Comparison of SECURE Act to RESA

RETIREMENT MANAGEMENT SERVICES, LLC
Plan Consulting • Administration • Design

RETIREMENT MANAGEMENT SERVICES, LLC
905 Lily Creek Road Louisville, KY 40243
5/23/2019

Comparison of SECURE Act to RESA

Annemarie Keehn, *ERPA, QPA, QKA*

On May 23rd, the House approved the SECURE Act (Setting Every Community Up for Retirement Enhancement). The Act will now move to the Senate, where it will be compared with similar legislation known as RESA (the Retirement Enhancement and Savings Act). The Senate Finance Committee will work on reconciling the two Acts (along with other proposed legislation) to come up with a final version to send to the President for signature.

Although bipartisan bills that would significantly change the landscape of retirement plans were introduced in the last Congress, they were not enacted. But the tides have changed and despite the contentious atmosphere that exists in Congress on many topics, both parties appear to be eager to work together to achieve retirement plan reform. Given the similarities between RESA and SECURE, there is a very strong likelihood that the Senate Finance Committee will be able to mesh the two Acts to craft a final bill that the President will approve.

We will keep you posted if any legislation gets finalized.
The following chart compares some of the main provisions of the two Acts. Items in bold signify provisions that are not the same across both Acts.

Provision	**SECURE Act (House)**	**RESA (Senate)**
Increase Auto Enrollment Cap	**The automatic escalation cap would increase from 10% to 15%.**	**Removes automatic escalation cap (currently 10%).**
Safe Harbor Plans - Notice requirement	Notice requirement is eliminated for safe harbor nonelective contributions.	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).	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%).	Nonelective contribution could be elected as late as the close of the following plan year but the contribution must be 4% (instead of 3%).

RMS
RETIREMENT MANAGEMENT SERVICES, LLC

Retirement Management Services, LLC
905 Lily Creek Road
Louisville, KY 40243
www.consultRMS.com Phone: 502-429-0767

Provision	**SECURE Act (House)**	**RESA (Senate)**
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 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.	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.	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 IRA contributions after age 70 1/2 is removed.	The prohibition on IRA contributions after age 70 1/2 is removed.
Plan Loans via Credit Cards	**Plan loans are no longer allowed through credit cards or similar arrangements.**	**Plan loans are no longer allowed through credit cards or similar arrangements. Existing arrangements must prohibit transactions of $1,000 or less or transactions made at a liquor store, casino, gaming establishment or adult-entertainment establishment.**
Lifetime Income Options	Lifetime income investments may be directly transferred from one employer-sponsored retirement plan to another, or to an IRA.	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.**	**N/A**

<u>Provision</u>	<u>SECURE Act</u> (House)	<u>RESA</u> (Senate)
Required Minimum Distributions	**The required minimum distribution age is increased to 72.**	**N/A**
	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.	**Death distributions from a defined contribution plan or IRA must be made by the end of the 5th 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. However, the first $400,000 for any beneficiary is exempted from the 5-year distribution requirement.**
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).	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.	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.	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.	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.

Provision	**SECURE Act (House)**	**RESA (Senate)**
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.	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.
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.	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.	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.**	**N/A**
Penalty for Failure to File Tax Return	Increased penalty is lesser of $400 or 100% of the amount of the tax due.	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.**	**New penalty is $100 per day, up to $50,000.**
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.**	**N/A**

Provision	SECURE Act (House)	RESA (Senate)
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.	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.
IRA ownership of S Corp Bank Stock	**N/A**	**IRAs may hold shares of S Corp that qualifies as a bank.**

Retirement Management Services, LLC
905 Lily Creek Road
Louisville, KY 40243
www.consultRMS.com Phone: 502-429-0767