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## 3 Federal Laws Requiring Immediate Consideration to Your 401(k) Plan

Many organizations, especially those without a large or dedicated benefits team, don't realize they may have a federally mandated 401(k) audit requirement if they have 100 or more eligible plan participants.

What's more – as businesses begin working through their end-of-year financial statements and benefits elections, many face upcoming deadlines for amending their plan to ensure they are compliant with new rules enacted as part of three recent pieces of legislation.

Though these laws have already been passed, your organization, as the Plan Sponsor, has additional time to amend your plan for 401(k) provisions required by law or others, if elected.



## Tax Cuts & Jobs Act of 2017

*Requires action by December 31, 2021*

### Changes to Hardship Distributions & Suspension of Employee Deferrals

401(k) plans that allow hardship distributions most likely require employee contributions into the 401(k) plan to be suspended for six months following a claim of hardship. Under the Tax Cuts and Jobs Act of 2017, Plan Sponsors are no longer required to defer employee contributions following a hardship distribution and, beginning January 2020, the suspension requirement was prohibited, unless elected by the participant.

## The Setting Every Community Up for Retirement Enhancement Act of 2019 (SECURE Act)

### Increase in Required Minimum Distribution Age

The SECURE Act changed the required minimum distribution age (RMD) to 72. In connection with this required change, your plan provisions will have to be formally amended no later than December 31, 2022.

### In-Service Withdrawals for Childbirth and Adoption Expenses (Optional)

The SECURE Act added an optional withdrawal provision that permits an employee to take qualified birth or adoption distributions up to a total of \$5K from their defined contribution plans. If you want to offer this new distribution feature in your organization, you will need to amend your plan immediately.

### Long-Term, Part-Time Workers Allowed to Participate

Historically, 401(k) plans could exclude individuals who worked less than 1,000 hours in the plan year. However, the SECURE Act, in its effort to expand access to employer retirement plans, introduced the concept of a "long-term, part-time employee." Starting in 2021, plans will need to consider these employees for eligibility, vesting, and company contribution purposes.

A "long-term, part-time employee" is any employee who in each of the last three consecutive years (long term) worked at least 500 but less than 999 hours (part time). The first year any long-term, part-time employee will be required to be eligible for the 401(k) Plan is 2024. Plans can be more generous and allow entry into the plan sooner. In connection with this new required change, your plan provisions will have to be formally amended no later than December 31, 2022. Additionally, Plan Sponsors need to ensure their payroll providers can track hours appropriately beginning in 2021 to properly determine newly eligible participants under this new provision.

# Coronavirus Aid, Relief, & Economic Security Act (CARES Act)

## Coronavirus-Related Distributions

A coronavirus-related distribution was a distribution to a qualified participant of your plan from January 1, 2020, to December 30, 2020, who was directly affected by COVID-19, up to an aggregate limit of \$100K from all plans. These were in-service distributions that would otherwise have been prohibited. If you elected to allow plan participants to take a coronavirus-related distribution, your plan will need to be formally amended no later than December 31, 2022.

## Temporary Loan Repayment Suspension

Under the CARES Act, Plan Sponsors may allow participants to suspend loan repayments. The suspension was allowed on loans issued between March 27, 2020 and December 31, 2020, and repayment was delayed up to one year. Interest on the outstanding loan will continue to accrue. If your organization elected to adopt the loan suspension provision, the plan will need to be formally amended for the allowed loan suspension provision no later than December 31, 2022.

## Increased Loan Limit

The CARES Act provides that during the period beginning March 27, 2020, and ending September 22, 2020, a participant may take a loan from vested balances up to \$100,000 (increased from the former maximum amount of \$50,000 or 50 percent of the participant's vested balance whichever is lower). Repayment can be delayed as mentioned above. If your organization elected to adopt the increased loan limit, the Plan Sponsor will need to formally amend the provisions no later than December 31, 2022.

It was optional for Plan Sponsors to adopt any or all of the distribution and loan rules of the CARES Act. Plan Sponsors were permitted to choose whether, and to what extent, to amend their plan to provide for pandemic-related distributions and/or loans that satisfy the Act's provisions.

As the Plan Sponsor, it is your fiduciary responsibility to ensure the above applicable amendments are completed by the required deadlines. If not properly amended in a timely manner, you may incur additional costs by having to consult with your third-party administrator or an ERISA attorney regarding actions that would need to be taken to ensure your Plan complies with current regulations.

Be ready for your next 401(k) audit by having all the required amendments in place for all required changes or optional plan provision changes that you as the Plan Sponsor adopted for your plan. You will be required to provide all the Plan amendments to your auditor as part of the audit documentation and support for your compliance.

As 401(k) audit experts, Schlaupitz Madhavan, P.C., can outline the guidelines and process for your organization—offering actionable intelligence your team can, and must, act on.

Our team is available to schedule a meeting at your earliest convenience to answer any questions or to schedule your next 401(k) audit. Please reach out to Carrie Hammons or Dawn Jasinski at Schlaupitz Madhavan.

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