

The SECURE Act



RETIREMENT MANAGEMENT SERVICES, LLC
Plan Consulting • Administration • Design

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Annemarie Keehn, *ERPA, QPA, QKA*

On December 20, 2019, the SECURE Act (Setting Every Community Up for Retirement Enhancement) was included in the bipartisan spending bill signed by President Trump. The Act is the most impactful retirement plan legislation since the Pension Protection Act of 2006. We have pulled together a summary of the Provisions below. In later articles, I will be describing the various Sections of the Act, the practical impact of each Section and the due dates for implementing the changes.

<u>Provision</u>	<u>Details</u>
Increase Auto Enrollment Cap	The automatic escalation cap will increase from 10% to 15%.
Safe Harbor Plans - Notice requirement	Notice requirement is eliminated for safe harbor nonelective contributions.
Safe Harbor Plans - Nonelective Contribution	Can be elected as late as 30 days before the end of plan year (current rules require an amendment prior to the beginning of the plan year).
	Nonelective contribution could be elected as late as the close of the following plan year but the contribution must be 4% (instead of 3%).
Credit for Start-Up Costs	Credit will be greater of \$500 OR the lesser of (1) \$250 x number of eligible NHCEs or (2) \$5,000. Credit will apply for 3 years.
Credit for Auto Enrollment	New 401(k) plans and SIMPLE plans that incorporate auto enrollment will receive a \$500 credit for 3 years. Existing plans that convert to auto enrollment will also be eligible for the credit.
Compensation for Basis of IRA Contributions	Stipends and non-tuition fellowship payments paid to graduate and post-doctoral students will be treated as compensation and used as basis for IRA contributions.
IRA Age Limit	The prohibition on traditional IRA contributions after age 70 1/2 is removed.



Retirement Management Services, LLC
905 Lily Creek Road
Louisville, KY 40243

www.consultRMS.com Phone: 502-429-0767

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Plan Loans via Credit Cards	Plan loans are no longer allowed through credit cards or similar arrangements.
Lifetime Income Options	Lifetime income investments may be directly transferred from one employer-sponsored retirement plan to another, or to an IRA.
Allowing Participation of Part-time Workers	Employees who are excluded from the plan because they do not work 1,000 hours in a plan year must be allowed to defer if they work 3 consecutive 12-month periods with at least 500 hours each year. If there is an age requirement, the age requirement must be satisfied by the last day of the 3rd year. These employees may still be excluded from nondiscrimination, top-heavy and coverage rules. They may be excluded from employer contributions.
Required Minimum Distributions	The required minimum distribution age is increased to 72.
	Death distributions from a defined contribution plan or IRA must be made by the end of the 10th calendar year after death, with exceptions for spouses, disabled or chronically ill individuals, children who have not reached age of majority, or beneficiaries who are not more than 10 years younger than the account owner.
Due Date for Adopting a New Plan	A plan will be considered adopted for a particular year as long as it is adopted before the due date of the business tax return (including extensions).
Multiple Employer Plans (MEPs) or Pooled Employer Plans (PEPs)	Plans using a pooled provider which is a named fiduciary and administrator may participate in a Multiple Employer Plan (MEP) . Each Employer in the MEP is treated as the Plan Sponsor with respect to the assets attributable to its Employees.
	Multiple plans may participate in a Pooled Employer Plan (PEP) treated as a single plan as long as the pooled provider is a named fiduciary; there is a designated trustee; each employer maintains responsibility for investing and managing the assets attributable to its own employees (unless delegated to another fiduciary). Each Employer in the PEP is treated as the plan sponsor with respect to the assets attributable to its employees.
	There will be simplified annual reporting for any plan covering fewer than 100 participants OR any plan with fewer than 1,000 participants as long as no single employer has 100 or more participants.
Combined Annual 5500 Reporting for unrelated employers using same platform	All members of a group of plans may file a single aggregated Form 5500 if the plans all have the same trustee(s); same fiduciaries; same administrator; same plan year and same investments.



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Lifetime Income Disclosure and Provider	Defined contribution plan statements must include a lifetime disclosure at least once every 12-months that illustrates monthly payments. The DOL is instructed to develop a model disclosure and determine assumptions to use when converting the plan balance into an income stream.
	Fiduciaries are given a safe harbor with respect to selecting guaranteed retirement income contracts offering lifetime income benefit options.
Section 529 Plans	Expanded to cover costs for apprenticeships and up to \$10,000 of student loan debt.
Penalty for Failure to File Tax Return	Increased penalty is lesser of \$400 or 100% of the amount of the tax due.
Penalty for Failure to File 5500	New penalty is \$250 per day, up to \$150,000.
Withdrawals for Birth or Adoption	Penalty free withdrawals from retirement plans of up to \$5,000 will be allowed for birth or adoption. These distributions are not rollover eligible so not subject to mandatory withholding. The amount of the distribution may subsequently be repaid to the plan.
Section 403(b) Plans	Custodial accounts that terminate may distribute the assets in kind to the new custodial account of the participant. Church-controlled organizations may cover duly ordained, commissioned or licensed ministers, regardless of source of compensation; employees of tax-exempt organization controlled by church or convention or association of churches; and certain employees after separation from service with church.



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