

IRS Guidance Extends Deadline for SECURE & CARES Act Amendments

Employee Benefits & Executive Compensation Blog on **August 3, 2022**

On August 3, 2022, in a welcome and surprising move, the IRS released [Notice 2022-33](#), providing for an extension for qualified retirement plans to adopt amendments under the Setting Every Community Up for Retirement Enhancement Act of 2019 (“[SECURE Act](#)”), the Bipartisan Miners Act of 2019 (the “[Miners Act](#)”) (which provided defined benefit plans with an optional reduction in the minimum age for in-service distributions from age 62 to 59½), and the Coronavirus Aid, Relief, and Economic Security Act (“[CARES Act](#)”), the requirements of which are described [here](#), [here](#), and [here](#).

Specifically, non-governmental qualified plans (including non-collectively bargained plans) will have until **December 31, 2025** to adopt any of the optional or required changes under the SECURE Act, Miners Act, and CARES Act. Prior to this guidance, non-governmental and non-collectively bargained plans had until the last day of the plan year beginning on or after January 1, 2022 to adopt these amendments. For calendar year plans that meant amendments had to be made by December 31, 2022. Collectively-bargained and governmental plans had until the last day of the plan year beginning on or after January 1, 2024.

In considering this extension, note that the CARES Act extension only applies to the optional waiver of required minimum distributions for 2020 and does not apply to the optional loan relief or CARES Act distributions. Thus, if a plan adopted any of the CARES Act optional loan relief or distributions, the non-governmental, non-collectively bargained plan must still be amended by the last day of the plan year beginning on or after January 1, 2022.

This extension is welcome for many plan administrators and sponsors who are still waiting for final IRS guidance on many of the SECURE Act's provisions, including required post-death distribution rules, rules governing the inclusion of long-term part-time employees, and more. The IRS noted in Notice 2022-33 that it expects SECURE Act guidance to be issued with the 2023 Required Amendment list, so all changes under the SECURE, Miners, and CARES Act can be adopted by plan sponsors at the same time.

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