KRIEG DEVAULT

Insights

IRS Announces Extension for SECURE & CARES Act Amendments

August 24, 2022

By: Lisa A. Durham and Emily C. Kopp

On August 3, 2022, the Internal Revenue Service (the "IRS") released Notice 2022-33, extending the deadlines for retirement plans to be amended for the Setting Every Community Up for Retirement Enhancement Act ("SECURE") and the Coronavirus, Aid, Relief, and Economic Security Act ("CARES").[1] The legislation impacts many retirement plans and those plans need to be amended within the extended deadlines to remain compliant.

Qualified plans, including 403(b) plans that are not maintained by public schools, must now be amended for the SECURE and CARES Acts no later than December 31, 2025. Governmental plans, including 457 plans and 403(b) plans that are maintained by public schools, must be amended no later than 90 days after the end of the third legislative session that begins after December 31, 2023. The amendments must be applied retroactively to the effective date of the new provisions and the plan must be operated as if the amendment were in effect during the period.

The SECURE Act requires more legislative updates and provisions to be adopted by the plan sponsor. A few of the more notable changes that the SECURE Act requires include the new lifetime income participant disclosure requirements for defined contribution plans, the increase from age 70½ to age 72 for required minimum distributions ("RMDs") to begin, changes to the distribution rules for beneficiaries, and the increase in the maximum automatic deferral rate from 10% to 15% for 401(k) plans that have a qualified automatic contribution feature.

The CARES Act includes discretionary provisions that the plan sponsor could adopt, for the 2020 plan year only, to provide some relief to participants who were impacted by the coronavirus pandemic. Some of the discretionary provisions included allowing participants to waive their RMDs for the 2020 calendar year, permitting participants to withdraw a penalty-free coronavirus-related distribution of up to $100,000, and doubling the maximum loan amount for participants affected by the coronavirus.

Krieg DeVault's Employee Benefits Group is in the process of determining the updates required for each retirement plan impacted by these changes and reaching out to clients to discuss the required changes, as well as any discretionary changes, that need to be adopted. Despite the recent extension of time given by the IRS, we intend to have all required amendments finalized prior to December 31, 2022. If you have any questions regarding these amendments and the impact on your retirement plan, please reach out to any member of Krieg DeVault's Employee Benefits Group for more information.

[1]On September 2, 2020, the IRS released Notice 2020-68 which established deadlines for plans to amend for the SECURE and CARES Acts, among other things, through Q&A Guidance. In general, most plans were required to be amended no later than the last

day of the first plan year beginning on or after January 1, 2022. Notice 2020-68 is published in its entirety here.

Disclaimer. The contents of this article should not be construed as legal advice or a legal opinion on any specific facts or circumstances. The contents are intended for general informational purposes only, and you are urged to consult with counsel concerning your situation and specific legal questions you may have.