

Answering the SECURE Act Insecurities



Your Questions ... Our Answers



S. Derrin Watson, Esq., APM
Ilene H. Ferenczy, Esq., APA, CPC
Ferenczy Benefits Law Center



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Your Presenters Today



S. Derrin Watson, J.D., APM



Ilene Ferenczy, J.D., CPC, APA



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2022 Amendment Deadline



- ▶ No operational failure if amend by last day of first plan year beginning on or after 1/1/2022
 - ▶ IRS can grant later deadline
 - ▶ Governmental and certain union plan deadlines extended two years
 - ▶ Amendment must be retroactively effective
- ▶ Anti-cutback relief also available
- ▶ Must operate in accordance with law and amendment as ultimately adopted
- ▶ Presumably, deadline for terminating plans is termination date
- ▶ Will not be included in DC Cycle 3 restatements

Act Section	601
Qualified	Yes
403(b)	Yes
457(b)	Yes
Eff. Date	N/A

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Document Questions



▶ Termination Amendment:

- ▶ If plan terminated and distributed before 2019, no amendment needed
- ▶ If plan terminated in 2019 and distributed in 2020 amendment likely not required
- ▶ If plan terminated in 2020, amendment needed to deal with RMDs and optional provisions used
 - ▶ No amendment needed for DB plans that didn't use optional provisions
- ▶ Must adopt amendment or file 5310 to extend RAP

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Document Questions



▶ Pre-approved document sponsor can amend for all clients

- ▶ But, how will they be able to accommodate the many options that are available, unless the clients adopt their own interim amendments?
- ▶ Gov't plans get two-year extension on adoption deadline, not effective dates, except rules on stretch IRAs (later)
- ▶ **Strong** Suggestion: Keep checklist of options selected and implemented so that documentation at end of remedial amendment period is easy

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No SH Notice for Nonelective

- ▶ No need for safe harbor notice for safe harbor nonelective plans
 - ▶ Or QACA nonelective plans
 - ▶ But should give notice of automatic contribution arrangement
- ▶ Still need notice for safe harbor match plan
 - ▶ Or QACA match plan
- ▶ Still need notice for ACP safe harbor, even if ADP safe harbor is met with nonelective contribution



Act Section
103(a)
Qualified
Yes 401(k) only
403(b)
No
457(b)
No
Eff. Date
PY begin after 12/31/19
Amendment Needed
Yes

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Questions About Safe Harbor Nonelective Notice

- ▶ No need for initial SH notice
 - ▶ For new plan; new employee; or new change to SH
 - ▶ Still have to tell employees they can defer (SPD + deferral election form?)
- ▶ Apparently no supplemental notice needed when you amend out of SH nonelective (although it is advisable to keep participants informed)
- ▶ No need for SH maybe notice or supplemental notice, because requirement is tied to the initial notice requirement
 - ▶ Unless you need ACP safe harbor (but not ACP-tested match)
 - ▶ Always need notice before beginning of year for ACP SH
 - ▶ Includes fixed and discretionary matches if sponsor wants to avoid ACP test



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Questions About Safe Harbor Nonelective Notice



- ▶ You can give it if you want to
 - ▶ If you want to continue to have the ability to suspend the safe harbor, you might want to still give a “maybe not” notice – but unclear whether that is required.
- ▶ Our take:
 - ▶ If you didn’t need to give a SH notice, no need to provide updated notice for plan amendment (although it is a good idea)
 - ▶ But, what about midyear suspension or termination?
- ▶ ADP-tested still requires amendment to adopt 3% SH
 - ▶ Unless maybe notice somehow does away with it

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Late Adoption of SH Nonelective



- ▶ Suppose ER starts year with ADP-tested plan
- ▶ Can convert to SH nonelective plan
 - ▶ At 3% contribution up to 30 days before PYE
 - ▶ At 4% contribution as late as 12 months after PYE
 - ▶ Not limited to 2½ months
 - ▶ Contribution applies for full plan year (not just 3 months)
- ▶ Also applies to QACA SH
 - ▶ But default deferrals had to be in place
- ▶ Does not apply to ADP SH match (or QACA match)
- ▶ Could apply even if plan wants to use ACP safe harbor
- ▶ But cannot get ACP safe harbor without notice before start of year
 - ▶ Even with discretionary match
 - ▶ Could be maybe notice

Act Section
103(b), (c)
Qualified
Yes, 401(k) only
403(b)
No
457(b)
No
Eff. Date
PY begin after 12/31/19
Amendment Needed
Yes

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Questions About 3%/4% SH Late Adoption



- ▶ Cannot do midyear switch from SH match to SH nonelective
- ▶ Can do this year after year, as needed
- ▶ No change in rules for deduction/§415 timing
- ▶ Not available to fix 2019 plan year
- ▶ 3%/4% can be limited to NHCEs

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Questions About 3%/4% SH Late Adoption



- ▶ Doesn't necessarily lock you in to 4% SH or 3% SH nonelective for the following year
 - ▶ It all depends on how you draft the amendment
 - ▶ Example: 401(k) plan document says plan is ADP-tested for 2020
 - ▶ March 1, 2021, employer amends plan to say "For 2020 only, plan uses ADP-SH and employer contributes 4% nonelective"
 - ▶ Plan is ADP-tested for 2021; no safe harbor employer contribution
 - ▶ No need for notice

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Several Asked About March 15 Refunds



▶ Example:

- ▶ Plan fails ADP test for 2020
- ▶ March 10, 2021, Employer corrects ADP failure by distributing \$4,000 to HCEs
- ▶ Employer decides in November to retroactively amend the plan to provide 4% nonelective
- ▶ Previously distributed excess contributions are “overpayments” to be repaid to the plan, plus earnings.

▶ More likely results:

- ▶ Employer doesn't amend plan
- ▶ Employer amends plan before March 15
- ▶ Employer didn't correct by March 15

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Increase QACA Maximum Automatic Deferral



- ▶ Automatic deferral for QACA has been capped at 10%
- ▶ New cap is 15%
 - ▶ Doesn't apply to initial period (participant's first year+ of automatic enrollment)
- ▶ Doesn't change employer contributions
- ▶ Will require plan amendment to utilize

Act Section	102
Qualified	Yes, 401(k) only
403(b)	Yes
457(b)	No
Eff. Date	PY begin after 12/31/19
Amendment Needed	Yes

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QACA Increase Q&As



- ▶ Examples:
 - ▶ Could increase 1%/year until you reach 15%
 - ▶ Could do 10% automatic deferrals for first 1+; and 15% thereafter
- ▶ No need to have maximum above 6% unless you want to
 - ▶ Minimum automatic deferrals haven't changed
- ▶ Still must satisfy QACA uniformity requirements
 - ▶ Same formula applies to all
- ▶ Doesn't change employer contributions
- ▶ Must amend by end of year you want automatic deferrals to exceed 10%

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Long-term Part-time Employee Deferrals



- ▶ 401(k) plans *must* allow certain part-time employees to defer
- ▶ Long-term part-time participant (LTPT)
 - ▶ Three consecutive eligibility computation periods with at least 500 HOS each
 - ▶ Don't count ECP beginning before 1/1/2021
 - ▶ Can impose age 21 condition (by end of service period)
 - ▶ Even if 18 is used for other employees
 - ▶ Can impose standard entry date
 - ▶ Could be less frequent than for other employees
 - ▶ So earliest entry would typically be 1/1/2024
 - ▶ Could be earlier if your systems will handle it
 - ▶ Can we apply non-service eligibility conditions that otherwise would apply?

Act Section
112
Qualified
Yes 401(k) only
403(b)
No
457(b)
No
Eff. Date
Start counting years in 2021
Amendment Needed
Yes

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LONG-TERM PART-TIME (LTPT)



- ▶ Must be allowed to defer to 401(k) plan
- ▶ Can exclude LTPT from:
 - ▶ Safe harbor contributions (including QACA)
 - ▶ Other employer contributions
 - ▶ Top-heavy minimums and vesting
 - ▶ Coverage
 - ▶ ADP
 - ▶ ACP
 - ▶ 401(a)(4)

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Long-Term Part-Time Q&As



- ▶ Remember: counting of service for LTPT does not begin until 1/1/2021
 - ▶ Assuming normal entry date rules, no one will be eligible for LTPT benefits until 1/1/2024
- ▶ Who is an LTPT employee?
 - ▶ Existing exclusions will not keep out LTPT for deferral purposes
 - ▶ Your definition of a “part-time employee” may be needed for other exclusions/inclusions
 - ▶ Can include seasonal employees rehired annually
- ▶ Does not appear to be any reason why you cannot impose age 21 requirement for this purpose, even if age 18 is used for other eligibility purposes

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Long Term Part-Time Q&As



- ▶ Entry dates:
 - ▶ Could be less frequent than entry dates for regular employees
- ▶ Form 5500:
 - ▶ Expect they will be included in participant count
 - ▶ Expect that they will turn a Form 5500-EZ filing into a Form 5500-SF filing if the plan covers LTPT employees
- ▶ Can auto-enroll
- ▶ Can we do it sooner than 2024?
 - ▶ Yes, but the open questions can make it difficult until guidance is available

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Special Rules Q&As



- ▶ Vesting
 - ▶ For LTPT (only)
 - ▶ Vesting YOS is any vesting computation period with at least 500 HOS
 - ▶ Vesting break in service is period with less than 500 HOS
 - ▶ Could include years before 2021! (Technical correction or guidance needed)
- ▶ 1000 Hours:
 - ▶ What happens if LTPT has eligibility computation period with 1000 HOS?
 - ▶ Law says: enters as full participant on next entry date
 - ▶ Participate as other employees do (eligible for employer contribution if meet conditions)
 - ▶ But what about vesting service rules?
 - ▶ Stay at 500 HOS or convert to 1000 HOS
 - ▶ What if the 1000-hour year was a fluke and the employee goes back to working < 1000 hours?

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Special Rules Q&As



- ▶ Can we apply non-service eligibility conditions which otherwise would apply?
 - ▶ Or special class exclusions?
- ▶ Largely irrelevant for plans without service conditions or plans using elapsed time
 - ▶ Part-time employees should already be eligible for the plan in its entirety

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LTPT Strategy Questions



- ▶ Would it be administratively simpler to allow all employees to defer, without regard to HOS?
 - ▶ Yes, but:
 - ▶ ADP test
 - ▶ Top heavy
 - ▶ Safe harbor
- ▶ Suppose plan treats part-time (<1,000 HOS) EEs as excluded class, then lets full-time EEs enter after three months
 - ▶ Part-timers then enter under LTPT rules
 - ▶ Part-timers don't get top heavy; full-timers do

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Employer Can Adopt Plan After End of Year



- ▶ Deadline to adopt plan is due date of employer's tax return (plus extensions)
 - ▶ Treated as adopted on last day of prior tax year
 - ▶ Limited to employer contributions
 - ▶ Need to adopt before deferrals can occur
 - ▶ Can retroactively adopt PS contribution and prospectively adopt deferral provision
 - ▶ Normal minimum funding deadline applies
- ▶ Cycle 3 DC documents will include clause that plan cannot be effective earlier than plan year adopted
 - ▶ Will require interim amendment to allow earlier effective date

Act Section
201
Qualified
Yes
403(b)
No
457(b)
No
Eff. Date
Tax years begin after 12/31/19
Amendment Needed
Yes

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Late Adoption Questions



- ▶ §412(d)(2) amendment deadline
 - ▶ We assume new law takes precedence
 - ▶ Look for IRS guidance or technical correction
- ▶ Do we need proof of tax return extension?
 - ▶ Employer does
- ▶ Could sole prop owner-only 401(k) be adopted after year end?
 - ▶ Deferral election has to be made before year end and after plan adoption
- ▶ Still needs a Form 5500 for initial plan year, even if no balance

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Multiple DC Plans Can File Together

- ▶ Treasury and Labor to revise Form 5500 rules to permit combined filing
 - ▶ May have separate information relevant to each plan
 - ▶ Participants must be able to find aggregated report
- ▶ Requirements
 - ▶ Defined contribution plans
 - ▶ Same Trustee (uncertain how applies to 403(b) Plans)
 - ▶ Same 3(16) Plan Administrator and Named Fiduciary
 - ▶ Same plan year end
 - ▶ Same investments/investment options (typically same recordkeeper)



Act Section
202(a)
Qualified
ERISA plans
403(b)
ERISA plans?
457(b)
No
Eff. Date
PY begin after 12/31/2021
Amendment Needed
No

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Form 5500 Filing Questions

- ▶ Types of plans affected
 - ▶ Must be DC plans, but could include
 - ▶ Open MEPs and “Exchanges”
 - ▶ Union/Nonunion plans of same employer
 - ▶ Other related plans of companies or private equity firms
 - ▶ Form 5500-EZ plans
 - ▶ “Same Trustee” requirement does not require a master trust
 - ▶ Audit rules: Audit likely based on total number of participants in all plans, but need to wait for guidance (may get relief?)



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Pooled Employer Plans (PEP) Authorized

- ▶ PEP is single plan under ERISA
 - ▶ One Form 5500, one bond, one audit
- ▶ DC qualified plans or IRA arrangements
 - ▶ Likely DC plans and IRA in separate PEPs
 - ▶ Not available for 403(b) plans
- ▶ Requires Pooled Plan Provider
- ▶ Single plan for ERISA
- ▶ Bad apple rule relief
 - ▶ Includes PEPs and plans with commonality



Act Section
101
Qualified
DC only
403(b)
No
457(b)
No
Eff. Date
PY begin after 12/31/2020
Amendment Needed
Yes

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PEP Questions

- ▶ Can you choose to break into several Forms 5500s to avoid audit?
 - ▶ No; the whole idea of a PEP is to create a single ERISA plan
 - ▶ Audit rules need further guidance
 - ▶ Appears that a PPP could have multiple PEPs and that may solve the problem (?)
- ▶ Will PEP replace open MEP?
 - ▶ It's still a legitimate vehicle, but most will likely move to a PEP
- ▶ Employer's ability to select plan provisions depends on PEP terms; but that is a settlor function
 - ▶ ER likely needs 408b-2 disclosures for PPP/affiliates



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PEP Questions



- ▶ We guess deferrals are employer contributions PEP trustee will have duty to collect
- ▶ We anticipate typical PEP will use a 3(38) advisor; multiple 3(16) administrators possible
- ▶ The PPP must register with the DOL and the IRS
 - ▶ Likely single registration
 - ▶ Can't really set up a PEP until they open registration
- ▶ No DOL changes in rules for non-PEP MEPs

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Required Beginning Date Changed



- ▶ Required beginning date now based on age 72, instead of 70½
 - ▶ Effective for distributions after 2019 for persons turning 70½ after 12/31/19
 - ▶ Effective for persons born after 6/30/1949
 - ▶ Applies to all plan types and IRAs
 - ▶ Also applies to spousal delay; effective date question

▶ Examples

Birthday	Status	70½ Year	72 Year	Required Beginning Date
6/30/1949	Owner	2019	2021	4/1/2020
7/1/1949	Owner	2020	2021	4/1/2022
6/1/1949	Nonowner quits in '20	2019	2021	4/1/2021

Act Section	114
Qualified	Yes
403(b)	Yes
457(b)	Yes
Eff. Date	Persons born after 6/30/1949
Amendment Needed	Yes

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RMD 72 Questions



- ▶ We will need technical corrections/guidance on actuarial adjustments after 70½
- ▶ No change in tax-exempt 457(b) in service distributions (70½)
- ▶ Optional rule; plan can continue to make distributions at 70½, but they won't be RMDs; let's see about guidance

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RMD Issues in Early 2020



- ▶ Notice 2020-6: If financial institution issued 5498/RMD statement to person turning 70½ in 2020, it should notify owner by April 15 that no RMD is due
- ▶ “The Department of the Treasury and the IRS are considering what additional guidance should be provided with respect to the SECURE Act, including guidance for plan administrators, payors, and distributees if a distribution to a plan participant or IRA owner who will attain age 70½ in 2020 was treated as an RMD.”

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Elimination of Stretch IRAs/Beneficiary Payouts



- ▶ Current law allows nonspouse designated beneficiaries to receive distributions over their life expectancy
 - ▶ E.g., I leave Roth IRA account to 21-year old grandson
 - ▶ He can take distributions over 62.1 years
- ▶ Under new rules, distributions to most death beneficiaries limited to 10 years
 - ▶ Doesn't apply to eligible designated beneficiaries

Act Section
401
Qualified
DC
403(b)
Yes
457(b)
Yes
Eff. Date
Employee dies after 12/31/19
Amendment Needed
Yes

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Questions About Elimination of Stretch Payouts



- ▶ Does apply to DC, 403(b), 457(b), IRA, Roth IRA
- ▶ Doesn't apply to:
 - ▶ DB plans
 - ▶ Distributions to participants
 - ▶ Distributions to beneficiaries of participants who died before 2020

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Questions About 10-Year Rule



- ▶ I die at age 65 in 2020, leaving IRA to adult children
 - ▶ Distribution deadline is 12/31/2030
- ▶ No new tables; IRS proposed regs last year
- ▶ Age of majority for children: Uncertain. See Treas. Reg. §1.401(a)(9)-6 Q&A-15
- ▶ There may be situations where a trust is better off not being a “designated beneficiary”
- ▶ No authority to delay issuing RMDs due in 2020 after SECURE

▶ Effective date:

Type	Death after
General	12/31/2019
Governmental	12/31/2021
Union	12/31/2019-21
Existing annuities	Not

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Older Employees Can Make IRA Contributions



- ▶ Current laws prohibit non-Roth IRA contributions for tax year owner turns 70½ and subsequent years
- ▶ Repealed
- ▶ However, IRA deductions after 70½ reduce IRA charitable distribution exclusion
 - ▶ Suppose Don (age 71) makes deductible \$7,000 IRA contributions in 2020 and 2021 (\$14,000 total)
 - ▶ In 2022, Don makes \$25,000 IRA charitable distribution to Cancer Foundation
 - ▶ Only \$11,000 (\$25K - \$14K) is excludable

Act Section
107
Qualified
No
403(b)
No
457(b)
No
Eff. Date
Tax years begin after 12/31/19
Amendment Needed
No

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Questions About Older Employees IRA Contributions



- ▶ Individuals can make deductible and nondeductible IRA contributions regardless of age
- ▶ Could deposit RMDs (but they aren't rollovers)

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Small Plan Tax Credits



- ▶ Limited to employers that could sponsor SIMPLE
 - ▶ Credit for qualified plan startup costs
 - ▶ Was \$500/year for three years
 - ▶ Now \$500-\$5,000 for three years (\$250/NHCE covered)
 - ▶ New credit for EACA
 - ▶ \$500/year for three years
 - ▶ Not limited to plan operating costs
 - ▶ Applies to new plans and plans that add EACA feature

Act Section	104, 105
Qualified	Yes
403(b)	No
457(b)	No
Eff. Date	Tax year begin after 12/31/19
Amendment Needed	No

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Tax Credit Questions



- ▶ Limited to employers that could sponsor SIMPLE
 - ▶ Covers one-half of startup/administration costs ER pays
 - ▶ Including EE education expenses
 - ▶ Was \$500/year for three years
 - ▶ Now \$500-\$5,000/year for three years (\$250/NHCE covered)
 - ▶ Must cover at least 1 NHCE (max credit with 1 NHCE is \$500)
 - ▶ Must have at least 20 NHCEs and \$10,000 in expenses to get maximum credit
 - ▶ No deduction for the expenses (a credit is better!)
 - ▶ Uncertain when you count NHCEs (beginning of year; end of year; plan start)

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Tax Credit Questions



- ▶ Doesn't apply if ER maintained qualified plan, SEP, or SIMPLE for essentially same employees in any of prior three years
- ▶ First year is the year the plan is effective or prior year (employer's option)
 - ▶ Plan effective in 2019 can take higher credit in 2020 and 2021
- ▶ Availability with MEP/PEP uncertain

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EACA Tax Credit (nonrefundable)



- ▶ Limited to employers that could sponsor SIMPLE
 - ▶ Employer must have an NHCE
 - ▶ Doesn't say plan must have an NHCE
 - ▶ Could apply to 401(k) SARSEP or SIMPLE IRA
 - ▶ Applies to new plans and plans that add EACA feature
 - ▶ Even if plan started/feature added in 2018 or 2019
 - ▶ Could include a QACA
 - ▶ \$500/year for three years;
 - ▶ Not limited to plan operating costs

Act Section
105
Qualified
Yes
403(b)
No
457(b)
No
Eff. Date
Tax year begin after 12/31/19
Amendment Needed
No

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Withdrawals After Birth/Adoption



- ▶ New defined contribution distributable event
 - ▶ Qualified birth or adoption distribution
 - ▶ Distribution in one-year period after birth/finalized adoption
 - ▶ Up to \$5,000
 - ▶ Applies to all plans of related employers
 - ▶ Applies to 401(k) and other qualified DC, 403(b), gov't 457(b), and IRAS
- ▶ No 10% premature distribution penalty
 - ▶ But it is taxable
- ▶ Can repay it to distributing plan or to an IRA
 - ▶ Treated as rollover contribution

Act Section
205
Qualified
DC Yes
403(b)
Yes
457(b)
Govt Yes
Eff. Date
Distributions after 12/31/19
Amendment Needed
Yes

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Questions About Birth/Adoption Withdrawals



- ▶ Example: Child born 6/1/2019; distribution allowed from 1/1/2020 to 6/1/2020
- ▶ Yes, if both parents are in plans, each can take the penalty-free withdrawal
- ▶ Withdrawal is subject to tax, just exempt from 10% early withdrawal penalty under §72(t)
- ▶ Available from all sources; no limits on use of money
- ▶ We don't know about withholding; 20% shouldn't apply because we do not expect it to be an eligible rollover distribution
- ▶ §402(f) notice shouldn't apply

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Questions About Birth/Adoption Withdrawals



- ▶ This is an optional provision
 - ▶ If your document doesn't allow it; you can't take it in-service
 - ▶ Document needn't authorize hardship distributions
 - ▶ But you could treat a distribution you were otherwise entitled to as qualifying
- ▶ Draft Form 1099-R instructions show Code 1
- ▶ Repayment won't count for top-heavy; it's a rollover
- ▶ Can't repay to an employer plan other than the plan that distributed it
- ▶ Retroactive amendment should be fine

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Portability of Lifetime Income Options

- ▶ Plan has offered lifetime income investment
 - ▶ E.g., a product with an annuity distribution option not generally available under the plan
- ▶ Plan is going to drop investment
- ▶ Participants can roll to IRA or other rollover vehicle
 - ▶ Limited to that particular investment
 - ▶ Even if there isn't otherwise a distributable event
 - ▶ Limited to direct rollover
 - ▶ Applies during 90-day period prior to dropping investment
 - ▶ Optional provision



Act Section
109
Qualified
DC Yes
403(b)
Yes
457(b)
Govt Yes
Eff. Date
Plan year begin after 12/31/19
Amendment Needed
Yes

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Questions re Lifetime Income Option Portability

- ▶ Amendment needed to accomplish it
- ▶ Structure of amendment will depend on plan terms



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Lifetime Income Disclosure for ERISA Plans



- ▶ Defined contribution participant benefit statements must include annual disclosure
 - ▶ Lifetime income stream equivalent of account
 - ▶ Expressed as monthly benefit, single life and QJSA
 - ▶ DOL can authorize term certain feature
 - ▶ DOL to provide assumptions
- ▶ DOL to provide model (with explanations) and assumptions within one year
- ▶ No fiduciary liability for providing statement that follows DOL assumptions and provides explanations

Act Section
203
Qualified
ERISA DC Yes
403(b)
ERISA yes
457(b)
No
Eff. Date
Statements provided a year after guidance
Amendment Needed
No

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Questions About Lifetime Income Disclosures



- ▶ Doesn't apply to cash balance or other DB plans
- ▶ Applies to DC plans including those with brokerage accounts
 - ▶ DC benefit statement already shows account balance

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Higher IRS Penalties for Late Filing



Return	Old Penalty	New Penalty	Act Section
5500	\$25/day; \$15,000 max	\$250/day; \$150,000 max	403
8955-SSA	\$1/participant/day; \$5,000 max	\$10/participant/day \$50,000 max	Qualified
Withholding notice	\$10/notice; \$5,000 max	\$100/notice; \$50,000 max	Yes
			403(b)
			ERISA Yes
			457(b)
			No
			Eff. Date
			Returns due aft 12/31/2019
			Amendment Needed
			No

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Questions About Higher IRS Penalties



- ▶ Does not apply to Form 8822-B (based on revised Form 8955-SSA instructions)
 - ▶ But it is a good idea to file it when there's an address change
- ▶ DVFC still applies: Higher penalties possible?
- ▶ Withholding notice:
 - ▶ Relates to participant subject to voluntary 10% withholding
 - ▶ Notice of right to elect different % or opt out of withholding

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Lower In-Service Distribution Ages



▶ Bipartisan American Miners Act §104

- ▶ Lowers in-service pension distribution age from 62 to 59½
- ▶ Lowers in-service government 457(b) distribution age from 70½ to 59½
 - ▶ Tax-exempt stays at 70½

Act Section	BAMA 104
Qualified	Yes
403(b)	No
457(b)	Govt Yes
Eff. Date	PY begin after 12/31/2019
Amendment Needed	Yes

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Questions About Lower In-Service Distribution Ages for Pensions



- ▶ Corresponding change not made to ERISA; technical correction needed
- ▶ Uncertain how this will impact normal retirement age
- ▶ Applies to all pensions, including defined benefit plans, cash balance plans, money purchase pension plans, and target benefit pension plans

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Disaster Relief



- ▶ Congressional retirement disaster relief provided for major disasters between 1/1/2018 and 2/18/2020
 - ▶ Includes Hurricanes Florence and Michael and 2018 California wildfires
- ▶ \$100,000 disaster distribution
 - ▶ No 10% penalty
 - ▶ Distributable event
 - ▶ Can be repaid
 - ▶ Can pay tax over three years
- ▶ Double loan limits
- ▶ Recontribute hardship distributions to purchase home in disaster area

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Questions About Disaster Relief



- ▶ No proof needed of amount of loss
- ▶ Can remove entire vested interest
- ▶ Adoption deadline: end of 2020 plan year

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Hardship Disaster Rules Differ From New Statutory Disaster Relief



- ▶ **Hardship Disaster Rules**
 - ▶ Provide safe harbor for hardship distribution
 - ▶ Otherwise complies with hardship rules
 - ▶ Limited to loss
 - ▶ New necessity standard
 - ▶ Applies to all disasters from 2018 onward
 - ▶ Still subject to 10% early distribution penalty
 - ▶ New hardship amendment
 - ▶ Deadline 12/31/21
- ▶ **Statutory Disaster Relief**
 - ▶ Provide optional new distributable event
 - ▶ Even if plan doesn't allow hardship distributions
 - ▶ Only available for disasters from 2018-2/2020
 - ▶ June 17, 2020, deadline to request distribution
 - ▶ \$100,000 distribution available regardless of amount of loss
 - ▶ Not subject to 10% penalty
 - ▶ Can be taxed over three years
 - ▶ Can be repaid to plan
 - ▶ Special disaster amendment
 - ▶ Deadline: end of 2020 plan year

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Questions?



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Contact Information



Ilene H. Ferenczy
Ferenczy Benefits Law Center
*Author of the
Qualified Plan eSource*

(678) 399-6602
ilene@ferenczylaw.com

S. Derrin Watson
Of Counsel, Ferenczy Benefits Law Center
*Author of
Who's the Employer?, 403(b) eSource,
457 eSource*

(805) 451-8713
sderrin@gmail.com

Timothy M. McCutcheon
Publisher of ERISApedia.com
(612) 605-2266
tmm@erisapedia.com
sales@erisapedia.com



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For Further Study



Joanne Pecina will demonstrate how to find more information on today's topic from the ERISApedia.com resources.

