



Via Electronic Delivery

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Internal Revenue Service
CC:PA:01:PT (REG-104194-23)
Room 5203
P.O. Box 7604
Ben Franklin Station
Washington, D.C. 20044

RE: Long-Term, Part-Time Employee Rules for Cash or Deferred Arrangements Under Section 401(k): RIN 1545–BQ70

To Whom It May Concern:

This is the U.S. Chamber of Commerce’s (Chamber) response to the Department of the Treasury/Internal Revenue Service’s (Treasury) proposed regulation relating to Long-Term, Part-Tim Employee Rules for Cash or Deferred Arrangements under Section 401(k) (Proposed Regulation). The Chamber is supportive of the Proposed Regulation, and we appreciate the work that went into such a detailed proposal. Our two concerns are listed below.

Background

Section 112 of the Setting Every Community up for Retirement Enhancement Act (SECURE) provided that any individual who completes three consecutive three-year periods with at least 500 hours of service in each year must be eligible to participant in the elective deferral portion of a defined contribution plan if the person meets the age requirements as of the close of the last 12-month period. Section 112 did not require non-elective or matching contributions to be made on behalf of long-term, part-time (LTPT) employees. However, it did provide special vesting rules, namely, an LTPT will receive a year of service for each year that the individual has 500 hours of service, even if the individual later becomes a full-time employee. This section was effective for plan years beginning after December 31, 2020, meaning the first LTPT employees who meet the consecutive three-year and 500 hour requirement would need to be allowed to participate starting in the 2024 plan year.

Section 125 of the SECURE 2.0 Act reduced the 3-year rule under SECURE to 2 years. It also clarified that pre-2021 service is disregarded for vesting purposes, as if part of SECURE. These changes were effective for plan years beginning after December 31, 2024.

Discussion

The Proposed Regulation was published in the Federal Register on November 27, 2023. The Proposed Regulation adheres to the statute, and it also provides many helpful examples. However, given the timing of both the Proposed Regulation and any final

regulation, we are asking Treasury specifically to provide for a good faith reliance period of at least 12 months. Interested parties may also use this transition period to provide feedback to Treasury not only on the Proposed Regulation, but on whether other guidance is needed.

As noted above, SECURE 2.0 changed the 3-year period to a 2-year period starting for plan years on and after December 31, 2024. Although a plan sponsor is not required to allow individuals with two consecutive years with 500 hours of service into the plan in 2024, some may wish to do so to avoid a transition to the new rule in 2025. As such, we are requesting that Treasury clarify that doing so will still allow a plan sponsor to classify such individuals as LTPT employees under the statute and regulation for the 2024 plan year.

Conclusion

We appreciate Treasury's work on this, and we look forward to working with Treasury on other SECURE and SECURE 2.0 implementation issues.

Sincerely,

Chantel Sheaks

Chantel Sheaks
Vice President, Retirement Policy
U.S. Chamber of Commerce