

The SECURE Act



RETIREMENT MANAGEMENT SERVICES, LLC
Plan Consulting • Administration • Design

The SECURE Act

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> | <u>Effective Dates</u> |
|--|---|--|
| Allowing Participation of Part-time Workers | Employees who work 3 consecutive 12-month periods with at least 500 hours each year must be allowed to make 401(k) deferrals. If there is an age requirement, the age requirement must be satisfied by the last day of the 3rd year. These employees may be excluded from nondiscrimination, top-heavy and coverage rules. They may also be excluded from employer contributions. | These rules apply for plan years beginning after 12/31/2020. 12-month periods beginning before 01/01/2021 do not have to be taken into account. <u>VIEW ARTICLE</u> |
| IRA Age Limit | The prohibition on traditional IRA contributions after age 70 1/2 is removed. | These changes apply for taxable years after 12/31/2019. <u>VIEW ARTICLE</u> |
| Age Requirement for RMDs | The required minimum distribution age is increased to 72. | This is effective for distributions required to be made after 12/31/2019, with respect to individuals who attain age 70½ after 12/31/2019. <u>VIEW ARTICLE</u> |
| Safe Harbor Plans - Notice requirement | Notice requirement is eliminated for safe harbor nonelective contributions. | These rules apply for plan years beginning after 12/31/2019. <u>VIEW ARTICLE</u> |
| 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%). | |



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| Withdrawals for Birth or Adoption | Penalty free withdrawals from retirement plans or IRA of up to \$5,000 will be allowed for birth or adoption. These distributions are not subject to mandatory withholding. The distribution may subsequently be repaid. | This new exception to the 10% tax will apply to distributions made after 12/31/2019. <u>VIEW ARTICLE</u> |
| Small Employer Start-Up Credit | 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. | This applies for taxable years that begin after 12/31/2019. <u>VIEW ARTICLE</u> |
| 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. | This is effective for tax years beginning after 12/31/2019. <u>VIEW ARTICLE</u> |
| 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). | This is effective for tax years beginning after 12/31/2019. <u>VIEW ARTICLE</u> |
| Increase Auto Enrollment Cap | The automatic escalation cap will increase from 10% to 15%. | This is effective for plan years beginning after 12/31/2019. <u>VIEW ARTICLE</u> |
| Plan Loans via Credit Cards | Plan loans are no longer allowed through credit cards or similar arrangements. | This applies to any new loans made after 12/20/2019. <u>VIEW ARTICLE</u> |
| 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. | This is effective for plan years that begin after 12/31/2021. <u>VIEW ARTICLE</u> |
| Inherited IRAs | Inherited IRAs must be completely distributed within ten years. The only exemption to this rule would be available to "Eligible Designated Beneficiaries." | Applies to distributions with respect to employees who die after 12/31/2019. <u>VIEW ARTICLE</u> |



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| 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. | These rules apply for plan years beginning after 12/31/2020. <u>VIEW ARTICLE</u> |
| | 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. | This is effective for plan years that begin after 12/31/2021. <u>VIEW ARTICLE</u> |
| 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. | This is effective 12 months after DOL issues interim final rules, model disclosures and assumptions. |
| Lifetime Income Options | Lifetime income investments may be directly transferred from one employer-sponsored retirement plan to another, or to an IRA. | This applies for plan years beginning after 12/31/2019. <u>VIEW ARTICLE</u> |
| Section 529 Plans | Expanded to cover costs for apprenticeships and up to \$10,000 of student loan debt. | This applies to distributions made after 12/31/2018. <u>VIEW ARTICLE</u> |
| Penalty for Failure to File Tax Return | Increased penalty is lesser of \$400 or 100% of the amount of the tax due. | This applies to returns due after 12/31/2019. |



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| Penalty for Failure to File 5500 | New penalty is \$250 per day, up to \$150,000. | Applies to returns, statements, and notifications required to be filed or provided after 12/31/2019. <u>VIEW ARTICLE</u> |
| Section 403(b) Plans | Custodial accounts that terminate may distribute the assets in kind to the new custodial account of the participant. | This applies retroactively to the 2009 tax year. <u>VIEW ARTICLE</u> |
| 403(b)(9) Church Plans | 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. | This applies to plan years beginning before, on or after 12/20/2019. <u>VIEW ARTICLE</u> |



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