

Benefits Alert

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CARES Act and SECURE Act plan amendment deadlines extended to December 31, 2025

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IRS Notice 2022-33 has extended, to December 31, 2025, most of the deadlines for plan sponsors to adopt formal amendments to qualified retirement plan documents to comply with legislative changes enacted with the [Coronavirus Aid, Relief, and Economic Security \(CARES\) Act](#)¹, the [Setting Every Community Up for Retirement Enhancement \(SECURE\) Act of 2019](#), and the [Bipartisan American Miners Act of 2019 \(Miners Act\)](#)². (The SECURE Act is found in Division O of [Further Consolidated Appropriations Act, 2020](#), the Miners Act is in Division M of the same legislation.)

In order to extend the compliance dates for the SECURE Act and Miners Act plan amendments, IRS Notice 2020-68 and Notice 2020-86 were amended.

The IRS provides anti-cutback exemption if the plan sponsors follow these extended compliance dates for adoption of the applicable plan amendments.

The extensions are as follows:

1. *Both* SECURE Act and Miners Act plan amendment adoption deadlines:
 - a. Internal Revenue Code (IRC) Section 401(a) qualified non-governmental retirement plans (including applicable collectively bargained plans) now have until December 31, 2025.
 - b. IRC Section 414(d) qualified governmental plans now have until *90 days after the close of the third regular legislative session of the legislative body with the authority to amend the plan that begins after December 31, 2023*.
 - c. IRC Section 457(b) governmental plans now have until the later of the date described in 1.b. above, or, if applicable, the first day of the first plan year beginning more than 180 days after the date of notification by the Secretary [of the Treasury] that the plan was administered inconsistently with the requirements of IRC section 457(b) plan.

¹ For the CARES Act, IRS Notice 2022-33 extends only the deadline for amending a retirement plan to reflect the provisions of CARES Act Section 2203 relating to a waiver of 2020 required minimum distributions for defined contribution plans. *Absent from IRS Notice 2022-33 is an extended deadline for the provisions of CARES Act Section 2202 relating to special use of retirement funds (tax-favored coronavirus-related distributions, increased limit on plan loans, and delay of plan loan repayments)*. This means plans that allowed such special use of retirement plan funds under CARES Act Section 2202 must still be amended for such provisions by the end of first plan year beginning on or after January 1, 2022, unless the IRS provides additional guidance to extend this deadline.

² The Miners Act optionally permits all qualified pension plans and governmental Section 457(b) plans to offer in-service distributions as early as age 59½.

2. SECURE Act only plan amendment adoption deadlines:
 - a. IRC Section 403(b) plans (including applicable collectively bargained plans), not maintained by a public school, now have until December 31, 2025.
 - b. IRC Section 403(b)(1)(A)(ii) public school plans now have until *90 days after the close of the third regular legislative session of the legislative body with the authority to amend the plan that begins after December 31, 2023*, for plan amendments.
3. CARES Act plan amendment adoption deadlines:
 - a. IRC Section 401 qualified non-governmental retirement plans, and IRC Section 403(b) plans now have until December 31, 2025.
 - b. IRC Section 414(d) governmental plans (e.g., IRC Section 401(a) qualified governmental plans and IRC Section 403(b)(1)(A)(ii) public school plans) have until 90 days after the close of the third regular legislative session of the legislative body with the authority to amend the plan that begins after December 31, 2023.
 - c. IRC Section 457(b) governmental plans have until the later of the date described in 3.b. above, or the first day of the first plan year beginning more than 180 days after the date of notification by the Treasury Secretary that the plan was administered inconsistently with the requirements of IRC section 457(b) plan.

We expect that plan sponsors will be reviewing IRS Notice 2022-33 with much care and scrutiny and checking with their plan administrative committees and external business partners to assess how they need to proceed.

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