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Year-End Legislation Impacts Retirement Plans

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New legislation designed to help more Americans build a personal retirement account should make it easier for employers - especially small businesses - to provide the service to their employees.

At the end of the year, President Biden signed into law the 2023 Consolidated Appropriations Act ("CAA"). The retirement-related provisions of the CAA are being referred to as SECURE 2.0 named after the Setting Every Community Up for Retirement Enhancement Act of 2019 as some of the CAA provisions serve to further the goals of the SECURE Act.

The more than 90 provisions in the CAA will have an impact on employer-sponsors of retirement plans applicable to both large employers and small employers, but some of the changes are especially beneficial to small businesses. Here is a brief highlight of some of the more significant changes:

• Starting in 2024, employers will have the opportunity to provide a 401(k) or 403(b) matching contribution based on an employee's student loan payments.

• Effective for 2023, the new rules increase the tax credit for retirement plan start-up costs to make it nearly free for employers with 50 or fewer employees to set up retirement plans.

• Starting in 2024, employers will have an opportunity to cash out a greater number of small account balances as the mandatory distribution threshold will increase from $5,000 to $7,000.

Currently, employers are generally allowed to exclude employees who work less than 1,000 hours per year from company retirement plans. In 2025, a 401(k) plan will need to offer an eligibility requirement under which an employee may become a participant if he/she has two (the SECURE Act had previously required eligibility after three) consecutive years of service with at least 500 hours of service per year. The CAA also extends this part-time coverage requirement to 403(b) plans.

• Starting in 2023, the new rules increase the Required Minimum Distribution age from 72 to 73 and 75 in 2033.

• The penalty for failing to receive a Required Minimum Distribution is reduced from 50% to 25% beginning in 2023, with the ability to reduce it to 10% if corrected in a timely manner.

• Starting in 2023, the 403(b) hardship rules will follow the 401(k) rules for hardship distributions.

• Starting in 2024, employers may establish emergency savings accounts allowing salary deferrals up to 3% of salary with a $2,500 cap.

• Beginning with 2025, the catch-up contributions limits for those ages 60-63 will be increased to the greater of $10,000 or 150% of the regular age 50 catch-up contribution limit.

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Whether you currently offer your employees a retirement plan (or are planning to do so), you should consider how these new rules may affect your current retirement plan (or your decision to create a new plan). The SECURE 2.0 provisions will require plan amendments, but employers will have until at least December 31, 2027 to complete the required amendments. If you have any questions about these new regulations and requirements, please contact Mark Smith or anyone in the Barley Snyder Employee Benefits practice.

WRITTEN BY:

Mark A. Smith

Partner

Tel: (717) 399-1526

Email: msmith@barley.com