Shannon & Associates LLP
Certified Public Accountants
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Employee Benefit Advisor

COMMITTED TO YOUR SUCCESS

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SECURE ACT 2.0

The SECURE Act 2.0 of 2022 ("SECURE 2.0") became law as part of the Consolidated Appropriations Act of 2023. SECURE 2.0 builds on previous legislation–Setting Every Community Up for Retirement Enhancement Act of 2019 (the "SECURE Act"), signed into law in December 2019, to improve retirement savings opportunities for workers.

SECURE 2.0 is nearly 400 pages in length with the goal of strengthening the retirement system by getting people to save more for retirement, improving the rules and lowering the cost to employers. Some changes are technical, and some are significant improvements that have been requested for a long time.

While plan amendments generally don't need to be made until the end of the first plan year beginning on or after January 1, 2025, plans must be operated in accordance with the effective date of each new provision.

IN THIS ISSUE

SECURE ACT 2.0 1
Properly Maintaining 401K Plan Records and Why it is Important. 3
Retirement Benefit Plan Limitations 4

KEY PROVISION HIGHLIGHTS

Mandatory auto enrollment

New 401(k) and 403(b) plans must automatically enroll participants in the plans when they become eligible (employees may opt out). The initial automatic enrollment amount is at least 3% but not more than 10%; each year thereafter that amount is increased by 1% until it reaches at least 10% but not more than 15%. This requirement becomes effective for plan years beginning after December 31, 2024.

Note: There is an exception to this requirement for small businesses with 10 or fewer employees, new businesses (those that have been in business for less than three years), church plans and governmental plans.

Increased catch up provisions

Secure 2.0 increases the catch-up contribution limit for retirement plans to the greater of $10,000 or 50% more than the regular catch-up amount applicable in 2025 for individuals who between the ages of 60 and 63 before the close of the taxable year (current limit on catch-up contributions to a retirement plan is $7,500.) The increased limits take effect for taxable years beginning after December 31, 2024 and are indexed for inflation after 2025.

Caveat: For employees with compensation of $145,000 or more in

... continued on page 2

SHAREHOLDERS OF S-CORPORATIONS

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the prior calendar year, all catch-up contributions at age 50 or older will need to be made to a Roth account in after-tax dollars.

Changes for RMD's

- Starting in 2023, the penalty for failing to take an RMD will decrease from 50% to 25% of the RMD amount not taken. The penalty will be reduced from 25% to 10% for IRA owners if the account owner withdraws the RMD amount previously not taken and submits a corrected tax return in a timely manner.
- Roth accounts in employer retirement plans will be exempt from the RMD requirements starting in 2024.
- Beginning immediately, for in-plan annuity payments that exceed the participant's RMD amount, the excess annuity payment can be applied to the following year's RMD.

Employer matching or nonelective contributions for Roth accounts
Effective immediately, plan sponsors can provide participants with the option of receiving matching contributions and nonelective contributions on a Roth basis.

Increased credits for small employer pension plan startup costs Beginning in 2023, the startup credit increases from 50% to 100% for employers with 50 or fewer employees and a new credit is created that is based on the amount of money contributed to participant accounts.

Treatment of student loan payments as elective deferrals
Beginning in 2024, employers can make matching contributions based on employees' qualified student loan payments. The Act requires employees who receive such matching contributions to certify annually to the employer that such payment has been made on a loan.

Withdrawals for certain emergency expenses Beginning in 2024, a participant may make a withdrawal of up to $1,000 per year for certain emergency expenses, which are unforeseeable or immediate family needs relating to personal or family emergency expenses. Only one distribution is permitted each year, and a taxpayer can repay the distribution within three years. No further emergency distributions are permissible during the three-year repayment period unless repayment occurs.

Automatic portability transactions
For transactions occurring 12 months or more after the date of enactment, Secure 2.0 permits a retirement plan service provider, subject to several conditions, to provide a plan with automatic portability services. These services would include the automatic transfer of a plan participant's default IRA into the retirement plan of the participant's new employer.

Improving coverage for part-time workers SECURE 2.0 builds on the SECURE Act requirement that employer-sponsored plans allow long-term part-time workers to participate. Rather than needing to complete three years of service with at least 500 hours worked, employees need only complete two years of such service. This also applies to 403(b) plans that are subject to ERISA. This section is effective for plan years beginning after Dec. 31, 2024.

Saver's Match replaces Saver's Credit Current law allows for a nonrefundable credit (Saver's Credit) for certain individuals who make contributions to IRAs and employer retirement plans. Secure 2.0 changes the Saver's Credit from a credit paid in cash as part of a tax refund into a federal matching contribution that must be deposited into a taxpayer's IRA or retirement plan. The amount of the match is 50% of IRA or retirement plan contributions, up to $2,000 per individual. The match is subject to an income-based phase out and becomes effective for tax years beginning after 2026.

529 Plan rollovers After 15 years, 529 plan assets can be rolled over to a Roth IRA for the beneficiary, subject to annual Roth contribution limits and an aggregate lifetime limit of $35,000. Rollovers cannot exceed the aggregate before the 5-year period ending on the date of the distribution. The rollover is treated as a contribution towards the annual Roth IRA contribution limit.

SIMPLIFICATION AND CLARIFICATION OF RETIREMENT PLAN RULES

There are some simplification and clarification of rules that are worthy of noting:

- Retirement plan fiduciaries now have the discretion to decide not to recoup overpayments mistakenly made to retirees.
- Retirement savings lost and found – a national online searchable "lost and found" database for U.S.-based retirement plans will be created.
- Updating dollar limit for mandatory distributions from $5,000 to $7,000, effective for distributions made after 2023.
- Expansion of Employee Plans Compliance Resolution System - expanding the types of errors that can be self corrected.
- For hardship withdrawals, under certain circumstances employees are permitted to self-certify that they have experienced an event that qualifies as a financial hardship.
- Exception to penalty on early distributions from qualified plans for individuals with a terminal illness or on small amounts in certain cases of domestic abuse or on distributions up to $2,500 for long term care premiums

This is a high level overview of Secure 2.0. To read the full text go to:

https://www.congress.gov/bill/117th-congress/house-bill/2954/text

Consideration will need to be given to how changes will impact you as a plan sponsor, various effective dates, participant education on updates and plan amendments needed. If you have questions or would like further clarification, contact Shannon & Associates for help.

PROPERLY MAINTAINING 401K PLAN RECORDS AND WHY IT IS IMPORTANT

Playing the role of a 401K Plan Sponsor should not be taken lightly and carries a substantial amount of responsibility for any employer. The accountability of a Plan Sponsor does not end once the 401K Plan has been established; in fact, the fiduciary duty of a Plan Sponsor is never done as long as the 401K Plan is still in place. The ERISA Act, DOL and IRS implement strict rules not just for proper allocation of plan funds but also the retention of "plan records". Below you will learn what documents constitute as "plan records", how long these records need to be retained for, reasons why following these guidelines are important and what ramifications (for an employer) can be avoided by employers complying with the rules laid out by these federal laws and entities.

The term "plan documents" is a broad description that covers a multitude of different documentation types that need to be properly retained. To simplify this term, we'll need to break it down into four sections: reporting and disclosure records, benefits determination records, accounting records, and plan governance records. Reporting and disclosure records include all the forms filed with government agencies. Benefits determination records include information necessary to determine benefits and eligibility for plan participation, and individual participant investment balances and benefit payments. Accounting records include information that is used in the calculation, measurement, processing, and communication of financial information about the plan. They may be used to confirm the accuracy and completeness of individual participant account and plan financial information, in financial preparation, and for determining plan tax qualification status. Plan governance include documents that memorialize the plan administrator's fiduciary decisions. When it comes to properly retaining and organizing these different types of records, it is important to understand which bucket your documentation belongs in as well as how long it needs to be retained for.

The ERISA Act requires that plan records be retained for two different lengths of time based on specific criteria and fall under ERISA Section 207 and 209. Section 207 requires that plan records used to support filings, including the annual 5500, to be retained for at least six years from the date of filing. The following articles of documentation that fall into this six-year retention requirement are:

- Copies of the Form 5500 (including schedules and attachments)
- Nondiscrimination and coverage test results
- Required employee communications
- Financial reports and supporting documentation
- Evidence of Plan's fidelity bond
- Corporate income tax-returns (to reconcile deductions)

ERISA Section 209 covers records used to determine the benefits that are or may become due to each employee and encourages Plan Sponsors to retain these records indefinitely. Examples of documentation that fall into this "indefinite" category are:

- Adoption agreements
- Amendments
- Summaries of material modifications (SMMs)
- Summary plan descriptions (SPDs)
- Most recent IRS determination letter
- Census data and support used to determine eligibility
- Vesting and calculated benefits
- Board or administrative committee minutes and resolutions
- Trust documents

Individual participant account records should be kept indefinitely including actuarial accrued benefit records, documentation supporting plan loans, withdrawals, and distributions.

Now that we've covered the basics of what qualifies as "plan documents" and how long they should be retained for, we need to examine how they should be organized and why it is of the upmost importance to follow the rules that have been established.

A best practice when beginning the organization process is to establish a written record retention policy governing how the organization periodically reviews, updates, preserves, and discards documents related to plan administration. The key to proper organization and retention of plan documents is to categorize each document into one of the four sections mentioned above and have all records be easily accessible and quickly

... continued on page 4

PROPERLY MAINTAINING 401K PLAN RECORDS AND WHY IT IS IMPORTANT

... continued from page 3

retrievable in case of an audit or if a participant inquires about their own records. The next, and most important step is to keep these records as secure as possible whether they are physical or electronic copies. The DOL Rule 29 provides guidance for electronic record keeping for assuring that the system has reasonable controls that maintain the integrity, accuracy, authenticity, and reliability of the records kept. Much of the material that goes into plan records involve personally identifiable and sensitive information for participants in the plan and needs to be secured safely. The Federal Trade Commission (FTC) provides guidance that applies to maintaining 401K plan records as well.

The importance of retaining and maintaining documents to support plan activities, safeguard participant information, comply with IRS, the DOL and the IRS requirements and provide support for any regulatory or financial statement audits cannot be stressed enough. Following the rules and guidelines handed down by ERISA and the IRS can protect from IRS investigations as well as lawsuits from plan participants. The one holding fiduciary duty is susceptible to lawsuits if they misappropriate participant funds and whether that has truly taken place or not, the Plan Sponsor needs to keep appropriate records to refute any frivolous allegations. A 401K Plan that has been under fire from participants can put the entire business in a bad light and could lead to IRS investigations, potential lawsuits, and negative reviews from employees on shared forums like Glassdoor leading to difficulties in employee retention/future hiring. The bottom line is that Plan Sponsor's and Administrators need to be prepared for the worst by retaining plan records used to support filing for up to six years and participant specific records indefinitely as securely as possible.

For Plan Sponsors feeling overwhelmed or simply have too much on their plate already, hiring an experienced third-party administrator could go a long way in keeping up a high functioning 401K plan. Shannon & Associates has a long and reputable history of serving businesses as a Plan Administrator and helping Sponsors sleep well at night knowing that they are prepared for the worst.

Here is a list of links that will take you to government, AICPA, and other business articles and websites that can expand further on the topics covered:

- AICPA "Importance of retaining and protecting employee benefit plan records" https://www.aicpa.org/resources/download/the-importance-of-retaining-ebp-records
- FTC "Accounting Industry Safe Standards Safeguards for Personal Information" https://www.ftc.gov/business-guidance/resources/protecting-personal-information-guide-business
- DOL Publications "Employee Benefits Security Administration" https://www.dol.gov/agencies/ebsa/key-topics/retirement/401k-plans

–Porter Fernandez, Associate Accountant

RETIREMENT BENEFIT PLAN LIMITATIONS

The IRS has announced that some retirement benefit plan limitations will be adjusted for 2023. Below are selected limitation amounts.

PLAN LIMITS	2023	2022
401(k) Elective Deferral Limit	$22,500	$20,500
Catch-Up Contribution Limit	$7,500	$6,500
Annual Defined Contribution Limit	$66,000	$61,000
Annual Compensation Limit	$330,000	$305,000
Annual Defined Benefit Limit	$265,000	$245,000
Hightly Compensated Employee Dollar Limit	$150,000	$135,000
Key Employee Dollar Limit	$215,000	$200,000

RELATED LIMITS	2023	2022
403(b)/457 Elective Deferral Limit	$22.500	$20,500
SIMPLE Employee Deferral Limit	$15,500	$14,000
SIMPLE Catch-Up Deferral Limit	$3,500	$3,000
SEP Minimum Compensation Limit	$750	$650
SEP Annual Compensation Limit	$330,000	$305,000
Social Security Taxable Wage Base	$160,200	$147,000
Self-only HSA Contribution Limit	$3,850	$3,650
Family HSA Contribution Limit	$7,750	$7,300
HSA Catch-Up Contribution Limit	$1,000	$1,000
IRA Contribution Limit	$6,500	$6,000
IRA Catch-Up Contribution Limit	$1,000	$1,000

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