

SECURE Act

The Further Consolidated Appropriations Act, 2020, including Division O, the Setting Every Community Up for Retirement Enhancement (SECURE) Act was enacted December 20, 2019. While some changes are effective in later years, many changes were effective for plan year or tax year beginning January 1, 2020.

Tax Credits Available:

 **Tax Credit for New Plans:** Tax credits are now limited to the 50% of the setup and administration costs per year for each of the first 3 years. You can claim a tax credit for the greater of 1) \$500 or 2) \$250 for each non-highly compensated employee up to \$5,000.

 **Additional Tax Credit for Automatic Enrollment Feature:** An additional credit has been created for new and existing plans that add automatic enrollment. These plan sponsors may claim a \$500 per year credit for up to 3 years.

RMDs and IRAs:

 **Required Minimum Distribution (RMD) Age:** The RMD age was changed from 70 ½ to age 72. This change is effective for anyone turning age 70 ½ after December 31, 2019. The new required beginning date for distributions is April 1 following the calendar year in which an individual attains age 72.

 **Removes “Stretch” IRAs:** Although there are still some exceptions, the stretch IRA can no longer be applied for individuals who die after December 31, 2019. Payments to most non-spousal beneficiaries must be completed within 10 years of the owner’s death.

 **Removes maximum age for IRA contributions:** The current age limit for IRA contributions at 70 ½ has been removed. Individuals will still need to meet all other criteria to make a contribution, including having earned income.

Notices and Adoption of Safe Harbor Plans:

 **Safe Harbor Plan Notices:** The notice requirement for a Safe Harbor nonelective plan is eliminated. The notice for Safe Harbor match contribution plans is still in effect and has not been changed.

 **Safe Harbor Plan Adoption:** The deadline to adopt a Safe Harbor nonelective Plan, allowing plans to get a pass on certain non-discrimination testing is being relaxed. A plan can be amended up to 31 days prior to the plan year-end or even up to the deadline for the corrective distribution of excess contributions (generally within 12 months of plan year-end) to adopt a nonelective Safe Harbor plan for a plan year. Certain contribution limits must be met but are generally 3% or 4% non-elective, depending on timing of adoption.

Other Changes in Retirement Plans:

 **Deadline for Adopting a New Retirement Plan:** Plan Sponsors are now allowed to adopt certain new retirement plans retroactively up to their tax filing deadline. This is effective for plans created after January 1, 2020.

 **Defined Contribution Statements:** Defined contribution plan statements must include a lifetime income disclosure at least once during a 12-month period.

 **Birth or Adoption Withdrawals:** Allows retirement plans to add a withdrawal feature to allow participants to withdraw up to \$5,000 from their retirement plan to pay for a birth or adoption. This legislation also waives the 10% penalty for early withdrawal from the retirement plan and also allows repayment of these funds.

 **Part-Time Employees Requirement:** Requires that long-term part-time employees that have worked more than 500 hours in the last 3 consecutive years, be allowed to defer into the retirement plan offered. This requirement will take into consideration, hours worked beginning January 1, 2021, therefore, the requirement to add these part-time employees into the plan would be effective January 1, 2024.

 **Changes to Pooled Employer Plans (PEPs):** Unrelated employers may participate in a Multiple Employer Plan if certain conditions are met. These PEPs are required to engage a Pooled Plan Provider (PPP) as a named fiduciary, plan administrator and responsibility party for specific duties as named in the Act.

We expect to receive future guidance on this recent legislation and will continue to keep you informed of changes needed to your plan or plan documents. As noted above, some of these provisions are already required to be applied to your plan or practice. For most plans, mandatory amendments will not be required until plan year 2022.

This is not meant to be tax advice or an all-inclusive listing of the changes in the law from the SECURE Act, Division O of the Further Consolidated Appropriations Act, 2020.