The SECURE Act

The SECURE Act of 2019 (Setting Every Community Up for Retirement Enhancement) was signed into law as part of a government funding package on December 20, 2019, with overwhelming bipartisan support. The SECURE Act is the most comprehensive retirement savings package to become law since the Pension Protection Act of 2006.

The SECURE Act is wide-ranging, spanning nearly 40 provisions. The Act seeks to improve access to employer-sponsored retirement savings plans, increase savings levels within plans, streamline administration of plans, and provide for a wider range of options for generating retirement income, such as annuities.

Changes to IRAs and retirement plans

- **Increase the mandatory RMD age:** Required minimum distributions (RMDs) will begin in the year after an individual turns 72, up from the current 70½. *Effective in 2020 for those who attain age 70½ in 2020 or later.*
- **Remove the age limit for traditional IRA contributions:** Non-rollover contributions to traditional IRAs are permitted after age 70½, similar to Roth IRA contributions. *Effective in 2020 for contributions made for 2020 or later.*
- **Inherited IRA and defined contribution plan distribution requirements:** The balances of inherited IRAs and inherited defined contribution plan accounts are required to be distributed by the end of the tenth year after the IRA owner or plan participant dies, with exceptions for certain types of beneficiaries, including spouses and minor children, who are still permitted to take distributions over their life expectancy. *Generally effective for deaths in 2020 or later.*
- **Increase to the auto enrollment safe harbor cap:** The cap on auto escalation of employee deferrals is raised from 10% to 15% for employees enrolled through auto enrollment under certain automatic enrollment safe harbor plans. *Effective in 2020.*
- **New baby withdrawals:** Withdrawals of up to $5,000 from IRAs or employer plans in the year following the birth or adoption of a child may be allowed. The 10% early withdrawal penalty tax would not be assessed. Similar to rollover contributions, the funds could be recontributed at a later date. *Effective in 2020.*
- **Access for long-term part-time workers:** 401(k) plans are required to include employees who work 500 hours or more per year for three consecutive years for purposes of making elective deferrals, although employer matches are not required. These employees also receive vesting service credit. *Effective in 2021, though service prior to 2021 need not be counted, so impact to employees unlikely to begin before 2024.*
- **Lifetime income disclosure:** On an annual basis, 401(k) account balances are required to be translated into a monthly annuity payment on participant disclosures. *Effective 12 months after the Department of Labor finalizes the rules around permissible assumptions for the calculation of monthly annuity payments.*

Changes to 529s

- **New uses for 529 plans:** 529 plans can be used to pay for apprenticeship program expenses and as much as $10,000 over a person's lifetime for student loan payments. *Effective for all distributions beginning in 2019.*

Increased availability of annuities within retirement plans

- **Annuity provider selection safe harbor:** Plan sponsors are allowed to rely on written representations from insurers for purposes of conducting periodic reviews and for the insurer's status under state insurance laws for the purpose of considering the insurers' financial status. *Effective upon the law's enactment.*
- **Annuity portability:** Lifetime income investments can be transferred among retirement plans when the option is no longer authorized by the original plan. *Effective in 2020.*

Changes to retirement plan administration

- **Streamlined plan administration:** The annual safe harbor notice requirement for plans designed to avoid nondiscrimination testing is eliminated for plans that satisfy the safe harbors by using non-elective contributions. In addition, non-elective safe harbor contributions can be added to a plan mid-year provided certain conditions are met. Finally, plans that have the same trustee, named fiduciary, and investment options can file a single Form 5500. *Effective in 2020.*
- **Incentives for small employers:** Employers with fewer than 100 employees can receive a 50% tax credit for retirement plan startup costs as high as $5,000, up from the current $500 cap. Also, small employers can receive a credit of up to $500 per year for up to three years for including automatic enrollment in their plans. *Effective in 2020.*

Expansion of MEPs

- **Open Multiple Employer Plans (MEPs):** Unrelated employers can join together to create retirement plans administered by a third party. MEPs allow smaller employers to benefit from economies of scale and strengthen their negotiating position with plan providers. MEPs can work through a pooled plan provider (PPP) that would be named the fiduciary and plan administrator and would be subject to registration, examination, audit, and investigation by the Departments of Treasury and Labor. *Effective in 2021.*
- **"One bad apple" relief:** MEPs will not be treated as failing if one employer does not meet its obligations to the plan. *Effective in 2021.*