

Recent IRS Guidance Regarding Long-Term, Part-Time Employees

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PRACTICES Employee Benefits and Executive Compensation

On October 3, 2024, the IRS issued Notice 2024-73 (the “**Notice**”) concerning participation requirements for “long-term, part-time employees” in 403(b) plans under the SECURE 2.0 Act. The Notice also announced that the final regulations the IRS plans to issue for 401(k) plans on long-term, part-time employees will apply no earlier than plan years beginning on or after January 1, 2026. As we previously reported [here](#), proposed regulations for this purpose were issued last year.

As background, pursuant to the SECURE Act, beginning in 2024, employees aged 21 and over that complete at least 500 hours of service over three consecutive prior 12-month periods must be permitted to make elective deferrals to 401(k) plans, subject to a few exceptions. For 2025, pursuant to the SECURE 2.0 Act, the length of service requirement is reduced to apply to part-time workers who work at least 500 hours over two consecutive years (each, a “**LTPT Employee**”) and also applies to 403(b) plans. As a reminder, although plan amendments are generally not required to be made until before the last day of the first plan year beginning on or after January 1, 2026 (2029 in the case of governmental plans), plans must operate in accordance with such amendments as of the effective date of the relevant statutory provisions.

The Notice provides the following 403(b) plan guidance regarding LTPT Employees:

- **LTPT Employee Requirement not Applicable to Non-ERISA 403(b) Plans.** The Notice clarifies that the rules do not apply to 403(b) plans that are not subject to ERISA.
- **Part-Time Employee Exclusion Permitted only for Non-LTPT Employees.** An ERISA 403(b) plan may continue to retain a part-time employee exclusion but only for part-time employees who do not qualify as LTPT Employees.
- **Student Employee Exclusions May Continue.** A 403(b) plan may continue to exclude a student employee from making elective deferrals under the plan regardless of whether the individual qualifies as a LTPT Employee.
- **Nondiscrimination Testing.** LTPT Employees may be excluded for purposes of determining whether matching contributions satisfy the nondiscrimination requirements applicable to a 403(b) plan. However, if a LTPT Employee becomes a former LTPT Employee for a year (for example, because the employee has worked 1,000 hours in the preceding year and is no longer a LTPT Employee), then this nondiscrimination testing exclusion no longer applies to that former LTPT Employee.

The Notice is available [here](#).