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EMPLOYEE BENEFITS AND EXECUTIVE COMPENSATION

IRS EXTENDS ADDITIONAL AMENDMENT DEADLINES

On August 3, 2022, the Internal Revenue Service (“IRS”) issued [Notice 2022-33](#), extending the deadlines for amending qualified retirement plans (including collectively bargained plans) and individual retirement arrangements (“IRAs”) to reflect the Setting Every Community Up For Retirement Enhancement Act of 2019 (the “SECURE Act”), the Bipartisan American Miners Act of 2019 (the “Miners Act”) provision allowing pension plans to make in-service distributions beginning at age 59½, and the required minimum distribution provisions of the Coronavirus Aid, Relief, and Economic Security Act (the “CARES Act”).

However, that Notice did not extend the deadline to amend plans to reflect use of expanded distribution access and plan loan relief permitted by the CARES Act. The IRS has now remedied that omission with the issuance of [Notice 2022-45](#). Accordingly, non-governmental qualified retirement plans, 403(b) plans, and IRAs now generally have until December 31, 2025 to adopt plan amendments for SECURE Act, Miners Act and CARES Act changes.¹

Notice 2022-45 also extends the amendment deadline relating to qualified disaster distributions as permitted by Section 302 of Title III of the Taxpayer Certainty and Disaster Tax Relief Act of 2020.

However, plan sponsors and administrators need to bear in mind that:

- Plans need to operate in compliance with applicable provisions of these laws, regardless of when they are amended.
- Plan termination will accelerate the amendment deadline, since plans must be up to date when they terminate.
- Plan administrators need to keep records of if, when, and how optional legal changes or temporary features such as the CARES Act distribution and loan relief were implemented, so that eventual amendments can accurately reflect plan operations. This is especially important if a plan is changing recordkeepers or merging with another plan, or if the plan sponsor is affected by a business transaction that may affect access to administrative staff and records (e.g., due to employment terminations or business unit divestitures).

¹ Governmental plans have later deadlines.

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