

# LEGISLATIVE UPDATE

For School Districts and Nonprofit Employers

Spring 2020

## *So Much to Do – So Little Time*

The SECURE Act of 2019 contains a number of changes that require the prompt attention of retirement plan sponsors (most of those for plan years beginning in 2020). In this edition of the PlanMember Legislative Update for school districts and nonprofit employers, outlined are the changes that need to be managed now and the suggested steps for plan sponsors. Also discussed are a few other important plan sponsors reminders related to the SECURE Act.

### **New beginning age for required minimum distributions**

In 2019 and earlier, individuals must have begun taking required minimum distributions (RMDs) from their 403(b), 457(b), 401(k) and Traditional IRA accounts at age 70½ (unless still working). Beginning January 1, 2020, the RMD age was increased to age 72 for those who turn age 70½ in 2020 or later. What should plan sponsors do?

1. Review service provider agreements which likely contain agreement from plan providers to notify employees attaining age 70½ that a required minimum distributions must begin if the employee has severed employment. Those agreements will need to be changed.
2. Check plan document language. The document may need to be amended, in which case plan sponsors will need to contact the plan document providers. Plan document amendments are not required to be made immediately. However, the operation of a plan should reflect the age 72 beginning date.

### **Loss of lifetime income option**

If a plan has offered a lifetime income option (either a fixed annuity or a guaranteed lifetime payment in a variable annuity), but is dropping that option in the future, the plan sponsor must permit all participants in the lifetime income option product to transfer or receive distribution of the

annuity contract within ninety days of elimination of the annuity option, even if the plan does not otherwise permit a distribution.

In the 403(b) market, we are aware of a few public school districts that moved from multiple provider offerings that included an annuity option, to a single provider that did not offer an annuity option. In the case where an annuity option had previously been offered, sponsors must notify those employees that they can move their assets from the plan. The new provision affects plan years after December 31, 2019. Plan sponsors should:

1. Contact their plan document providers since the plan language may need to be amended
2. Be prepared to notify employees who participate in an annuity option of their rights should the annuity option be eliminated from the plan

### **In-service distributions from a 457(b) plan at age 59½**

For plan years 2019 and before, in-service distributions from a 457(b) plan were permitted at age 70½. However, for plan years 2020 or later, those distributions are now permitted at age 59½. Since plan sponsors are not required to make this change in their plan documents, they will want to decide whether to amend their plan documents to permit the more relaxed rules. Keep in mind that this change can



**Eleanor (Ellie) Lowder**  
TSA Training and Consulting  
Services

ASBO Retirement Plan Council,  
consultant to NTSA, employers  
and product providers

AskEllie@403bconsulting.com



**Ian Parker**  
VP Communications  
PlanMember Services  
Corporation

(800) 874-6910 x2575

iparker@planmember.com

benefit 457(b) plan participants, and should not create a substantial administrative burden for plan sponsors.

Plan sponsors can operate their plans under the new age 59½ rules beginning immediately. However, they should ask the plan document providers to amend the plan document no later than the first plan year in 2022, or, for a governmental employer, no later than 2024. It is also important that plan sponsors communicate this change to their plan participants.

### **Beneficiary options upon an employee's death**

Under rules in effect in 2019 and before, non-spouse beneficiaries had the right to directly rollover the proceeds of the deceased individuals' accounts to an "inherited IRA" from which the beneficiary had the right to have the proceeds distributed over his or her own life expectancy. For plan years beginning in 2020, non-spouse beneficiaries who are less than ten years younger than the deceased, disabled, chronically ill, or a have child will still have the right. However, all other non-spouse beneficiaries have only ten years to receive distributions of the deceased's entire account value. This will require a possible amendment to the plan document, as well as possible changes in service provider agreements. In addition, because this change will require both a re-evaluation of beneficiary designations and new planning for employees that want their beneficiaries

to have the best options to receive death benefits, it is vital that this change be included in employee communications and educational seminars.

### Qualified birth or adoption expenses

Employees are permitted to withdraw up to \$5,000 per child within one year of the birth or adoption of a child, with the withdrawal permitted to be repaid to the plan (with no apparent time limit) and treated as a rollover contribution to any employer-sponsored plan or IRA. While plan sponsors may want to add that feature to their plans, they may want to await guidance on making repayments to the plan since the legislation does not make it clear how those repayments must be done.

### Where can you get help?

Plan sponsors using a Third Party Administrator (TPA) should schedule a meeting with key employees and the TPA to discuss how to proceed. It should be expected that the TPA takes the necessary actions to comply with the new rules. Sponsors that do not have a TPA should contact their investment providers for the support they will be expected to provide. PlanMember will support its employer clients with implementing the necessary changes. Just contact Alex Webb at [awebb@planmember.com](mailto:awebb@planmember.com). Finally, remember the importance of communicating the changes to employees as they will be important to their financial wellbeing.

## Other Changes in the SECURE Act of 2019

While not directly affecting the operation of a 403(b), 457(b), 401(k) or other employer retirement plans, the SECURE Act does contain additional changes that directly affect employees who will look to their employers as a resource.

### New rules for contributions to an Individual Retirement Account

Under rules prior to 2020, individuals age 72 or older were not permitted to make contributions to a Traditional IRA. The passage of the SECURE Act now makes it permissible to make Traditional IRA contributions at any age as long as the account holder has earned income. Employees who are struggling to prepare for a comfortable retirement and are seeking a tax-favored way to maximize contributions need to know this. Thus, this change should be included in an employer's communication to employees about the SECURE Act.

### IRA contributions now based on more than just earned income

The SECURE Act now permits non-taxable difficulty-of-care payments to care givers to be counted as income for purposes of IRA contributions, as well as stipends and fellowship grants to students and post graduate candidates. This change opens the door to larger IRA contributions for many employees, and once more, should be communicated to employees.

### PlanMember is ready to help

As PlanMember's employer clients plan for the immediate changes to their retirement plans and educating employees about those changes, remember that PlanMember is here to help. Just contact the PlanMember Financial Professional for the plan or Alex Webb at [awebb@planmember.com](mailto:awebb@planmember.com).

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6187 Carpinteria Ave • Carpinteria, CA 93013 • (800) 874-6910 • [www.planmember.com](http://www.planmember.com)