



RetireWell Administrators, Inc.

Third-party Pension Administration and Consulting Services

ON TARGET

RetireWell Administrators, Inc. provides total retirement plan solutions by combining TPA services with the employee benefits practice at The Law Firm of Anthony L. Scialabba, LLC.

Cycle 4 Restatement On the Horizon

By Anthony L. Scialabba IV, Esq., QKA

The deadline for executing plan documents, restated for Cycle 4, as required by the Internal Revenue Service, is December 31, 2026. The restatement applies to 401(k) and 403(b) plan documents that are tax-qualified and pre-approved by the Internal Revenue Service.

When RetireWell Administrators, Inc. restates your plan for Cycle 4, we can capture certain changes that you may want implemented and inform your recordkeeper, as needed. Thus, prior to the aforementioned deadline, you should consider reviewing your plan documents to determine what (if any) changes you want made. In this regard, such changes are not limited whatever "SECURE 2.0 Act" elections we received from you.

Failure to restate the plan document in accordance with Cycle 4 by the deadline may result in the plan becoming "disqualified." In general, upon disqualification, the participants of the plan would be immediately subject to federal income tax on all of their accrued benefits in the plan as ordinary income. Such income would be taxed for all open years with penalties and interest.

In addition to the taxation of plan participants, the trust of the plan could be immediately subject to federal trust tax on an amount equal to all of the accrued benefits in the plan. Such trust income would be taxed for all open years with penalties and interest.

If you have questions with respect to Cycle 4, the other materials covered in this newsletter, or other retirement plan matters, please contact RetireWell Administrators, Inc. at 856-396-0499 or ClientServices@RetireWellTPA.com.

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Treatment of Catch-up Contributions as Roth Contributions

By Anthony L. Scialabba IV, Esq., QKA

The "SECURE 2.0 Act" mandates all catch-up contributions to retirement plans to be subject to Roth contributions tax treatment effective for taxable years beginning after December 31, 2023 (delayed to after December 31, 2025). An exception is granted for employees with compensation of \$145,000 or less (indexed).

If your plan document permits catch-up contributions but does not permit Roth contributions, a plan amendment should be adopted if the plan's intent is to allow all employees to take advantage of catch-up contributions. If the plan is not amended to allow Roth contributions, those employees with compensation greater than \$145,000 would not be eligible to make catch-up contributions. If your plan document permits catch-up contributions from both pre-tax and Roth contributions, a plan amendment does not need to be adopted to limit catch-up contributions to Roth contributions for employees with compensation greater than \$145,000. The SECURE 2.0 Act dictates that those over the threshold may only make catch-up contributions in the form of Roth.

Before the effective date of the new rule, recordkeepers, payroll companies, and document and testing software companies of plans will have to update their systems to accommodate treatment of catch-up contributions as Roth contributions.

As to a Roth contribution feature, the contributions are taxed when they are withheld from pay, and when the contributions (including earnings) are distributed, they are not taxed. This taxation methodology favors younger, higher compensated employees who have longer time horizons rather than older workers who are age 50 or more and who can qualify for a catch-up contribution. The new rule may hurt older participants who would otherwise receive a tax deduction for their pre-tax contributions that are made on a "catch-up" basis.

Changes in Coverage Regarding Part-time Workers

By Anthony L. Scialabba IV, Esq., QKA

The "SECURE 1.0 Act" mandated employers to permit "long-term, part-time workers" to participate in the employers' 401(k) plans. In this regard, a 401(k) plan (except a collectively bargained plan) has to include a dual eligibility requirement under which an employee must complete either one year of service (with the "1,000-hour" rule) or "three" consecutive years of service with at least 500 hours of service. The "SECURE 2.0 Act" reduced three consecutive years of service to two.

Example: ABC Company sponsors the ABC Company 401(k) Plan ("Plan"). The Plan utilizes the "dual eligibility" requirement noted above. Mark was hired by ABC Company on January 1, 2025, and works 500 hours in 2025. If Mark works 500 hours in 2026, he will become eligible to participant in the Plan on January 1, 2027.

The rules concerning long-term, part-time workers also apply to vesting. In this regard, under both the SECURE 1.0 Act and the SECURE 2.0 Act, employers must credit long-term, part-time workers with vesting service for 12-month periods in which they work a minimum of 500 hours. The Internal Revenue Service interpreted that the SECURE 1.0 Act mandated employers to credit all of a long-term, part-time worker's service (including pre-2021 service) for vesting purposes. This interpretation created a discrepancy because pre-2021 service was disregarded for eligibility purposes. The SECURE 2.0 Act corrected this by stipulating that pre-2021 service is also disregarded for vesting purposes, effective as if included in the SECURE 1.0 Act to which the amendment relates.

The SECURE 2.0 Act also extended the coverage rules of long-term, part-time workers to 403(b) plans that are subject to ERISA.

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