The SECURE Act

Highlights from Ameritas

Significant legislation impacting retirement planning became law as of Dec. 20, 2019. The Setting Every Community Up for Retirement Enhancement (SECURE) Act of 2019 was passed to help encourage individuals to increase retirement savings and encourage businesses to offer retirement plans.

Following are some of the most significant highlights of the SECURE Act. While many of these provisions took effect on Jan. 1, 2020, there are some delayed deadlines for employer-sponsored retirement plans.

Ameritas is awaiting guidance from the IRS and Treasury departments before these can be implemented in employer-sponsored retirement plans.

What are the considerations for individuals?

These key provisions present opportunities for individuals with IRAs and in certain employer-sponsored retirement plans.

- **Delayed age for starting Required Minimum Distributions (RMDs).**
  Individuals born after July 1, 1949 will not have to take an RMD from an IRA until after age 72. This generally applies to employer-sponsored retirement plans as well.

- **Repeal of the "stretch" provisions for non-spouse beneficiaries.**
  After 2019, many inherited retirement accounts, such as IRAs and balances within an employer-sponsored retirement plan, must be distributed within 10 years of the death of the owner. Prior to this new rule, beneficiaries could opt to "stretch" required minimum distributions over their remaining life expectancy. This new rule may open opportunities to "superfund" beneficiary life insurance over short periods as a wealth transfer tool.

- **Repeal of the age limit for contributions to traditional IRAs.**
  Allows individuals with earned income who have reached age 70½ to make traditional IRA contributions. Prior to the legislation, those over age 70½ could only contribute to Roth IRAs.

- **Ability to withdraw for a birth or adoption of a child.**
  Permits penalty-free withdrawals of up to $5,000 per parent, per birth and/or adoption of a child from an IRA and certain employer-sponsored retirement plans. The distribution must occur within one year of the birth or adoption date.

What are the considerations for businesses and plan sponsors?

These provisions highlight opportunities for business owners and sponsors of retirement plans.

- **Increased tax credits for small businesses.**
  For smaller businesses considering starting a retirement plan, the tax credit to offset start-up costs has increased from $500 to a maximum of $5,000 per year.

- **Pooled Employer Plan (PEP) — sometimes referred to as a Multiple Employer Plan (MEP).**
  Effective January 1, 2021, employers that are not related can now participant in a PEP to take advantage of filing one 5500 per plan instead of filing for each employer. The "one bad apple" rule will no longer apply, so employers can join a PEP without the fear of other employers' mistakes negatively impacting the plan. Ameritas will have an open PEP strategy available. Currently, Ameritas offers an open MEP called the Retirement Collective.

- **Tax credits for small businesses adopting automatic enrollment.**
  For employers with 100 or less employees, if automatic enrollment is added, there is an annual tax credit of $500 available up to three years.

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- **Age 59½ withdrawals from 457(b) plans and certain defined contribution pension plans.**
  This is an optional provision and we are awaiting guidance. The age for this type of withdrawal was previously age 62, so this change makes it comparable to other defined contribution plans.

- **Long-term part-time employees.**
  Beginning in 2021, employees who have worked at least 500 hours for three consecutive years will be permitted to participate in an employer-sponsored retirement plan. The earliest any employee would be able to participate under this new rule is 2024. Keep in mind, they would be exempt from any non-discrimination testing.

- **Safe Harbor adoption flexibility.**
  A plan can now elect to become a Safe Harbor plan after the plan year using a non-elective contribution. If the Safe Harbor is elected 30 days before the plan year end or after, the required non-elective amount would be 4% instead of 3%. In addition, the Safe Harbor notice required for non-elective contributions is not required in most cases.

- **Adoption of new retirement plans.**
  Retirement plans can now be adopted if the plan document is signed by the due date of the employer's tax return (including extensions) instead of the end of the plan year. This provides more flexibility to the employer.

- **Qualified Automatic Contribution Arrangement (QACA) cap increase.**
  The current cap on increases for a QACA is 10%. For plan years beginning after Dec. 31, 2019, the amount cannot exceed 15%.

- **Increased penalties for failure to file a 5500.**
  Penalties for failure to file a Form 5500 have increased from $25 per day with a cap of $15,000 to $250 per day with a cap of $150,000 for plan years beginning after December 31, 2019.

Many of these highlighted changes are positive to individuals, businesses and participants/beneficiaries of employer-sponsored retirement plans. While not all provisions in the bill are listed here, this should help answer questions that you have.

Ameritas will continue to monitor the impact of the SECURE Act over the coming months and provide more clarity on implementation.

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