

INSIDE RETIREMENT

Quarterly Recap | Second Quarter 2021

LEGISLATIVE UPDATE: SECURE ACT 2.0 MOVES FORWARD

A legislative proposal first introduced in 2020 was called “SECURE Act 2.0” because it was designed to build on retirement savings enhancements created by the SECURE Act of 2019. With interest in expanding retirement plan coverage and savings still high, House Ways and Means Committee chairman Richard Neal (D-MA) re-introduced the SECURE Act 2.0 in 2021 and on May 5, the Committee voted unanimously to present the SECURE Act 2.0 legislation to the full House for consideration and vote. This proposal is officially named the Securing a Strong Retirement Act of 2021.

Some provisions are intended to expand retirement plan coverage for employees by adding incentives for employers who sponsor plans and other provisions change the rules to benefit participants. Provisions include:

- Increasing the small business plan start-up tax credit from 50% to 100% of start-up costs (up to \$5,000) and providing a new tax credit for a percentage of plan contributions for the first 4 years, up to a per-employee cap of \$1,000
- Requiring new 401(k) plans to automatically enroll employees when they become eligible for the plan – the default deferral rate must be at least 3% of compensation and auto escalation of 1% until a 10% rate is reached (maximum of 15%)
- Reducing the number of years that long-term, part-time employees must work to be eligible for the plan from 3 years to 2 years
- Allowing employers to provide small financial incentives to employees who join and contribute to a retirement plan
- Increasing the catch-up contribution limit to \$10,000, for participants ages 62, 63, and 64
- Allowing employers to treat student loan payments as deferrals for purposes of employer matching contributions
- Increasing the RMD starting age to 75 over a 10-year period

The Act would also simplify corrections procedures under the IRS Employee Plans Compliance Resolution System (EPCRS) and



would address issues related to missing participants and uncashed checks by:

- Increasing the force-out threshold for missing participants to \$6,000
- Requiring plans to transfer missing participant accounts under \$1,000 to the Office of the Lost and Found run by the Pension Benefit Guaranty Corporation
- Creating a retirement savings lost and found database participants could use to search for lost retirement savings accounts

To help raise revenue to offset some of the tax breaks created by this proposal

- Plan participants would be allowed to designate employer matching contributions as Roth contributions
- All catch-up contributions would have to be made as Roth contributions

Similar Act Proposed in Senate

On May 21, two Senators who have been long-time advocates for retirement savings, Rob Portman (R-OH) and Ben Cardin (D-MD),

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introduced the Senate's version of SECURE Act 2.0, called the Retirement Security and Savings Act of 2021. This bill contains many of the same provisions as the House version, as well as other provisions. Some of the differences and additions from the House version include:

- Creating a new tax credit for employers that offer a safe harbor automatic enrollment plan with a default deferral rate starting at 6%
- Making the taxpayers' saver's credit refundable but requiring the refundable portion to be contributed directly to a Roth IRA or designated Roth account
- Permitting nonspouse beneficiaries to make an indirect rollover to an inherited IRA

- Permitting spouse beneficiaries to treat an inherited account in the plan as their own
- Increasing the catch-up contribution to \$10,000 for all participants aged 60 and older
- Eliminating RMDs for individuals who have \$100,000 or less in retirement assets
- Exempting designated Roth accounts from the RMD rules
- Allowing employer plans to accept Roth IRA rollovers



If both the House and Senate passed their respective versions of these proposals, the next step would be a reconciliation process. With the swift action seen so far on these proposals and bipartisan support, chances are good for SECURE Act 2.0 this year.

DOL UPDATE: CYBERSECURITY GUIDANCE

With an increase in cybercrime and lawsuits alleging breach of fiduciary responsibility for keeping plan data safe, plan sponsors have been seeking guidance as to what they should be doing to protect their plan data and participants' assets. Although the DOL has not issued authoritative guidance, it has recently released a set of best practices for service providers, plan sponsors and participants to ensure they are taking appropriate precautions to mitigate cybersecurity risk.

For Plan Sponsors

The DOL's "Tips for Hiring a Service Provider with Strong Cybersecurity Practices" provides cybersecurity-related questions and actions plan fiduciaries should take to meet their ERISA duty to prudently select and monitor plan service providers. Some of the actions the DOL recommends include to

- Ask about the service providers' information security standards and policies
- Ask how the service provider validates its practices and what levels of security standards it has met and implemented
- Review the service provider's track record in the industry, including litigation or other legal proceedings
- Ask about past security breaches, if any, and how they were handled

- Identify insurance policies carried by the service provider that would cover losses caused by identify theft or other cybersecurity breaches
- Make sure the service contract requires the provider to maintain ongoing compliance with cybersecurity standards

For Participants

With these best practices for plan sponsors, the DOL also released a set of "Online Security Tips" for plan participants. Some things individuals can do to reduce the risk of fraud and loss to their retirement accounts are

- Maintain online access to their accounts and regularly check their accounts
- Use strong and unique passwords, ideally consisting of 14 or more characters
- Use a two-step process to verify identity
- Keep personal contact information current on accounts
- Close out unused accounts.
- Avoid using free Wi-Fi because of security risks
- Know how to identify potential phishing attacks
- Use up-to-date antivirus software

DOL UPDATE: FORM 5500 DEADLINE

Most retirement plans are required to file Form 5500, *Annual Return/Report of Employee Benefit Plan*, and related schedules with the DOL by the last day of the seventh month following the end of the plan year. A plan that operates on a calendar-year basis must file Form 5500 by July 31, unless an extension has been obtained. If a plan has 100 or more participants, an independent qualified plan audit (IQPA) must be obtained and filed with Form 5500. Plans must file Form 8955-SSA, *Annual Registration Statement Identifying Separated Participants With Deferred Vested Benefits*, with the IRS if there are terminated participants with a vested deferred benefit from the plan.



If more time is needed to prepare Form 5500 and related schedules, a 2½ month extension from the original due date is available. This date falls on October 15 for calendar-year plans. An extension can be obtained by filing Form 5558, *Application of Extension of Time to File Certain Employee Plan Returns*. Form 5558 must be filed by the original due date for the plan's Form 5500 or Form 8955-SSA. Alternatively, if a business files for an extension to file the business's federal income tax return, an extension to file Form 5500 is automatic, without filing Form 5558. To be eligible for this extension, the plan year and the business tax year must be the same, and the business must have an extension of time to file its federal income tax return to a date later than the normal due date for filing Form 5500.

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