

Newly Passed SECURE Act Will Impact Qualified Retirement Plans

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The Setting Every Community Up for Retirement Enhancement Act of 2019 (the "SECURE Act") was signed into law on December 20, 2019. This law will likely impact most tax qualified retirement plans, and some of the changes appear to be immediately effective. Plan sponsors should review their plans with counsel to determine what administrative modifications and plan amendments may be required. Key provisions of the SECURE Act include:

• Changes to the eligibility and coverage requirements for certain long-term part-time employees.

• Changes to the required minimum distribution ("RMD") requirements, including increasing the age for RMDs from age 70½ to age 72.

• Increased penalties for failures to file and/or provide certain retirement plan returns and notices, including the Form 5500, the registration statement for deferred vested participants, and the rollover notice.

• Changes to rules applicable to non-elective safe harbor plans. Non-elective safe harbor plans are those that provide employer contributions of at least 3% of an employee's compensation regardless of whether the employee is making elective deferrals to the plan.

• Adding a safe harbor for plan fiduciaries electing to include annuity options in defined contribution plans and providing for increased portability of annuity distributions.

• Adding a new participant "lifetime income disclosure."

• Relief from nondiscrimination, minimum coverage, and minimum participation requirements for certain closed defined benefit plans.

• The addition of age 59½ in-service withdrawals to defined benefit and money purchase pension plans.

• The addition of an exception to the 10% early withdrawal penalty for certain withdrawals taken in the one-year period following the birth or adoption of a child.

• Increasing the cap for automatic enrollment from 10% to 15% of eligible compensation.

• Creating new "pooled employer" multiple employer plans.