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The SECURE Act

Relevant Provisions and Effective Dates for Qualified 401(k) Plans

In December 2019, Congress passed the SECURE Act of 2019 (Setting Every Community up for Retirement Enhancement Act). There are many changes, and multiple effective dates within this Act. The provisions that are relevant for you as the Plan Sponsor of a qualified 401(k) Plan are summarized below, along with the effective dates. It is important to be aware that although the SECURE Act is passed, rules and regulations clarifying the Act have not yet been released. Until these are published, not all changes can be carried out.

PROVISION SUMMARY	EFFECTIVE DATE	PROVISION DETAIL
More Flexibility Allowed for Safe Harbor *Non-Elective* Contributions	Plan Years Beginning After December 31, 2019	- - If a plan elects a provision to make a safe harbor non-elective contribution, they no longer need to provide an annual safe harbor notice. - - If a plan elects a provision to make a safe harbor matching contribution, the annual notice is still required. - - If a plan does not elect a provision to make a safe harbor contribution, it could elect to add a non-elective contribution provision at any time during the year, as long as it is adopted at least 30 days *before* the end of the plan year. - - Adoption of a safe harbor non-elective provision could be made later if: 1) the non-elective contribution is at least 4% of compensation to all eligible employees (vs 3%) 2) the plan is amended by the close of the following plan year

PROVISION SUMMARY	EFFECTIVE DATE	PROVISION DETAIL
Adoption of a new plan can be as late as the due date of the company tax return, with extension.	Plan Years Beginning After December 31, 2019	In order to provide more opportunity to set up a new qualified retirement plan, a new plan can be adopted as last as the due date of the company tax return, with extension. For example, to adopt a plan for the 2020 calendar year, it must be adopted by the filing due date of the company tax return for the 2020 calendar year. That could be as late as September 2021 for many companies.
Penalty-free withdrawals for birth or adoption of a child	Distributions Made After December 31, 2019	This provision is optional. A plan could be amended to allow withdrawals from participants' accounts to pay for childbirth or adoption expenses up to $5,000. The distribution must occur after the child is born or adopted, and within one year of the birth or adoption. It is not yet clear what support must be provided.
Required Minimum Distribution (RMD) start age increases from 70.5 to 72.	Distributions Made After December 31, 2019	- - For participants who attain age 70.5 after December 31, 2019, their required beginning age is now 72. - - If you attained age 70.5 in 2019 or before and were required to begin taking RMDs as of 2019 or before because you were retired or were a greater than 5% owner, you must continue to take the RMDs.
Penalty for Failure to File Retirement Plan Returns is Increased.	Applies to Returns Due and Notices Required to be Provided After December 31, 2019	- - The failure to file a retirement plan return is increased from $25 per day to $250 per day, not to exceed $150,000. - - The failure to provide a special tax notice is $100 for each failure, not to exceed $50,000.

PROVISION SUMMARY	EFFECTIVE DATE	PROVISION DETAIL
Long-term, Part-Time Employees must be allowed to make employee contributions in a 401(k) Plan	Applies to Plan Years Beginning After December 31, 2020	- - This does not apply to union plans. - - Service prior to January 1, 2021 will not be counted. - - The statutory maximum eligibility requirements are currently: attainment of age 21 and completion of 1 year of service, defined as working at least 1,000 hours in a 12-month period. - - Another statutory maximum is now added so that an employee who works three consecutive years in which he/she works more than 500 hours must also be allowed to make employee contributions. - - The employees added under the new 3-year 500 hour rule may be excluded from annual discrimination, coverage and top-heavy testing. - - Tracking for these employees would begin with the 2021 plan year and employees could first enter the plan starting with the 2024 plan year.
Credit Increased for Starting a New Plan, or adding Automatic Enrollment to an Existing Plan	Tax Years Beginning After December 31, 2019	- - Employers starting a new plan could claim a credit on their company return for 50% the costs of starting the plan for up to 3 years. The credit is increased to the greater of: 1) $500 or 2) The lesser of a) $250 per eligible non-highly compensated employee or b) $5,000 - - A new tax credit is also created for up to $500 for 3 years for new plans with an automatic enrollment provision, or existing plans that add an automatic enrollment provision. This is in addition to the credit described above.

Please contact Administrative Retirement Services, Inc. if you want to discuss any of the information provided herein.