

The SECURE Act Summary

<i>Provisions That Will Impact Your Plan</i>		
Provision	Summary	Effective Date
Increase age for required minimum distribution from 70½ to age 72	Under current law, participants are generally required to begin taking distributions from their retirement plan at age 70½. The new provision increases the required minimum distribution age from 70½ to 72.	Distributions made after 12/31/2019, for individuals who attain age 70½ after such date
Disclosure of lifetime income estimate on statements	Requires benefit statements provided to defined contribution plan participants to include a lifetime income disclosure at least once during any 12-month period. The disclosure would illustrate the monthly payments the participant would receive if the total account balance were used to provide lifetime income streams, including a qualified joint and survivor annuity for the participant and the participant's surviving spouse, and a single life annuity.	Applies to pension benefit statements furnished more than 12 months after DOL issues interim final rules, the model disclosure, and assumptions
Modification of death benefit payment rules for designated beneficiaries	This rule effectively eliminates "stretch" distribution provisions for most non-spouse beneficiaries in defined contribution plans and IRAs. Modifies the required minimum distribution rules with respect to defined contribution plan and IRA balances upon the death of the account owner. Under the legislation, distributions to individuals other than the surviving spouse of the employee or IRA owner, disabled or chronically ill individuals, individuals who are not more than 10 years younger than the employee or IRA owner, or child of the employee or IRA owner who has not reached the age of majority are generally required to be distributed by the end of the 10th calendar year following the year of the employee or IRA owner's death.	Applies to distributions with respect to employees whose deaths occur after 12/31/2019
Increased penalties for late filing of form 5500 and related schedules	Modifies the failure to file penalties for retirement plan returns. The Form 5500 penalty would be modified to \$250 per day, not to exceed \$150,000. Failure to file a registration statement would incur a penalty of \$10 per participant, per day, not to exceed \$50,000. Failure to file a required notification of change would result in a penalty of \$10 per day, not to exceed \$10,000 for any failure. Failure to provide a required withholding notice results in a penalty of \$100 for each failure, not to exceed \$50,000 for all failures during any calendar year.	Applies to returns, statements, and notifications required to be filed, and notices required to be provided after 12/31/2019
Penalty-free withdrawals for individuals in case of birth or adoption	This provision creates a new waiver from the IRC Section 72(t)–additional income tax on retirement plan distributions used for childbirth or adoption expenses up to \$5,000.	Distributions made after 12/31/2019
<i>Provisions That Might Impact Your Plan</i>		
Provision	Summary	Effective Date
Elimination of safe harbor notification requirement for plans that utilize the 3% safe harbor non-elective contribution	If you sponsor a safe harbor plan that utilizes the 3% safe harbor non-elective contribution, you will no longer need to provide a safe harbor notice. In addition, if you don't have a safe harbor plan, you will have up until the 30th day prior to the end of your plan year to adopt a safe harbor plan. Plans meeting special requirements can have until the last day of the plan year to adopt a safe harbor plan.	Plan years beginning after 12/31/2019
Small employer automatic enrollment credit	Creates a new tax credit of up to \$500 per year to employers to defray start-up costs for new 401(k) plans and SIMPLE IRA plans that include automatic enrollment. The credit is in addition to the plan start-up credit allowed under present law and would be available for three years. The credit would also be available to employers who convert an existing plan to an automatic enrollment design.	Tax years beginning after 12/31/2019
Increased default deferral cap for Qualified Automated Contribution Arrangement (QACA) plans	If you sponsor a QACA plan your default deferral rate may be as high as 15%. The previous maximum was 10%.	Tax years beginning after 12/31/2019

Provisions That Might Impact Your Plan (continued)

Provision	Summary	Effective Date
Modification of part-time employee exclusion rule	Under current law, employers generally may exclude part-time employees (employees who work less than 1,000 hours per year) when providing a defined contribution plan to their employees. Except in the case of collectively bargained plans, the bill will require employers maintaining a 401(k) plan to have a dual eligibility requirement under which an employee must complete either a one year-of-service requirement (with the 1,000-hour rule) or three consecutive years of service where the employee completes more than 500 hours of service. In the case of employees who are eligible solely by reason of the latter new rule, the employer may elect to exclude such employees from testing under the nondiscrimination and coverage rules, and from the application of the top-heavy rules.	Applies to plan years beginning after 12/31/2020; 12-month periods beginning before 1/1/21 shall not be taken into account

Additional Provisions of Interest

Provision	Summary	Effective Date
Extension of deadline to adopt a qualified plan	Permits businesses to treat qualified retirement plans adopted before the due date (including extensions) of the tax return for the taxable year to treat the plan as having been adopted as of the last day of the taxable year. The additional time to establish a plan provides flexibility for employers that are considering adopting a plan and the opportunity for employees to receive contributions for that earlier year and begin to accumulate retirement savings.	Plans adopted for tax years beginning after 12/31/2019
Small employer start-up plan tax credit increase	Increases the credit by changing the calculation of the flat dollar amount limit on the credit to the greater of: (1) \$500, or (2) the lesser of: (a) \$250 for each employee of the eligible employer who is not a highly compensated employee and who is eligible to participate in the eligible employer plan maintained by the eligible employer, or (b) \$5,000. The credit applies for up to three years.	Tax years beginning after 12/31/2019
New rules for multiple employer/pool employer plans	Allows two or more unrelated employers to join a pooled employer plan. The "one bad apple" rule is eliminated with further guidance forthcoming. Designated pooled plan provider must be a named fiduciary, be responsible as the ERISA Section 3(16) plan administrator, register with the DOL/IRS, with the ERISA bond limits increased to \$1 million. Each adopting employer maintains responsibility for selection and monitoring of the pooled plan provider or any other named fiduciary.	Plan years beginning after 12/31/2020
New guidance on 403(b) plan terminations	Historically, it has been difficult for some sponsors of 403(b) plans to effectively terminate these plans because some or all accounts are held under participant names. The new rule instructs the U.S. Department of the Treasury to provide guidance to eliminate this obstacle to plan termination.	Guidance within six of enactment of the law
Fiduciary safe harbor for selection of lifetime income option	Provides certainty for plan sponsors in the selection of lifetime income providers, a fiduciary act under ERISA. Under the bill, fiduciaries are afforded an optional safe harbor to satisfy the prudence requirement with respect to the selection of insurers for a guaranteed retirement income contract and are protected from liability for any losses that may result to the participant or beneficiary due to an insurer's inability in the future to satisfy its financial obligations under the terms of the contract.	No effective date
Portability of lifetime income options	Permits qualified DC plans, 403(b) plans, and governmental 457(b) plans to make a direct trustee-to-trustee transfer to another employer sponsored retirement plan or IRA of lifetime income investments or distributions of a lifetime income investment in the form of a qualified plan distribution annuity, if a lifetime income investment is no longer authorized to be held as an investment option under the plan.	Plan years beginning after 12/31/2019
Age 70 ½ maximum age for IRA contributions repealed	Repeals the prohibition on contributions to a traditional IRA by an individual who has attained age 70½.	Contributions and distributions made for tax years after 12/31/2019