

Key SECURE Act Provisions and Effective Dates

Provisions	Description	Effective Dates
Division M: Bipartisan American Miners Act	Moves the voluntary in-service distribution age under IRC Section 401(a)(36) for defined benefit plans and 457(b) plans from age 62 to age 59 ½.	Plan years beginning after Dec. 31, 2019
Division O: SECURE Act, Title 1: Expanding & Preserving Retirement Savings		
Multiple Employer Plans/ Pooled Employer Plans (Section 101)	Allows two or more unrelated employers to join a pooled employer plan. The one bad apple rule is eliminated with further guidance forthcoming. Designated pooled plan provider must be a named fiduciary, be responsible as the ERISA Section 3(16) plan administrator, must register with the DOL/IRS, with the ERISA bond limits increased to \$1 million. Each adopting employer maintains responsibility for selection and monitoring of the pooled plan provider or any other named fiduciary. IRS and DOL have the authority to audit the pooled plan provider for Code and ERISA compliance.	Plan years beginning after Dec. 31, 2020
Increase in 10% cap for automatic enrollment safe harbor after 1 st plan year (Section 102)	Modifies the automatic enrollment safe harbor to raise the automatic escalation cap from 10% of pay to 15% of pay.	Plan years beginning after Dec. 31, 2019
Rules relating to election of safe harbor 401(k) status (Section 103)	The safe harbor notice requirement for nonelective contributions is eliminated but maintains the requirement to allow employees to make or change an election at least once per year. The bill also permits plan sponsors to switch to a safe harbor 401(k) plan with nonelective contributions at any time before the 30 th day before the close of the plan year. Amendments after that time would be allowed if the amendment provides (1) a nonelective contribution of at least 4% of compensation (rather than at least 3%) for all eligible employees for that plan year, and (2) the plan is amended no later than the last day for disturbing excess contributions for the plan year, that is, by the close of following plan year.	Plan years beginning after Dec. 31, 2019
Increase credit inflation for small employer pension plan startup costs (Section 104)	Increases the credit by changing the calculation of the flat dollar amount limit on the credit to the greater of: (1) \$500, or (2) the lesser of: (a) \$250 for each employee of the eligible employer who's not a highly compensated employee and who is eligible to participate in the eligible employer plan maintained by the eligible employer, or (b) \$5,000. The credit applies for up to 3 years.	Tax years beginning after Dec. 31, 2019
Small employer automatic enrollment credit (Section 105)	Creates a new tax credit of up to \$500 per year to employers to defray startup costs for new 401(k) plans and SIMPLE IRA plans that include automatic enrollment. The credit is in addition to the plan start-up credit allowed under present law and would be available for three years. The credit would also be available to employers that convert an existing plan to an automatic enrollment design.	Tax years beginning after Dec. 31, 2019

<p>Certain taxable non-tuition fellowship and stipend payments treated as compensation for IRA purposes (Section 106)</p>	<p>Stipends and non-tuition fellowship payments received by graduate and postdoctoral students aren't treated as compensation and cannot be used as the basis for IRA contributions. This provision removes this obstacle by taking such amounts that are includible in income into account for IRA contribution purposes.</p>	<p>Tax years beginning after Dec. 31, 2019</p>
<p>Repeal of maximum age for traditional IRA contributions (Section 107)</p>	<p>Repeals the prohibition on contributions to a traditional IRA by an individual who has attained age 70 ½.</p>	<p>Contributions and distributions made for tax years after Dec. 31, 2019</p>
<p>Qualified plans prohibited from making loans through credit cards & similar arrangements (Section 108)</p>	<p>Prohibits the distribution of plan loans through credit cards or similar arrangements.</p>	<p>Applies to loans made after date of enactment.</p>
<p>Portability of lifetime income options (Section 109)</p>	<p>Permits qualified DC plans, 403(b) plans or governmental 457(b) plans to make a direct trustee-to-trustee transfer to another employer-sponsored retirement plan or IRA of lifetime income investments or distributions of a lifetime income investment in the form of a qualified plan distribution annuity, if a lifetime income investment is no longer authorized to be held as an investment option under the plan.</p>	<p>Plan years beginning after Dec. 31, 2019</p>
<p>Treatment of custodial accounts on termination of section 403(b) plans (Section 110)</p>	<p>Not later than six months after the date of enactment, Treasury will issue guidance under which if an employer terminates a 403(b) custodial account, the distribution needed to effectuate the plan termination may be the distribution of an individual custodial account in kind to a participant or beneficiary. The individual custodial account will be maintained on a tax-deferred basis as a 403(b) custodial account until paid out, subject to the 403(b) rules in effect at the time that the individual custodial account is distributed. The Treasury guidance shall be retroactively effective for taxable years beginning after Dec. 31, 2008.</p>	<p>Treasury to issues guidance no later than 6 months after enactment</p>
<p>Clarification of retirement income account rules relating to church-controlled organizations (Section 111)</p>	<p>Clarifies individuals that may be covered by plans maintained by church-controlled organizations. Covered individuals include duly ordained, commissioned, or licensed ministers, regardless of the source of compensation; employees of a tax-exempt organization, controlled by or associated with a church or a convention or association of churches; and certain employees after separation from service with a church, a convention or association of churches, or an organization described above.</p>	<p>Applies to years beginning before, on or after enactment</p>
<p>Qualified cash or deferred arrangements must allow long-term, part-time employees to participate (Section 112)</p>	<p>Under current law, employers generally may exclude part-time employees (who work less than 1,000 hours per year) when providing a defined contribution plan to their employees. Except in the case of collectively bargained plans, the bill will require employers maintaining a 401(k) plan to have a dual eligibility requirement under which an employee must complete either on year of service requirement (with the 1,000-hour rule) or three consecutive years of service where the employee</p>	<p>Applies to plan years beginning after Dec. 31, 2020; 12-month periods beginning before Jan. 1, 2021 shall not be taken into account</p>

	completes more than 500 hours of service. In the case of employees who are eligible solely by reason of the latter new rule, the employer may elect to exclude such employees from testing under the nondiscrimination and coverage rules, and from the application of the top-heavy rules.	
Penalty-free withdrawals for individuals in case of birth or adoption (Section 113)	The provision creates a new waiver from the IRC Section 72(t) additional income tax on retirement plan distributions used for childbirth or adoption expenses up to \$5,000.	Distributions made after Dec. 31, 2019
Increase in age for required minimum distributions (Section 114)	Under current law, participants are generally required to begin taking distributions from their retirement plan at age 70 ½. The policy behind this rule is to ensure that individuals spend their retirement savings during their lifetime and not use their retirement plans for estate planning purposes to transfer wealth to beneficiaries. However, the age 70 ½ was first applied in the retirement plan context in the early 1960s and has never been adjusted to take into account increases in life expectancy. The provision increases the required minimum distribution age from 70 ½ to 72.	Distributions made after Dec. 31, 2019 for individuals who attain age 70 ½ after such date
Special rules for minimum funding standards for community newspaper plans (Section 115)	This provision provides pension funding relief for community newspaper plan sponsors by increasing the interest rate to calculate those funding obligations to 8%. Additionally, this bill provides for a longer amortization period of 30 years from 7 years. These two changes would reduce the annual amount struggling community newspaper employers would be required to contribute to their pension plan.	Applies to plan years ending after Dec. 31, 2017
Treat difficulty of care payments as compensation for determining contribution limitations (Section 116)	Many home healthcare workers don't have a taxable income because their only compensation comes from "difficulty of care" payments exempt from taxation under Code Section 131. Since such workers do not have taxable income, they cannot save for retirement in a DC plan or IRA. This provision would allow home healthcare workers to contribute to a plan or IRA by amending Code Sections 415(c) and 408(o) to provide that tax-exempt difficulty of care payments are treated as compensation for purposes of calculating the contribution limits to DC plans and IRAs.	Applies to contributions after date of enactment; 415(c) changes are effective for plan years beginning after Dec. 31, 2015
SECURE ACT, Title II: Administrative Improvements		
Plan adopted by filing due date for year may be treated as in effect as of close of year (Section 201)	Permits businesses to treat qualified retirement plans adopted before the due date (including extensions) of the tax return for the taxable year to treat the plan as having been adopted as of the last day of the taxable year. The additional time to establish a plan provides flexibility for employers that are considering adopting a plan and the opportunity for employees to receive contributions for that earlier year and begin to accumulate retirement savings.	Applies to plans adopted for tax years beginning after Dec. 31, 2019

<p>Combined annual report for group of plans (Section 202)</p>	<p>Directs the IRS and DOL to effectuate the filing of a consolidated Form 5500 for similar plans. Plans eligible for consolidated filing must be DC plans, with the same trustee, the same fiduciary (or named fiduciaries) under ERISA, and the same administrator, using the same plan year, and providing the same investments or investment options to participants and beneficiaries. The change will reduce aggregate administrative costs, making it easier for small employers to sponsor a retirement plan and thus improving retirement savings.</p>	<p>Implemented no later than Jan. 1, 2022, and shall apply to returns/reports for plan years after Dec. 31, 2021</p>
<p>Disclosure of regarding lifetime income (Section 203)</p>	<p>Requires benefit statements provided to DC plan participants to include a lifetime income disclosure at least once during any 12-month period. 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. The Secretary of Labor is directed to develop a model disclosure. Disclosure in terms of monthly payments will provide useful information to plan participants in correlating the funds in their defined contribution plan to lifetime income. Plan fiduciaries, plan sponsors, or other persons will have no liability under ERISA solely by reason of the provision of lifetime income stream equivalents that are derived in accordance with the assumptions and guidance under the provision and that include the explanations contained in the model disclosure.</p>	<p>Applies to pension benefit statements furnished more than 12 months after DOL issues interim final rules, the model disclosure and assumptions</p>
<p>Fiduciary safe harbor for selection of lifetime income provider (Section 204)</p>	<p>Provides certainty for plan sponsors in the selection of lifetime income providers, a fiduciary act under ERISA. Under the bill, fiduciaries are afforded an optional safe harbor to satisfy the prudence requirement with respect to the selection of insurers for a guaranteed retirement income contract and are protected from liability for any losses that may result to the participant or beneficiary due to an insurer's inability in the future to satisfy its financial obligations under the terms of the contract. Removing ambiguity about the applicable fiduciary standard eliminates a roadblock to offering lifetime income benefit options under a DC plan.</p>	<p>No effective date</p>
<p>Modifications of nondiscrimination rules to protect older, longer service participants (Section 205)</p>	<p>Provides nondiscrimination testing relief for large employers with defined benefit plans that are closed to new entrants. The nondiscrimination testing relief includes benefits, rights and features relief for the closed participant class; benefit accrual relief for the closed participant class; and minimum participation requirement relief.</p>	<p>Effective on date of enactment, without regard to when the plans are modified</p>
<p>Modification of PBGC premiums for CSEC plans (Section 206)</p>	<p>In 2014, different funding rules were adopted for three types of pension plans: single-employer, multiemployer and cooperative and small employer charity (CSEC) plans. The legislation establishes individualized rules for calculating PBGC premiums. For CSEC plans, the legislation specifies flat-rate premiums of \$19 per participant, and variable rate</p>	<p>No effective date</p>

	premiums of \$9 for each \$1,000 of unfunded vested benefits.	
SECURE Act, Title III: Other Benefits		
Benefits provided to volunteer firefighters and emergency medical responders (Section 301)	Reinstates for one year the exclusions for qualified state or local tax benefits and qualified reimbursement payments provided to members of qualified volunteer emergency response organizations and increases the exclusion for qualified reimbursement payments to \$50 for each month during which a volunteer performs services.	Applies to tax years beginning after Dec. 31, 2019
Expression of Section 529 Plans (Section 302)	Expands IRC Section 529 qualified tuition program accounts to cover costs associated with registered apprenticeships and qualified education loan repayments.	Applies to distributions made after Dec. 31, 2018
SECURE Act, Title IV: Revenue Provisions		
Modification of required distribution rules for designated beneficiaries (Section 401)	Modifies the required minimum distribution rules with respect to DC plan and IRA balances upon the death of the account owner. Under the legislation, distributions to individuals other than the surviving spouse of the employee (or IRA owner), disabled or chronically ill individuals, individuals who are not more than 10 years younger than the employee (or IRA owner), or child of the employee (or IRA owner) who has not reached the age of majority are generally required to be distributed by the end of the 10th calendar year following the year of the employee or IRA owner's death.	Applies to distributions with respect to employees who die after Dec. 31, 2019
Increase in penalty for failure to file (Section 402)	Increases the failure to file penalty to the lesser of \$435 or 100% of the amount of the tax due. Increasing the penalties will encourage the filing of timely and accurate returns which, in turn, will improve overall tax administration.	Applies to returns due after Dec. 31, 2019
Increased penalties for failure to file retirement plan returns (Section 403)	Modifies the failure to file penalties for retirement plan returns. The Form 5500 penalty would be modified to \$250 per day, not to exceed \$150,000. Failure to file a registration statement would incur a penalty of \$10 per participant per day, not to exceed \$50,000. Failure to file a required notification of change would result in a penalty of \$10 per day, not to exceed \$10,000 for any failure. Failure to provide a required withholding notice results in a penalty of \$100 for each failure, not to exceed \$50,000 for all failures during any calendar year. Increasing the penalties will encourage the filing of timely and accurate information returns and statements and the provision of required notices, which, in turn, will improve overall tax administration.	Applies to returns, statements and notifications required to be filed, and notices required to be provided after Dec. 31, 2019
Increase information sharing to administer excise taxes (Section 404)	Allows the IRS to share returns and return information with the U.S. Customs and Border Protection for purposes of administering and collecting the heavy vehicle use tax.	No effective date
SECURE Act, Title V: Tax Relief for Certain Children		
Modification of the rules relating to the taxation of	Reduces taxes levied on children's military survivor benefits and certain other non-earned income.	Tax years beginning after Dec. 31, 2018 (with

unearned income of certain children (Section 501)		elective retroactive application)
SECURE Act, Title VI: Administrative Provisions		
Provisions relating to plan amendments (Section 601)	Provides for a remedial plan amendment period until the 2022 plan year (2024 plan year for Section 414(d) governmental plans) or a later date if Treasury provides for any plan amendment required under the SECURE Act.	No effective date
Division Q of Appropriations Act (H.R. 1865) Title II: Disaster Tax Relief Special disaster-related rules for use of retirement funds (Section 202)	This provision creates a waiver from the Section 72(t) additional income tax penalty for qualified disaster distributions from retirement plans up to \$100,000. Individuals can spread income tax payment on the qualified disaster distribution ratably over a three-year period. Individuals are permitted three years to repay the distribution back into the retirement plan. Individuals who took a hardship distribution from a retirement plan for a first-time home purchase in the disaster area whose transaction was terminated due to the disaster is able to recontribute the amount back into the retirement plan without tax penalty. The loan limits on retirement plans subject to this relief can be increased from \$50,000 to \$100,000 and retirement plan loan repayment periods extended.	Applies to individuals who suffered losses in a qualified disaster area beginning after 2017 and ending 60 days after the date of enactment