



Long-Term Part-Time Employees

This SECURE Act provision requires that, regardless of a Plan's existing eligibility provisions, employees who are credited with at least 500 hours of service in three *consecutive* 12-month periods must be permitted to make their own payroll deduction contributions.

Plans commonly require that employees be credited with 1,000 hours of service in 12 months of employment in order to be eligible to participate in the Plan. It is for these Plans that the LTPT Employee rules will have the most significant impact.

Because these rules are complex, it is important to describe early on which Plans are exempt from these rules.

- 403(b) Plans are not subject to these rules because the existing “universal availability” standard already requires widespread participation.
- Plans that do not require a minimum number of hours in order to participate in the 401(k) payroll deduction portion of the Plan are not subject to these rules because LTPT Employees would not be excluded from participating in such a Plan.
 - Although a Plan that currently includes the “1,000 hours in 12 months” eligibility provision might be amended to fit within this exception, there are potentially significant complications. The principal considerations are a) the top-heavy rules, and b) the requirement to engage a CPA firm to audit a Plan with more than 100 Participants. Both of these considerations should be discussed with PASI directly as they are complex and heavily based on your Plan's unique circumstances.
 - *Plans already subject to the audit requirement (which are almost never top-heavy) are the most obvious candidates to take advantage of this exception.*

The following points represent the most critical aspects of these rules. Because these rules will have dramatic implications for many Plans, we wanted to provide a thorough analysis of the considerations.

The first day of the Plan Year that begins during 2021 is referred to in this article as the “Initial Effective Date.” Service rendered before the Initial Effective Date is not taken into account for purposes of applying these LTPT Employee rules.

- The earliest an LTPT Employee will become eligible to make contributions to a Plan will be the first day of the Plan Year beginning on or after January 1, 2024.
- Employees hired before the Initial Effective Date: Employees who are credited with at least 500 hours of service in three consecutive Plan Years that begin on or after the Initial Effective Date will become eligible to participate in the Plan as LTPT Employees.
- Participants hired after the first day of the Initial Plan Year: Employees who are credited with at least 500 hours of service in their first 12 months of employment will receive credit for their first year of service on their 12-month anniversary of employment. Additional years of service will be credited for each Plan Year during which the Participant is credited with 500 hours of service. Therefore, a Participant might receive credit for their first 12 months of Employment and the Plan Year that includes their first anniversary of employment. This double-counting of service is particularly dramatic for employees hired late in a Plan Year. For example, an employee hired on November 30, 2021 might receive credit for their first year of service on November 30, 2022, and their second on December 31, 2022 - that’s 2 full years of eligibility service in just 13 months (assuming a calendar year plan).
 - It is possible to apply these rules based on each employee’s unique employment anniversary, thus avoiding the “double counting” described above, but this method is administratively cumbersome.
 - If, as is the case with virtually all of our clients, the “plan year method” of tracking eligibility is used, then the review of these LTPT Employees would only be required before the beginning of each Plan Year (with the first such review performed before the plan year beginning in 2024).
- An individual who has satisfied the LTPT Employee service requirements but has not yet attained the minimum required age provided for by the Plan is not eligible to participate until the age requirement is met.
- LTPT Employees are not eligible for Employer Contributions unless they have satisfied any more restrictive requirements which might apply.
- LTPT Employees are generally excludable for purposes of nondiscrimination testing and are not taken into account for “top-heavy minimum” contributions.
- Plans that are designed to avoid these LTPT Employee rules (e.g., by not requiring a minimum number of hours) are not permitted to exclude these same employees from top-heavy minimum contributions.

- LTPT Employees who are covered by collective bargaining agreements are not required to be provided with the participation opportunities described herein.