

KEY SECURE AND CARES ACTS UPDATE FOR EMPLOYERS

What plan sponsors need to know now



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Speakers



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Agenda

- Recent law changes
- COVID and Disaster Relief
- Law change plan amendment deadlines
- Tax credits
- Dealing with COVID – Employers
- Dealing with COVID - Participants
- Fiduciary considerations
- Looking forward
- Considerations and action steps

Key recent law changes – SECURE Act

- Mandatory provisions
 - Required Minimum Distributions (RMDs)
 - Age change from 70-1/2 to 72
 - “Stretch payments” to beneficiaries
 - Waiver for 2020
 - Long-term part-time employee participation
 - Plan enrollment for elective deferrals by 2024
 - Credited with at least 500 (up to 999) hours of service in each of three consecutive 12 month periods
 - Does not require eligibility for employer contributions
 - Pre-2021 service included in vesting

Key recent law changes – SECURE Act

- Other provisions
 - Maximum permitted automatic enrollment deferral contributions
 - Increased from 10% to 15%
 - Birth and adoption expenses up to \$5,000
 - Safe Harbor Plan 401(k) rule changes
 - Lifetime income disclosures
 - In-service distributions

Key recent law changes – SECURE Act

- New Multiple Employer Plan rules
 - Effective for plan years beginning on or after Jan. 1, 2020
 - New type of multiple employer defined contribution plan (a Pooled Employer Plan, or PEP) that can include unrelated employers
 - Eliminates the “one bad apple” rule
 - Guidance expected soon

COVID and Disaster Relief

- COVID relief under the CARES Act (March 27, 2020):
 - Coronavirus-related Distributions (CRDs)
 - \$100,000 CRD distribution limit to “qualified individual”
 - 10% early withdrawal penalty tax does not apply
 - Three year repayment right
 - Income inclusion over 3 years if CRD is not repaid
 - Relief from 20% mandatory withholding



COVID and Disaster Relief

- COVID relief under the CARES Act (March 27, 2020):
 - Plan Loan Relief
 - Temporary increase in maximum loan limit
 - Participant loans from Mar. 27, 2020 – Sept. 23, 2020
 - One-year suspension of loan repayments
 - For loans during the period Mar. 27, 2020 – Dec. 31, 2020
 - Loan repayment schedule must be adjusted to reflect the delay and any accrued interest
 - Temporary waiver of RMDs

COVID and Disaster Relief

- Disaster Relief under the Consolidated Appropriations Act, 2021 (Dec. 27, 2020)
 - Disaster-related distributions, loans and penalty relief for:
 - participants living in a qualified disaster area, and
 - who suffered an economic loss as a result of the disaster
 - Provisions are similar to provisions for COVID-19 under the CARES Act
 - Amendments must be adopted by the last day of the plan year beginning on or after Jan. 1, 2022 (Dec. 31, 2022 for calendar year plans)

Law change plan amendment deadlines

- Required plan amendments deadlines for SECURE and CARES Acts:
 - Mandatory provisions
 - Calendar plan year: by Dec. 31, 2022
 - Fiscal plan year: end of year beg. on or after Jan. 1, 2022
 - Later for gov't and collectively bargained plans
 - Discretionary provisions
 - Generally by the last day of the plan year in which the provision is added to the plan

Tax credits

- Employers with 100 or fewer employees
 - Start-up tax credit:
 - 50% of start-up/administration costs, potentially up to \$5,000, for 3 years
 - Auto-enrollment tax credit:
 - Up to \$500 for 3 years for adding an auto-enrollment
 - Uniform percentage of pay, unless opt-out
- Participants
 - Saver tax credit: Elective deferrals, up to certain income levels and subject to other requirements.

Dealing with COVID - Employers

1

Employer contribution reductions

2

Effects of plan participation due to layoffs

- Testing

- Partial termination

3

Plan termination

4

DB plans:

- “Freezing” the plan

- Temporary funding waivers

Dealing with COVID - Participants

Plan withdrawals

Early distribution penalty abatement

Permitted repayments to the plan tax-free

Suspension of participant loan payments

Waiver of age 70-1/2 distributions for 2020

Rollovers

Fiduciary considerations

- ESG investments
- Proxy voting
- Employee financial wellness
- Missing participants
- Cybersecurity
- Continued focus on fees

Looking forward

SECURE Act 2.0 – Proposed legislation





PLAN SPONSOR CONSIDERATIONS AND ACTION STEPS

Action steps for plan sponsors

- Develop processes for implementing mandatory provisions
 - Payroll providers
 - TPAs
 - Employee communications
 - Internal communications
- Assess economic impacts
 - Design choices
 - Tax implications
 - Planning for the future



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