

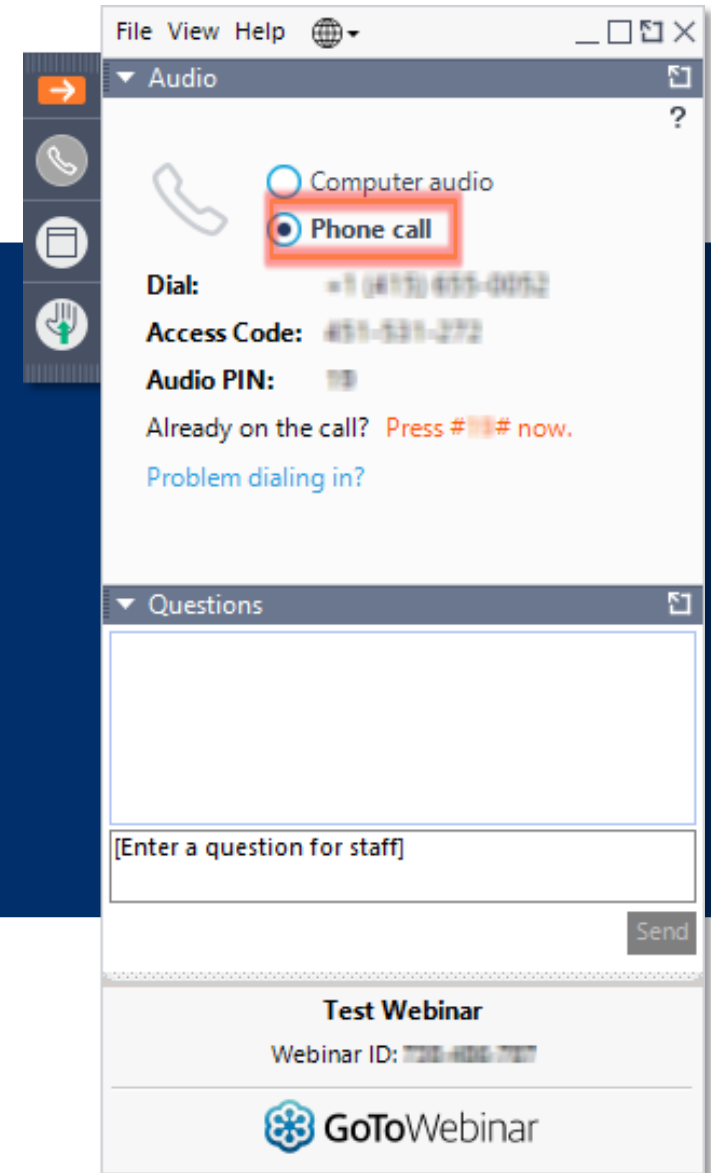


What you Need to Know About the SECURE Act

Tuesday,
February 25, 2020

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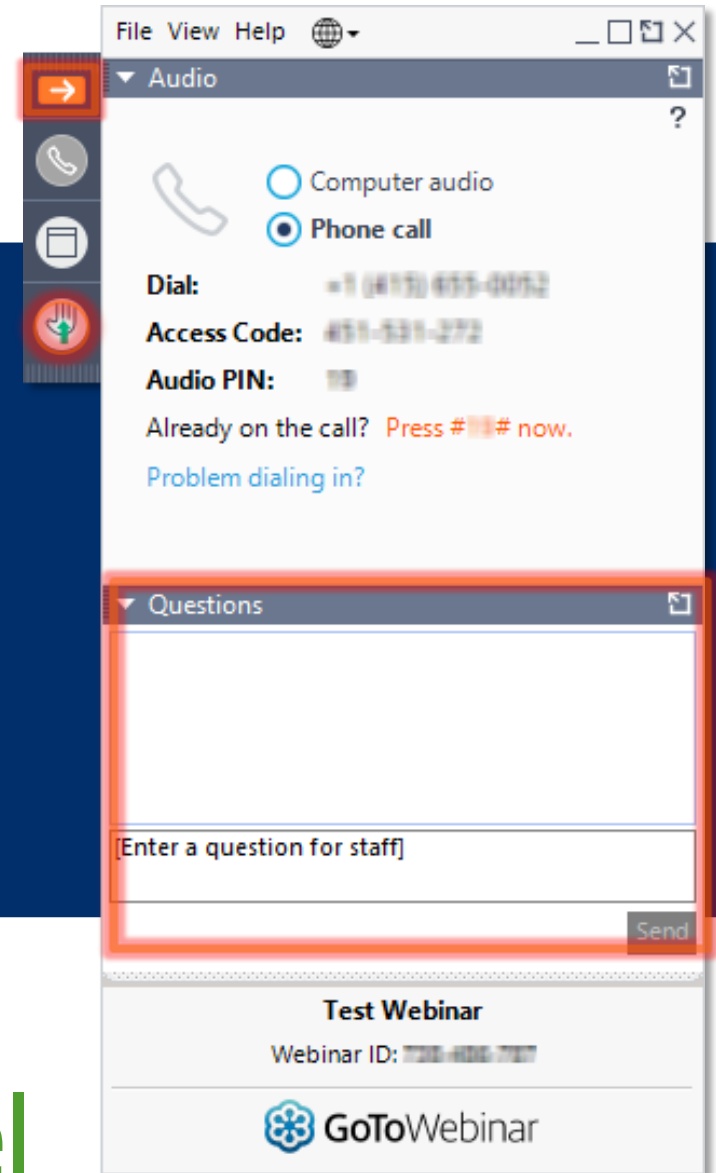
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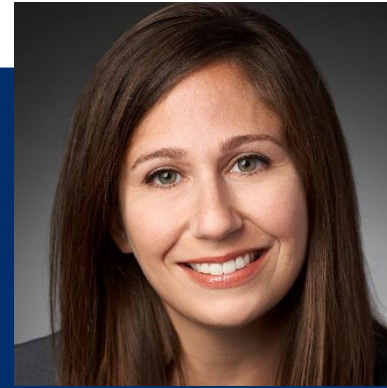
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Meet the Speakers

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

- Enacted on December 20, 2019
- Changes to Internal Revenue Code
- Changes to ERISA
- Immediate action required for certain changes

Auto Escalation Increases for Auto Enrollment Safe Harbor

Prior Law

- QACA safe harbor required auto escalation of participant elective deferrals to be capped at 10% of employee compensation

SECURE Act

- Safe harbor auto increase cap changed to 15% of employee compensation
- First year auto deferral maximum remains at 10%
- Effective for plan years beginning after 12/31/2019

Election of Safe Harbor Plan Rules Relaxed

Prior Law

- Safe harbor requires special safe harbor notice whether safe harbor contribution is a match or a non-elective contribution

SECURE Act

- Limits safe harbor notice to matching contributions – notice is no longer required for a non-elective safe harbor contribution
- Effective for plan years beginning after 12/31/2019

Election of Safe Harbor Rules Relaxed (cont.)

Prior Law

- Safe harbor rules require adoption of the safe harbor plan prior to the start of the plan year, except in special cases where specific notices are provided

SECURE Act

- Permits adoption of safe harbor non-elective contributions by plan amendment any time before the 30th day before the close of the plan year with no notice requirements
- Later adoption permitted if safe harbor non-elective contribution is at least 4% of compensation and plan is amended no later than the last day for distributing excess contributions
- Effective for plan years beginning after 12/31/2019

Prohibition on 401(k) Loans Using a Credit Card

Prior Law

- No prohibition against allowing plan loans being accessed through a credit card or similar arrangement

SECURE Act

- Treats plan loans made through the use of a credit card as a deemed distribution
- Effective for loans made after 12/20/2019

Employees Working More than 500 Hours Permitted to Participate in 401(k)

Prior Law

- Employees with less than 1000 hours of service generally permitted to be excluded from participation

SECURE Act

- Employees who work at least 500 hours a year for 3 consecutive years that are age 21 by the end of the 3 year period are eligible to make 401(k) deferrals (not match or non-elective)
- Effective for plan years beginning after 12/31/2020, but don't count periods beginning before 01/01/2021, so eligible for deferrals beginning in the 2024 plan year

Employees Working More than 500 Hours Permitted to Participate in 401(k) (cont.)

Prior Law

- No special rules for vesting

SECURE Act

- For vesting, a year of service will be each 12 month period the employee has at least 500 hours of service – this could be problematic if employee becomes eligible for other contributions
- These employees may be excluded from nondiscrimination and coverage testing and top heavy
- This rule does not apply to employees under collectively bargained plans

Penalty-free Withdrawals for Birth or Adoption

Prior Law

- There is no special rule that exempts a distribution because of birth or adoption prior to age 59-1/2 from the 10% early withdrawal tax

SECURE Act

- Provides an exception to the 10% early withdrawal tax for a distribution for a qualified birth or adoption up to \$5,000
- May be recontributed to the plan subject to certain requirements
- A plan amendment will likely be needed
- Effective for distributions after 12/31/2019

Special Disaster Relief

Prior Law

- No special provisions

New Law

- Qualified disaster distributions are allowed if the distribution is made within 180 days of 12/20/2019, 10% penalty is waived and repayment is allowed over 3 years
- Limits on plan loans are increased to \$100,000 and repayment is extended
- Deadline for making contributions or rollovers is extended during federally declared disasters after 12/20/2019

Extends Date for Plan Adoption

Prior Law

- A qualified retirement plan must be adopted by the last day of a taxable year to be treated as maintained for that taxable year

SECURE Act

- Allows employer to elect to treat a qualified retirement plan adopted after the close of the taxable year, but before the tax return is due, including extensions, as adopted as of the last day of the taxable year
- Effective for plans adopted after 12/31/2019

Increases in Penalty for Failure to File Form 5500

Prior Law

- IRS penalties can be \$25 per day to a maximum of \$15,000
- ERISA penalties for a late Form 5500 can be as much as \$2,200 per day

SECURE Act

- IRS penalties for a late Form 5500 are increased to \$250 per day to a maximum of \$150,000 per return
- ERISA penalties have not changed
- Applicable to tax returns filed after 12/31/2019

Increased Penalties for Failure to File Retirement Plan Returns

Prior Law

- Failure to file IRS Form 8955-SSA can be \$1 per day per participant up to \$5,000
- Failure to file a notice of change of plan information is \$1 per participant per day up to \$1,000

SECURE Act

- IRS penalty is increased to \$10 per participant per day up to a maximum of \$50,000 for failure to file the Form 8955-SSA and \$10,000 for the notice of change
- Applies to statements required to be filed after 12/31/2019

Increase in Age for RMD

Prior Law

- Required minimum distributions must begin by April 1 of the calendar year following the later of the calendar year the person reaches age 70-1/2 or retires

SECURE Act

- Increases the age for RMD to begin to age 72
- Applies to distributions required to be made after 12/31/2019 for persons who attain age 70-1/2 after 12/31/2019

Modification of RMD rules to Designated Beneficiaries

Prior Law

- In general, distributions to a beneficiary after the death of the participant may be paid over the beneficiary's life expectancy

SECURE Act

- Requires the entire interest to be distributed within 10 years after the death of the employee regardless of whether payment has begun
- Certain exceptions for spouse, disabled beneficiary, and minor child
- Effective for employees who die after 12/31/2019

Disclosure Regarding Lifetime Income

Prior Law

- A benefit statement is not required to include a lifetime income statement

SECURE Act

- Requires DOL to issue a model lifetime income disclosure, prescribe the assumptions that may be used, and issue interim final rules not later than one year after 12/20/2019
- Benefit statements must include disclosures regarding lifetime income within 12 months of latest of these DOL actions

Portability of Lifetime Income Option

Prior Law

- No special rules for distribution when investments that had a surrender charge are liquidated (such as a group annuity contract or other lifetime income product)

SECURE Act

- If a lifetime income investment is no longer authorized to be held as an investment option, the plan may allow qualified distributions if certain rules are followed
- A plan amendment will be needed
- Plan years beginning after 12/31/2019

Fiduciary Safe Harbor for Lifetime Income Provider

Prior Law

- Selection of annuity provider is subject to general fiduciary standards of prudence, duty of loyalty and diversification
- No safe harbor

SECURE Act

- Provides a safe harbor for a plan fiduciary to ensure that the fiduciary standards are met when selecting an annuity provider
- Effective 12/20/2019

Increased Credit Limit for Small Employer Plan Start-up Costs

Prior Law

- Credit of the lesser of \$500 per year or 50% of the qualified startup costs for up to 3 years

SECURE Act

- Increases tax credit for startup costs to the greater of (1) \$500 or (2) the lesser of \$250 times the number of NHCEs eligible to participate or \$5,000 for up to three years
- Tax years after 12/31/2019

Small Employer Auto Enrollment Credit

Prior Law

- No tax credit available for small employers with auto enrollment feature

SECURE Act

- Adds a \$500 per year general business tax credit for qualified small employers
- Employer may take credit for up to 3 years for startup costs for a 401(k) plan that includes auto enrollment or for converting an existing plan to add auto enrollment
- Effective tax years after 12/31/2019

In-Service Distributions

Prior Law

- Minimum age for in-service distribution from defined benefit is 62 and from 457(b) is 70 1/2

New Law

- Reduction in minimum age for allowable in-service distributions to age 59-1/2 for defined benefit plans and governmental 457(b) plans
- Effective for plan years beginning after 12/31/2019

Modification of Nondiscrimination Rules for Frozen Plans

Prior Law

- After freeze of benefits that allows existing participants to continue to accrue benefits, all nondiscrimination and coverage rules must still be met

SECURE Act

- Provides special nondiscrimination and coverage rules to test defined benefit plans with closed classes of participation
- Effective for plan years beginning after 12/31/2013

Multiple Employer Plans/Pooled Employer Plans

Prior Law

- MEPs permitted
- Failure of one participating employer to meet qualification rules generally causes the entire MEP to be disqualified “one bad apple” rule
- Employers must share common characteristics

SECURE Act

- Relief from “one bad apple” rule for MEPs
- Does not require employers to share common characteristics to participate in common plan – creates PEPs
- Effective for plan years after 12/31/2020

Combined Annual Report for Group of Plans

Prior Law

- Each ERISA retirement plan must file a Form 5500, even if part of a MEP

SECURE Act

- Rules to be changed to permit multiple defined contribution plans in a related group of plans to file a single Form 5500
- A related group must share the same trustee, plan administrator, plan year and investments
- Effective for plan years beginning in 2022

Other Miscellaneous Provisions

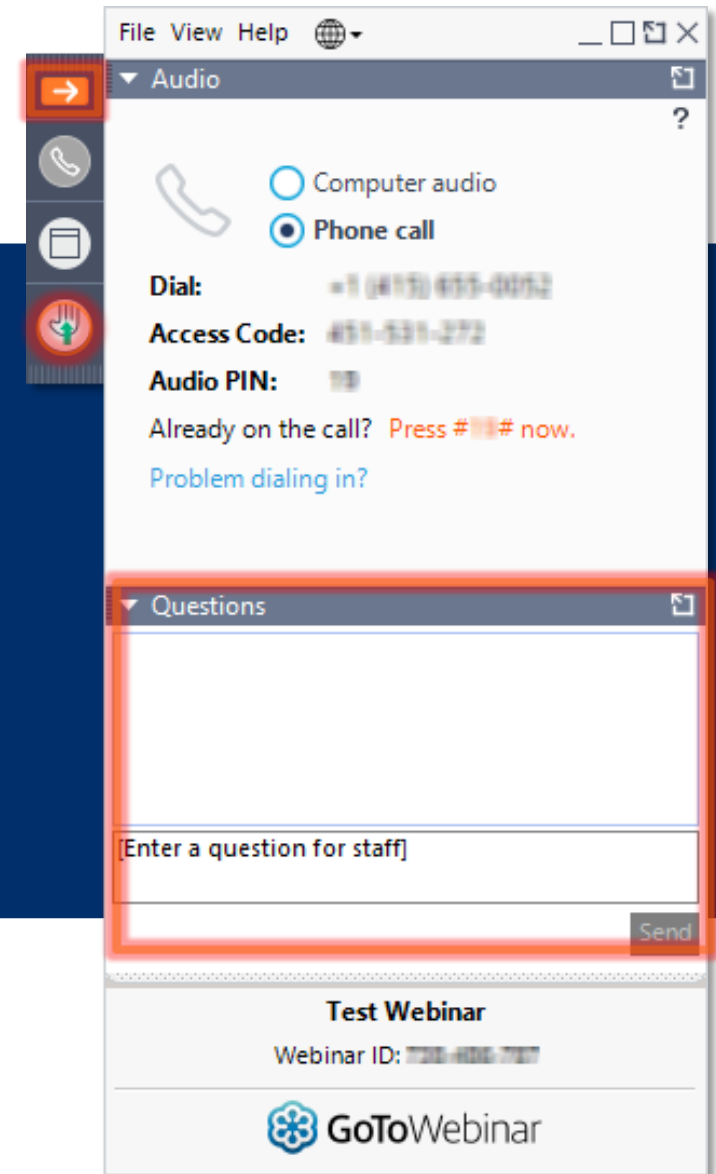
- Provisions related to plan amendments
- Repeal of maximum age for traditional IRA contributions
- Expansion of Section 529 plans
- Treatment of custodial accounts on termination of 403(b) plans
- Clarification of retirement income account rules relating to church-controlled organizations
- Election to apply alternative minimum funding standards to certain single employer community newspaper plans

Other Miscellaneous Provisions, cont.

- Benefits provided to volunteer firefighters and emergency medical responders
- Increase information sharing to administer excise taxes
- Treating excluded difficulty of care payments as compensation for determining retirement contribution limits
- Modification of PBGC premiums for small employer charity plans

Please type your message / question in the window pane of the attendee control panel.

Questions?





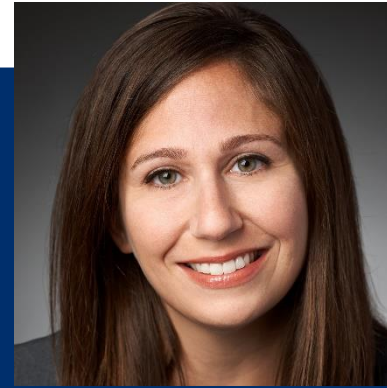
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Thank You