

IRS Delays Amendment Deadlines for Major Retirement Legislation

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The IRS has issued a notice extending the deadline for retirement plan sponsors to make certain amendments required by recently passed legislation. Notice 2022-33 extends the deadline for amending qualified retirement plans required by:

- The Setting Every Community Up for Retirement Enhancement Act of 2019 (“SECURE Act”)
- The Bipartisan American Miners Act of 2019 (“BAMA”)
- The Coronavirus Aid, Relief, and Economic Security Act (“CARES Act”)

Previously, qualified plans were generally required to be amended for these three pieces of legislation by the last day of the first plan year beginning on or after January 1, 2022. This meant the deadline for many plans could be as early as December 31, 2022. Because the IRS has yet to issue final guidance with respect to some of these legislative provisions, the notice extends the deadline for plan amendments relating to applicable provisions of the SECURE Act, the BAMA, and Section 2203 of the CARES Act until December 31, 2025, for non-governmental qualified plans. Governmental plans are granted further delayed deadlines depending on the underlying circumstances of the plan sponsor. The delayed deadlines under the SECURE Act and the BAMA include relief from the anti-cutback rules, which generally prohibit plan amendments that reduce a participant's accrued benefit.

It is worth noting that the delayed deadlines are generally more generous than the delayed deadlines included in various legislative proposals that are currently circulating through Congress.

Notably, however, the delayed amendment deadline related to the CARES Act under the notice appears to be limited to Section 2203 (related to the waiver of the RMD requirement for 2020). Accordingly, it appears that plan sponsors who chose to amend their plans for coronavirus-related distributions and/or increased loan limits will remain subject to the original deadline with respect to

amendments for those provisions.

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