WHAT YOU SHOULD KNOW

The Setting Every Community Up for Retirement Enhancement Act of 2019

In May, the House passed the Setting Every Community Up for Retirement Enhancement Act (The SECURE Act) and the legislation is now pending in the Senate. The main provisions of The SECURE Act which affect qualified retirement plans include:

- Increases the cap on employee deferral under auto enrollment escalation from 10% to 15%.
- Expands the time frame for adopting a 3% nonelective safe harbor plan from 90 days to 30 days prior to the end of the Plan Year. It also provides that employers have until the close of the following plan year to adopt a 4% nonelective safe harbor plan.
- Increases the tax credit for plan start-up costs from a minimum of $500 up to as much as $5,000 based on the number of nonhighly compensated employees eligible to participate in the plan.
- Creates a new tax credit of up to $500 per year, available for three years, for employers who adopt a new 401(k) plan that includes auto enrollment or who amend an existing plan to include an auto enrollment feature.
- Prohibits the distribution of participant loans through credit cards or similar arrangements.
- Permits defined contribution plans, 403(b) plans, or governmental section 457(b) plans to make direct trustee-to-trustee transfers to another employer-sponsored retirement plan or IRA of lifetime income investments or distributions of lifetime income investments in the form of a qualified plan distribution annuity even where a lifetime income investment is no longer authorized to be held under the plan.
- Provides for distribution of a 403(b) custodial account in kind to the participant or beneficiary upon plan termination, with specific guidance to be issued by the Treasury.
- Clarifies the individuals that may be covered by plans maintained by church-controlled organizations.
- Expands coverage to part time employees by adding a dual eligibility requirement for 401(k) plans. Employees who complete either (1) one year of service (1,000 hours), or (2) three consecutive years of service with at least 500 hours of service would qualify for elective deferrals. Expands the deadline to adopt a qualified retirement plan from the last day of the plan year to the due date (including extensions) of the tax return for the taxable year.
- Adds penalty-free withdrawals from retirement plans for any "qualified birth or adoption distributions."
- Increases the age for required minimum distributions from age 70½ to age 72.
- Provides pension funding relief for community newspapers by increasing interest rate used to calculate funding obligations to 8% and by increasing the amortization period for funding from 7 to 30 years.
- Provides that "difficulty of care" payments made to home healthcare workers are treated as compensation for defined contribution plan and IRAs purposes.
- Directs the IRS and DOL to effectuate the filing of a consolidated Form 5500 for similar defined contribution plans.
- Requires additional disclosure for defined contribution plan annual benefit statements to include a lifetime income disclosure.
- Provides fiduciary relief under ERISA for plan sponsors in the selection of lifetime income providers.
- Increases penalties for the failure to file retirement plan returns.

RANDALL + HURLEY

1328 N Whitman Lane, Liberty Lake, WA 99019
509 838 5500 | 888 682 4406

828 Great Northern Blvd, Helena, MT 59601
406 449 5500 | 800 765 9429