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The PRS Report

SECURE Act 1.0 & 2.0: New Provisions for 2024 and Beyond

In our last newsletter, we highlighted some of the provisions of SECURE Act 2.0 that were effective in 2023. This newsletter will concentrate on some other important provisions which will be effective in 2024 or 2025 which means that as 2023 draws to an end, planning and preparation must begin.

Roth Treatment of Catch-Up Contributions

In a year in which a participant in a 401(k) Plan reaches age 50, greater 401(k) contributions can be made in the form of a Catch-up contribution. For 2023, this translates to being able to contribute an additional \$7,500 over the \$22,500 ceiling. For 2024, the IRS may again increase these limits. SECURE 2.0 requires participants whose 2023 FICA wages exceed \$145,000 to make these Catch-ups contributions in 2024 as Roth (after-tax) contributions. These participants can continue making their regular 401(k) contributions as pre-tax, if so desired.

If there are participants in your Plan who fall into the category described above, and your Plan does not currently allow for Roth contributions, then we will need to amend the Plan to allow for Roth contributions, effective January 1, 2024. This amendment will most likely be drafted in the Fall of 2023.

If you have not used Roth 401(k) deductions in the past, beginning with the first payroll in 2024, your payroll provider will need to have a new deduction category available, so-named Roth 401(k) or some such title. Likewise, your Recordkeeper will need to have a new source category to hold these Roth monies.

A new benefit will begin in 2025, whereby those participants who are 60 through 63 will be allowed to contribute 50% more than the regular catch-up limit or \$10,000 more, whichever is greater. This is a four-year window for participants to bulk up their retirement savings. Since this benefit is limited to ages 60 through 63, upon reaching age 64, the catch-up contribution would need to be reduced.

Required Minimum Distributions (RMDs)

Besides changing the age at which RMDs must be taken (effective in 2023 and covered in our last newsletter), there are two interesting provisions in SECURE Act 2.0 affecting RMDs, both effective in 2024 and both mirroring the treatment of RMDs in IRAs. Firstly, RMDs no longer need to be taken from Roth accounts in defined contribution plans (401(k) and profit sharing plans). Secondly, surviving spouses will be able to take their RMDs based on their spouses' ages if so elected.

Long-Term, Part-Time (LTPT) Employees in 401(k) Plans

We've written about this topic before, but since the provisions concerning these LTPT employees are set to begin in 2024, we will review them again. In addition, there are new rules for LTPT eligibility set for 2025, as detailed in the following paragraphs.

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Long-Term, Part-Time (LTPT) Employees in 401(k) Plans

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Effective January 1, 2024, LTPT employees (those who have three consecutive years of working 500 to 999 hours per year and have attained age 21) will be eligible to defer salary from their pay as 401(k) contributions. This new benefit covers all 401(k) plans, even owner-only plans. When 2024 election forms are distributed toward the end of 2023, they must be distributed to those employees who satisfy the three consecutive years of working 500 to 999 hours per year requirement. Even if some of these employees do not want to defer some of their paycheck as 401(k), they should still complete the election form and check off that they do not wish to have deferrals withheld from wages and contributed to the Plan. Should your Plan get audited, this is something that would likely be requested by the auditor. We are awaiting guidance on whether allowing an LTPT employee into an owner-only Plan will require that a Form 5500-SF be filed instead of a Form 5500-EZ.

Effective January 1, 2025, a LTPT employee is defined as having worked for at least 500 hours up to 999 hours per year for two (instead of three) consecutive years.

The plan sponsor may elect to exclude these participants from non-discrimination and coverage testing and from top-heavy rules. Alternatively, the plan sponsor may elect to provide matching or non-elective (profit sharing) contributions for these LTPT employees, with vesting based on 500 rather than 1,000 hours.

Mandatory Automatic Enrollment

This new provision is effective for the 2025 plan year. No later than January 1, 2025, all new plans with 401(k) started in 2023 and beyond must automatically enroll all employees (including LTPT employees as defined in the section above) who are eligible to defer 401(k) if they have failed to return an election form. Participants can opt out of these deferrals if they so wish.

There are several exemptions available for plans, as follows:

1. The plan was adopted and effective before December 29, 2022.
2. The employer normally employs fewer than 11 employees.
3. The business is in existence for less than three years.

For the first year, the deferral percentage must be between 3% and 10%. Annually, the percentage must be automatically increased, capping at 10-15%. Alternatively, the deferral percentage can start at 10% and remain the same thereafter. For some plan sponsors, this option is a good fit since mistakes would be avoided for failing to increase the percentage annually.

Election forms for 2025 will be modified to include mandatory automatic enrollment verbiage, and we will make them available to you on a timely basis.

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In this newsletter and our previous newsletter, we have touched upon those provisions which seem most pertinent to our clients. There are, however, over 90 provisions in SECURE Act 2.0, many of which are optional. We will keep you apprised when one of these provisions come into effect and there is action that needs to be taken. Don't hesitate to contact us if you have questions.



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