

## SECURE ACT – Significant New Retirement Legislation Becomes Law

On December 20, 2019, the Setting Every Community up for Retirement Enhancement (SECURE) Act was signed into law. The new legislation will impact defined contribution plans, defined benefit plans, individual retirement accounts and 529 plans. Some of the highlights of the law are discussed below:

### PLAN DISTRIBUTIONS

#### **Required Minimum Distributions (RMDs) to begin at Age 72**

- Delay age at which required minimum distributions (RMD) must begin to 72 up from age 70½, taking into account longer life expectancy. This allows plan participants who attain age 70½ after Dec. 31, 2019, to wait until age 72 to take their RMD.

#### **Limits on “stretch payments” from IRA’s and employer sponsored Defined Contribution Plans.**

- IRAs and defined contribution plan balances will have a new 10-year distribution maximum for death benefits so that most account holders are prevented from stretching out payments to non-spouse beneficiaries who are more than 10 years younger than the participant over extended periods of time.

#### **Withdrawals for Birth or Adoption**

- Waives the 10 percent early withdrawal penalty for withdrawals up to \$5,000 to cover expenses related to childbirth or adoption for distributions made after Dec. 31, 2019.

#### **Section 529 plans**

- Allows tax free distributions of up to \$10,000 to repay student loans and to pay for certain apprenticeship programs.

### SAFE HARBOR

#### **Ability to adopt Safe Harbor Non-Elective Contribution later in the Plan Year.**

- Plan Sponsors can adopt a safe harbor non-elective contribution plan design later in the plan year if the employer contribution is at least 4% of Compensation.

#### **Eliminates annual Safe Harbor Notices for Safe Harbor Nonelective Plans.**

- Safe Harbor Notices no longer required for safe harbor nonelective contribution plans.

#### **Allow Qualified Automatic Enrollment Arrangement (QACA) Safe Harbor Plans to increase the cap on payroll deduction contributions.**

- Raises the cap for the auto-enrollment, salary deferral rate from 10% to 15% of eligible compensation after the participant’s initial plan year.

### NEW PLANS

#### **Employers will have additional time to adopt a new retirement plan.**

- Beginning in tax years after 2019, the legislation allows a new plan to be treated as effective for the prior tax year if the plan is adopted no later than the due date of the prior year’s tax return.

#### **Increased Business Tax Credit**

- Tax credits to help offset costs of establishing 401(k) plans for small employers (up to 100 employees).
- The maximum tax credit for employers who establish new retirement plans is now \$5,000, up from \$500.
- Small employers who implement automatic enrollment in the plan will be eligible for an additional credit of \$500.

**Questions about this notice? Call us at 305-671-2200.**

## **SECURE ACT - continued**

- This credit is available to employers newly adopting plans and employers who convert an existing plan to an automatic enrollment design. The tax credit is available for three years beginning with tax years after 2019.

### **NEW PLAN ADMINISTRATION ITEMS**

#### **Lifetime Income Disclosure.**

- Participant Benefit statements for Defined Contribution plans will be required to include a lifetime income disclosure at least once per year giving Participants a better picture of their future retirement readiness. Effective date is pending further guidance from the DOL.

#### **Participation by part time employees.**

- Employees must be allowed to make salary deferrals after completion of either one year of service (with 1000 hours of service) or three consecutive years of service with at least 500 hours of service in each year. This change applies to plan years beginning in 2021. Thus, the earliest an employee would be eligible to participate in a 401(k) plan as a result of this change will be in 2024.

#### **Fiduciary Safe Harbor to Plan Sponsors who offer annuities to plan participants.**

- The employer would not be able to be sued if the provider of an annuity chosen for the 401(k) plan defrauds the participant or ends up insolvent.

#### **Combined Annual Reports for Group Plans.**

- For small plans seeking economies of scale the law will permit a combined Form 5500 annual report for a group of plans filed by a common plan administrator with a single audit report by an accountant selected by the plan administrator. Group of plans must have the same trustee, named fiduciaries, plan year and same investments.

### **ADDITIONAL ITEMS**

#### **Allow unaffiliated employers to offer their workers a 401(k) through a multiple employer plan (MEP).**

- An Open Multiple Employer Plan (MEP) would allow two or more unrelated employers to join through a pooled plan to reduce costs. There are specific guidelines that must be followed, including requiring the pooled plan provider to register with the Department of Labor and the IRS, be a named fiduciary, and act as the ERISA Section 3(16) plan administrator. This provision begins in plan years after Dec. 31, 2020.

#### **Traditional IRA Contributions no longer prohibited at age 70 ½.**

- Maximum age for traditional IRA contributions is repealed, starting with tax years after Dec. 31, 2019

### **SECURE ACT PLAN AMENDMENT DEADLINES**

- Although plans must comply with the SECURE Act provisions in operation starting with the effective dates specified in the law, plan documents must be updated to incorporate the required plan provisions by the last day of the first plan year beginning on or after January 1, 2022.

## **Have Questions or Need Help:**

**For more information on the SECURE ACT, or any questions on how you can implement a new plan, or for help making sure that these changes get processed in your plan please contact your INGHAM Consultant at 305-671-2200**

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