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Coming to a Retirement Plan Near You in 2024—Long-Term, Part-Time Employees

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Beginning January 1, 2024, employers will be required to allow Long-term, part-time (LTPT) employees to make deferral contributions to qualified retirement plans that contain cash or deferred arrangements. Deferrals for LTPT employees are a departure from prior eligibility conditions rules that allowed plans to require participants to reach age twenty-one and complete a 1,000-hour year-of-service prior to participation in a 401(k) plan.

Quick Hits

- LTPT employees must be allowed to make elective deferral contributions if they satisfy other eligibility conditions of an employer's retirement plan.
- Employers are not required to make employer contributions such as matching or nonelective contributions on behalf of LTPT employees.
- LTPT employees can be excluded from nondiscrimination and coverage testing.
- Plan sponsors must amend retirement plans to comply with the SECURE Act and SECURE 2.0 by December 31, 2025.

Section 112 of the Setting Every Community Up for Retirement Enhancement Act of 2019 (SECURE Act) first introduced the concept of LTPT employees. Under the SECURE Act, LTPT employees are defined as employees who have three consecutive years with greater than 500 hours and less than 1,000 hours of service and are at least age twenty-one. LTPT employees who meet the three-consecutive-year requirement and satisfy the plan's other eligibility conditions are eligible to make deferral contributions to a qualified plan beginning January 1, 2024.

In December 2022, President Biden signed the SECURE Act 2.0, which decreased the consecutive-year requirement from three to two consecutive years with greater than 500 and less than 1,000 hours for plan years beginning on or after January 1, 2025.

On November 27, 2023, the Internal Revenue Service (IRS) released proposed regulations that provide additional guidance around LTPT employees. The IRS stated that taxpayers may rely on the proposed LTPT employee regulations until they are finalized. Below is a summary of provisions in the proposed regulations:

- **Satisfaction of Normal Eligibility Conditions:** If a participant satisfies the normal eligibility conditions prior to meeting the LTPT employee eligibility conditions, the participant will enter the plan as a normal participant. If a participant satisfies the normal eligibility conditions after becoming an LTPT employee, the participant will be reclassified as a normal participant and a former LTPT employee.
- **Employer Contributions:** Plans may exclude LTPT employees from eligibility for employer contributions.
- **Catch-up Contributions:** Plans may elect to allow LTPT employees to make catch-up contributions. If a plan excludes LTPT employees from nondiscrimination testing, the plan can exclude LTPT employees from making catch-up contributions regardless of whether other participants can make catch-up contributions.
- **Eligibility Computation Periods:** The first computation period for LTPT employees is the twelve months following the employee's date of hire. After the first computation period, plans can switch to a plan year computation period to track hours similar to the general eligibility computation period rules. A computation period cannot begin prior to January 1, 2021.
- **Vesting:** LTPT employees accrue one year of vesting service for each computation period with at least 500 hours of service. Former LTPT employees also receive one year of vesting service for each computation period with at least 500 hours prior to their status change to a normal participant.
- **Hours:** Complying with the January 1, 2024, deferral availability requirement for LTPT employees requires employers to begin tracking hours starting from 2021. The IRS permits the use of equivalencies for calculating the hours a LTPT employee worked during a computation period.
- **Excluded Class:** Plans can exclude LTPT employees from plan participation if they don't satisfy eligibility conditions that are unrelated to age and service. Permitted eligibility conditions may include job classifications, status as hourly versus salaried, or geographic factors. Plans are prohibited from using eligibility conditions that serve as a proxy for imposing an age and service requirement. For example, an eligibility condition of an employee's status as a seasonal or a part-time employee may be considered to be an eligibility condition that is a proxy for imposing an age or service requirement.
- **Nondiscrimination and Coverage Testing:** Plans may exclude LTPT employees from nondiscrimination and coverage testing.The plan document must state if LTPT employees are included in nondiscrimination testing. A plan must either include all LTPT employees or exclude all LTPT employees in nondiscrimination and coverage testing.
- **Top-heavy Testing:** LTPT employee accounts count towards assessing whether a plan is top-heavy. A plan may elect to include LTPT employees for receiving top-heavy minimum contributions.
- **Amendment Deadline:** Plan sponsors are required to amend retirement plans to comply with the SECURE Act and SECURE 2.0 by December 31, 2025.

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