Legal Update

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IRS Releases Comprehensive Guidance on Various SECURE 2.0 Provisions

On Dec. 20, 2023, the IRS issued Notice 2024-2, providing guidance in the form of questions and answers with respect to various provisions of the legislation known as the "SECURE 2.0" Act.

Background

The Consolidated Appropriations Act of 2023 was signed on Dec. 29, 2022, which is an omnibus bill that includes the SECURE 2.0 legislation, referred to as such because it builds on the Setting Every Community Up for Retirement Enhancement (SECURE) Act of 2019. The legislation is intended to increase employees' retirement savings and makes numerous important changes that employers should be aware of. A section-by-section summary of the legislation can be found here.

Plan Amendments

Under Section 501 of SECURE 2.0, the plan amendment deadline for SECURE Act and SECURE 2.0 Act provisions is the last day of the first plan year beginning or after Jan. 1, 2025 (or Jan. 1, 2027, in the case of certain collectively bargained or governmental plans). **The new guidance extends the plan amendment deadlines under Section 501.**

Section Summary

In addition to extending plan amendment deadlines under Section 501, Notice 2024-2 addresses issues under the following sections of the SECURE 2.0 Act:

- Section 101 (expanding automatic enrollment in retirement plans);
- Section 102 (modification of credit for small employer pension plan startup costs);
- Section 112 (military spouse retirement plan eligibility credit for small employers);
- Section 113 (small immediate financial incentives for contributing to a plan);
- Section 117 (contribution limit for SIMPLE plans);
- Section 326 (exception to the additional tax on early distributions from qualified plans for individuals with a terminal illness);
- Section 332 (employers allowed to replace SIMPLE retirement accounts with safe harbor 401(k) plans during a year);
- Section 348 (cash balance);
- Section 350 (safe harbor for correction of employee elective deferral failures);
- Section 601 (SIMPLE and SEP Roth IRAs); and
- Section 604 (optional treatment of employer contributions or nonelective contributions as Roth contributions).

The Treasury Department and the IRS invite comments and suggestions on the guidance, which should be submitted on or before **Feb. 20, 2024**.

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NEW PLAN AMENDMENT DEADLINES

IRS Notice 2024-2 extends the deadlines to make plan amendments to reflect the applicable provisions of the SECURE Act and SECURE 2.0 Act, as follows:

Dec. 31, 2026

The deadline to amend a qualified retirement plan that is not a governmental plan or an applicable collectively bargained plan

Dec. 31, 2028

The deadline to amend an applicable collectively bargained plan

Dec. 31, 2029

The deadline for a governmental plan within the meaning of Internal Revenue Code Section 414(d)

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