The SECURE Act

The (SECURE) Act represents the most significant retirement plan legislation in more than a decade. The legislation includes many provisions designed to improve retirement security by making saving for retirement easier and more accessible as well as easing burdens for plan sponsors.

Key Retirement Provisions of the SECURE Act

- Allows long-term, part-time workers to participate in 401(k) plans
- Provides tax credits to small business owners to start retirement plans and offer auto enrollment
- Extends the annual deadline for establishing a new plan
- Allows groups of unrelated businesses to join together to form open Multiple Employer Plans (MEPs)
- Increases the cap on escalation of automatic contribution from 10% to 15%
- Increases the Required Minimum Distribution (RMD) age from 70½ to 72
- Allows Individuals to contribute to IRAs beyond age 70½
- Changes the rules for certain inherited “Stretch” IRA distributions
- Permits penalty-free withdrawals up to $5,000 from retirement accounts for the birth or adoption of a child
- Offers more options for lifetime income strategies and provides fiduciary protection for plan sponsors
- Simplifies certain safe harbor rules
- Protects older, longer service participants in closed defined benefit plans
- Changes In-Service Distribution Rules for Defined Benefit Plans and governmental 457(b) Plans
- Increases Penalties and Excise Taxes

PENTEGRA

Below is a summary of key retirement provisions of the SECURE Act, the timing and Pentegra's perspectives on its impact. Most of these changes take effect January 1, 2020. Mandatory plan amendments to cover SECURE Act changes will not be required until the 2022 plan year for most plans.

Allows Long-Term, Part-Time Workers to Participate In 401(k) Plans

- Under current law, employers generally may exclude part-time employees (employees who work less than 1,000 hours per year).
- Except in the case of collectively bargained plans, the law requires employers who offer a 401(k) plan to allow any employee who works more than 1,000 hours in one year or 500 hours over 3 consecutive years to participate in the plan
- The employer may elect to exclude these employees from testing under the nondiscrimination and coverage rules.

Tip: This change expands retirement coverage opportunities and automatic plan design features.

Provides Tax Credits For Small-Businesses to Start Retirement Plans

- Small-business owners can receive a tax credit for starting a retirement plan
- The tax credit is $250 per non-highly compensated employees eligible to participate in a retirement plan (minimum credit of $500 and maximum credit of $5,000).
- This credit applies to small employers with up to 100 employees over a 3-year period beginning after December 31, 2019 and applies to SEP, SIMPLE, 401(k), and profit sharing plans.
- If the retirement plan includes automatic enrollment, an additional credit of up to $500 is available.
- The credit would also be available to employers that convert an existing plan to an automatic enrollment design.

Tip: This change encourages expanded retirement coverage opportunities.

Extends Deadline for Establishing a New Plan

- The law allows businesses to treat qualified retirement plans adopted before the due date of the tax return as having been adopted as of the last day of the taxable year.

Makes it Easier for Small Businesses to Join Together to Offer a Retirement Plan

- The SECURE Act makes it possible for completely unrelated employers to participate in a multiple employer plan or "open MEP".
- In addition, the "one bad apple rule" (all employers participating in a MEP may face penalties and tax consequences if one employer fails to satisfy the qualification rules for the MEP) has been eliminated.

Tip: This change encourages expanded retirement coverage opportunities.

Increases the Cap on Automatic Escalation of Contributions from 10% to 15%

- The law increases the cap on automatic escalation to encourage greater retirement savings
- The cap remains at 10% for the first year in which the employee is automatically enrolled and increases to 15% after the first year

Tip: This change encourages greater retirement savings opportunities.

Increases the Age for Required Minimum Distributions (RMDs) from 70½ to 72

- Today people are working longer and life expectancies have increased
- The new law increases the age for Required Minimum Distributions from age 70½ to age 72 beginning with calendar year 2020.

Tip: The new rules apply to those turning 70½ in 2020 .

Allows Individuals to Contribute to IRAs Beyond Age 70½

- As Americans live longer, an increasing number continue employment beyond traditional retirement age.
- The law allows individuals age 70½ or older to continue to contribute to IRAs as long as they are still working.
- This change aligns the rules for IRA contributions more closely with 401(k) plans and Roth IRAs.

Tip: This change applies to tax year 2020 contributions.

Changes Rules for Inherited "Stretch" IRA distributions

- Previously, if you inherited an IRA or 401(k), you could "stretch" your distributions and tax payments out over your single life expectancy.
- Under the new law, inherited IRA beneficiaries will be required to withdraw assets from an inherited IRA or 401(k) plan within 10 years following the death of the account holder.
- Exceptions include assets left to a surviving spouse, a minor child, a disabled or chronically ill beneficiary, and beneficiaries who are less than 10 years younger than the original IRA owner or 401(k) participant.

Tip: This change may necessitate reevaluating your retirement and estate planning strategies with your Financial Advisor.

Allows Penalty-free Withdrawals for The Birth or Adoption of a Child

- The law permits for penalty-free withdrawals of up to $5,000 from qualified retirement plans or IRAs for the birth or adoption of a child
- The 10% early withdrawal penalty will not apply to these withdrawals, and they can be repaid as a rollover contribution to an eligible defined contribution plan or IRA.

Tip: This provides access to savings for important life events.

Offers Portability of Lifetime Income Options

- The law allows lifetime income investments, or annuities, to be distributed from retirement plans.
- The change will allow participants greater portability to rollover lifetime income investments, preserve their savings and avoid surrender charges and fees.

Tip: Lifetime Income Options are a way for participants to "pensionize" their savings.

Requires New Lifetime Income Disclosures to Illustrate Future Income Streams

- The law requires that plan statements include a lifetime income disclosure (future income stream) at least once a year.
- 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.
- By translating the savings experience into a future income stream, participants can better assess their retirement readiness.
- Plan fiduciaries, plan sponsors, or other persons will have no liability under ERISA for how these amounts are calculated.

Tip: The new law helps participants plan effective spending strategies for their savings.

Provides Fiduciary Protection for Sponsors in Selecting Lifetime Income Providers

- Previously, plan sponsors had concerns about liability when choosing lifetime income/ annuity providers, a fiduciary act under ERISA.
- The legislation removes this concern, providing protections for plan sponsors in selecting lifetime income providers. Removing ambiguity about the fiduciary standard eliminates a roadblock to offering lifetime income options, an important distribution option for participants.

Tip: This will benefit plan participants by giving them a greater range of distribution options.

Simplifies Safe Harbor 401(k) Rules

- The legislation eliminates the safe harbor notice requirement for plans providing only non-elective employer contributions.
- Participants can make or change an election at least once per year.
- The law also permits amendments to non-elective status at any time before the 30th day before the close of the plan year.
- Amendments after that time would be allowed if the amendment provides (1) a non-elective contribution of at least four percent of compensation for all eligible employees and (2) the plan is amended by the close of following plan year.

Tip: This change provides plan sponsors with additional flexibility.

Protects Older, Longer Service Participants in Closed Defined Benefit Plans

- The legislation modifies the nondiscrimination rules for closed defined benefit plans to permit existing participants to continue to accrue benefits.
- Protects benefits for older, longer-service employees as they near retirement.

Tip: This change provides much needed relief to defined benefit plan sponsors and participants.

Changes In-Service Distribution Rules for Governmental 457(b) Plans

- The age for in-service distributions from defined benefit plans, governmental 457(b) plans and 401(a) Money Purchase plans is lowered to age 59½.

Tip: This change aligns the age for in-service withdrawals for these plans.

Increases Penalties and Excise Taxes

- Failure to file Form 5500 penalty – $250 per day, not to exceed $150,000
- Failure to file Form 8955 – SSA penalty – $10 per day, not to exceed $50,000
- Failure to file a required notice of change penalty – $10 per day, not to exceed $10,000
- Failure to provide a required withholding notice penalty – $100 per failure, not to exceed $50,000

Tip: This change dramatically increases penalty taxes for not filing plan tax returns and filings timely. Making it more important than ever to stay on top of due dates for government filings.