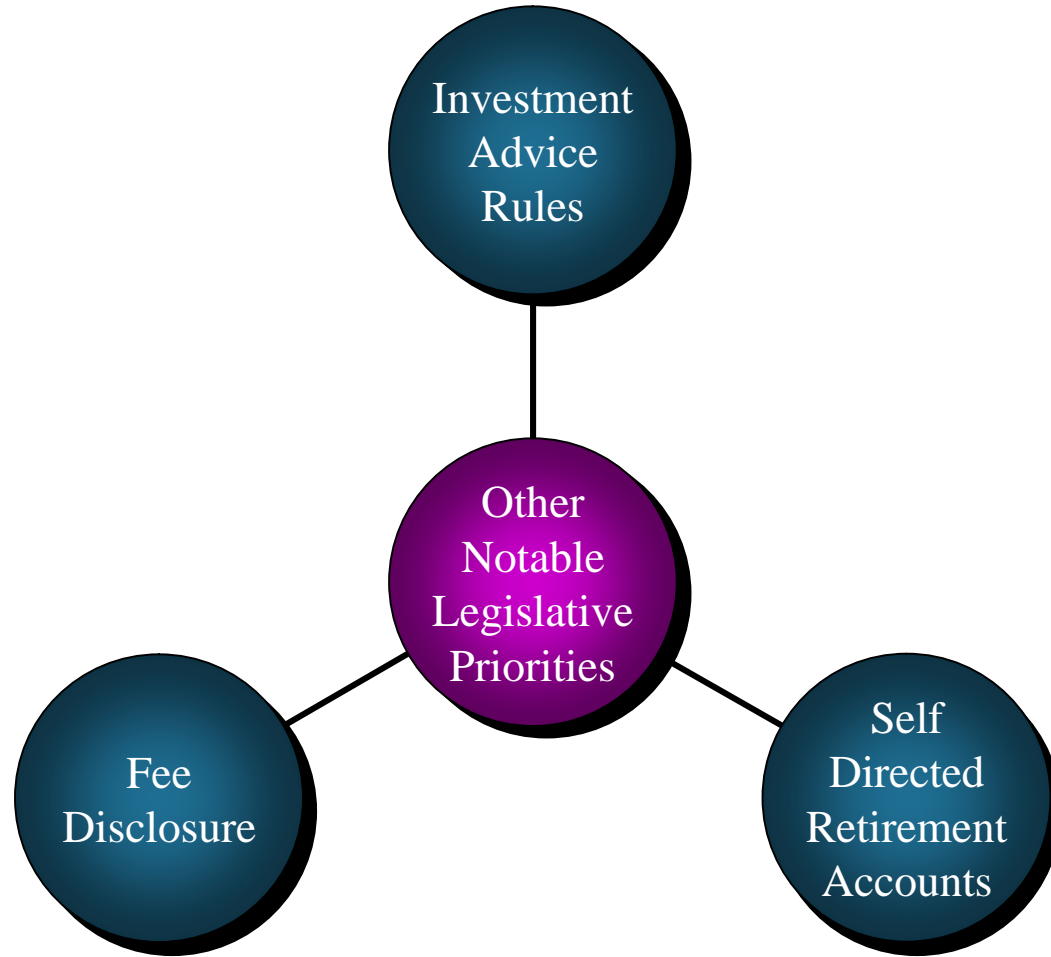
- Obama Administration and Congress Love It
- In Obama's Fiscal Year 2010 Budget
- Require Businesses w/o retirement plans to Auto-Enroll IRAs
- Subject to Worker "Opt Out" Protection
- Question on what is "very small" business

Safe Harbor Relief

- Relief on its way for 2009 safe harbor contributions
- Only way to eliminate non-elective mid-year is to terminate the plan.
- Relief to keep plan operational during economic challenges

SAVERs Credit

- Expansion
- 50% Match on \$1,000 in Savings
- \$65,000 or Less Income (Families)





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Question Time





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General Fiduciary Responsibilities

A fiduciary is one who:

- Has discretionary control of plan assets
- Renders investment advice for a fee
- Administers plan with discretionary authority

Responsibilities:

- Exclusive purpose
- Prudent person standard
- Diversifying the investments
- Follow plan documents
- Keep records

Typical Plan Fiduciaries:

1. Plan Sponsor
2. Trustee
3. Investment Manager / Advisor
4. Plan Administrator

Fiduciary Responsibility, How Bad is It?



URBAN Institute Report

- Issued Dec. '08)
- \$2.8 Trillion Losses
- ~ 32% of Value
- DC Plans, IRAs
- December '07-'08
- Confidence Shatters
- Losses Continue
- Q1 2009 S&P 500 Index,
Down 11.7%



EBSA Guidance

- Request disclosures
- Seek advice re: losses
- Make disclosures
- Consider a claim

Self Trustee Plans?

- 3rd Party Trusts
- Separate Recordkeeper
- Regulated Financial Institutions





Investment Policy:

- Follow it or Change it

Communicate with Staff

- Media reports
- Low consumer confidence

Know your Plan / Revamp it

- Default option?
- Discretion
- Prudent process





Fiduciary Responsibility and Crisis Management

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Importance of Plan Design

Strategic

- Adequate Retirement
- Budget for Company
- Competition, Labor Market
- Perception of Employees

Tactical

- Contributions
- Forfeitures
- Eligibility
- Withdrawal Restrictions
- Turnkey Investment Options



Strategic Plan Designs in Economic Uncertainty



Cash

+



Flow

= Bad



Cash

+



Flow

= Good





Cash Flow Problems

Anti-Cutback Basics

- Can't take away what a participant has already earned
- Generally cannot get out of 2008 *required* contributions
- Can wait to fund 2008 until September 15, 2009
- Depending on provisions may be able to eliminate 2009 contributions

Safe Harbor Elimination

- Relief coming
- Beware of top heavy and non

If contribution is *discretionary* then you may be able to avoid 2008 contributions, but...beware of promises to employees





Top Heavy Plan Pitfall

Definition of Top Heavy Plan: Plan with more than 60% of plan assets allocated to “Key Employees”

Key Employees

- Owners, generally must be >5% owner
- Certain family members of owners
- Company officers with “high” compensation

Contribution Requirement: generally 3% of compensation for all non-key participants

Minimum Contribution required ONLY IF a key employee benefits



Top Heavy Plan Pitfall: Illustration 1

Employee	Compensation	401(k) Deferral	%	Required ER Contribution	%
Key Employee 1	200,000	0	0.0%	0	0.0%
Key Employee 2	25,000	0	0.0%	0	0.0%
Employee 1	75,000	3,750	5.0%	0	0.0%
Employee 2	35,000	1,000	2.9%	0	0.0%
Employee 3	55,000	0	0.0%	0	0.0%
Employee 4	85,000	4,250	5.0%	0	0.0%
Employee 5	65,000	4,500	6.9%	0	0.0%
Employee 6	25,000	0	0.0%	0	0.0%
Employee 7	15,000	400	2.7%	0	0.0%
Employee 8	20,000	0	0.0%	0	0.0%
Total	600,000	13,900		0	

No key employee deferral = no required employer contribution



Top Heavy Plan Design

Consider funding key employee deferrals at the end of the year...if at all

Employee	Compensation	Deferral	%	Contribution	%
Key Employee 1	25,000	0	0.0%	0	0.0%
Key Employee 2	25,000	750	3.0%	0	0.0%
Employee 1	75,000	3,750	5.0%	2,250	3.0%
Employee 2	35,000	1,000	2.9%	1,050	3.0%
Employee 3	55,000	0	0.0%	1,650	3.0%
Employee 4	85,000	4,250	5.0%	2,550	3.0%
Employee 5	65,000	4,500	6.9%	1,950	3.0%
Employee 6	25,000	0	0.0%	750	3.0%
Employee 7	15,000	400	2.7%	450	3.0%
Employee 8	20,000	0	0.0%	600	3.0%
Total	600,000	13,900		11,250	

\$750 Deferral Triggers \$11,250 Required Contribution!



Why Think Twice About Cutting Contributions?

Consider the following hypothetical:

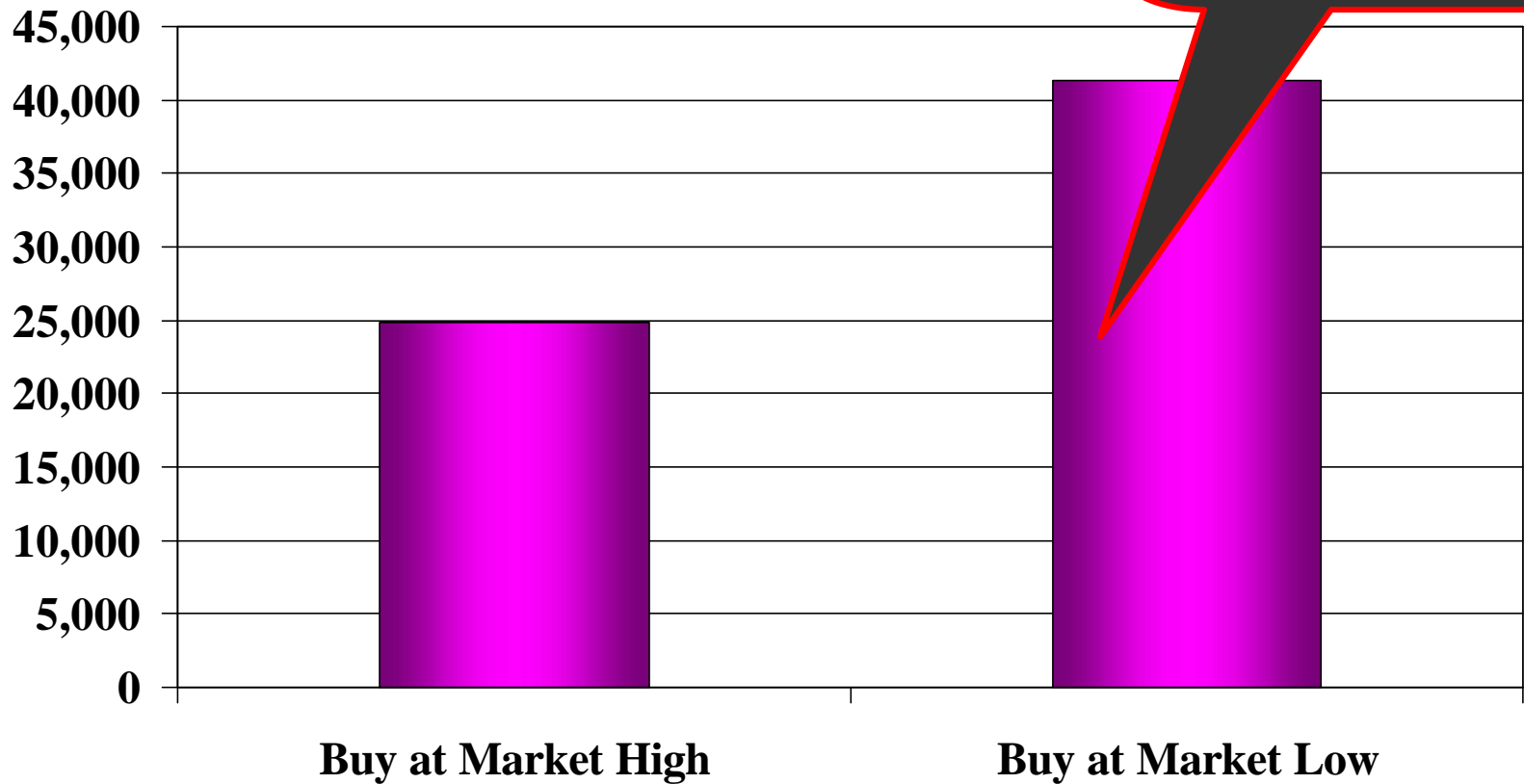
- Employee: age 35 makes \$50,000 per year
- Employer provides 10% contribution funded March 31 of each year
- Last year: assume a loss of 40%
- What if: 20% rebound this year and next year

Compare “value” at retirement of \$5k Contribution

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Future Value of \$5k at Retirement





Recap

- Plan Design = Business Objectives
- Fund it if you got it
- Look for “relief” or make sure someone qualified is doing so for your business
- Due Diligence reviews



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The Three Legged Stool:

- Social Security
- Private Pensions
- Personal Savings

Do we need another leg?

- Future of social security
- DB to DC Shift
- Rebirth of the annuity?

Who *Should* Hold the Risk:

Participant, Employer,
Insurer, Government





Professional Stewardship

- Fear and Greed Eliminated
- Transparency
- Safeguards
- Full Participation
- Coverage



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Key Take-Aways

Government Activity: Convergence of events

- Increase “incentives” & “protections” → Reactionary?

In-Charge and Acting Prudently

- Stewardship, Accountability

Adaptive Retirement Plans Survive

- Business/Benefit Alignment

Future Risk Management

- Who is Responsible?



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Questions ?

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