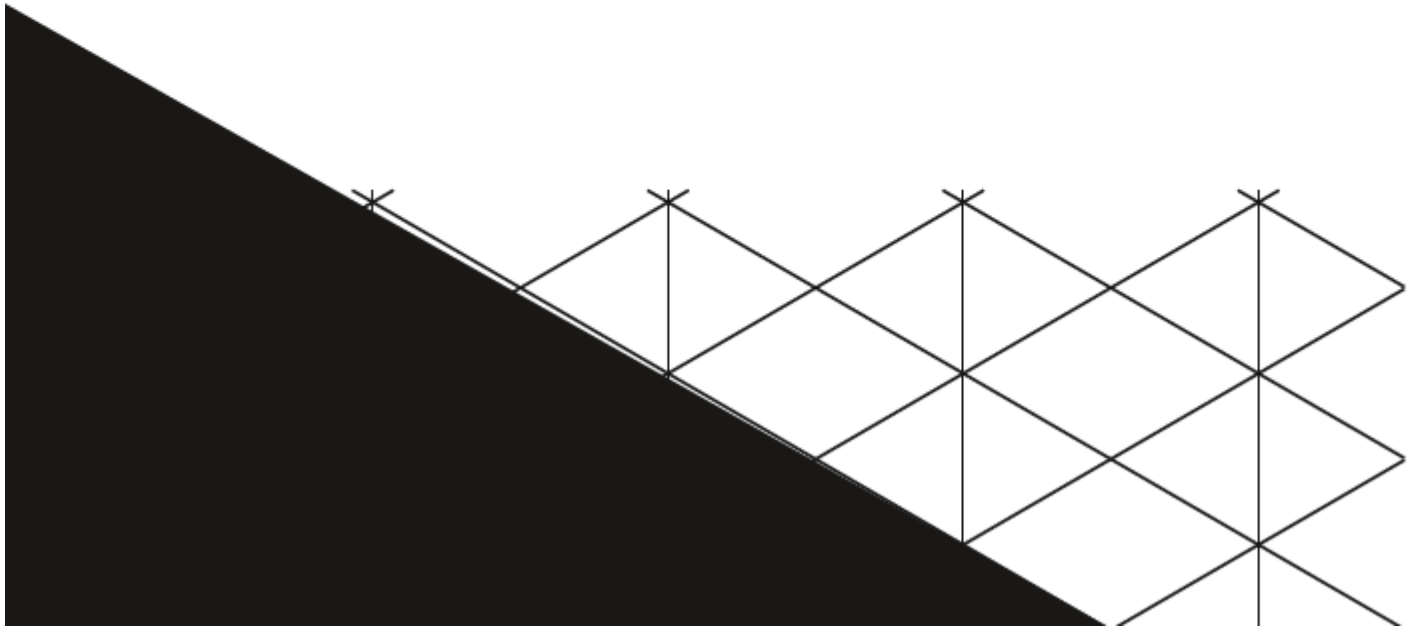
Bloomberg Tax

Special Report

Setting Every Community Up for Retirement Enhancement Act of 2019 (SECURE Act) Roadmap



The following is a summary of the key provisions in H.R. 1865, Further Consolidated Appropriations Act, Division O, Setting Every Community Up for Retirement Enhancement, otherwise known as the "Setting Every Community Up for Retirement Enhancement Act of 2019" or "SECURE Act". H.R. 1865 was enacted on December 20, 2019 (Pub. L. No. 116-94). This summary includes changes to the Internal Revenue Code (I.R.C.) as well as to the Employee Retirement Income Security Act of 1974, as amended (ERISA).

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Topic	Prior Law	SECURE Act	Bloomberg Tax Coverage	Act Sections	I.R.C. Sections
Multiple Employer Plans and Pooled Employer Plans	The Unified Plan Rule (one-bad-apple rule) provides that the failure of one participating employer in a multiple employer retirement plan (MEP) to meet plan qualification requirements in I.R.C. §401(a) generally causes the entire MEP to become unqualified. On July 3, 2019, the IRS issued proposed regulations that would provide relief from the one-bad-apple rule. Employers participating in MEPs must generally share a common characteristic, such as being in the same industry to participate in a MEP. On July 31, 2019, the Department of Labor issued final MEP regulations that require employers to be in the same industry or geographic location and does not allow "open MEPs" to be established covering employees of unrelated employers.	Provides relief from the one-bad-apple rule by treating assets in failed plan as generally being transferred to another plan maintained by the employer sponsoring the failed plan. Allows employers to establish "open MEPs" that do not require them to share a common characteristic that are administered by pooled service providers. Effective in plan years beginning after December 31, 2020.	Portfolios 371 T.M., III.D. Tax Practice Series ¶5560.06.C.	Div. O, §101	§413(e) (new), §408(c)(3) (new) ERISA §3(2)(C), ERISA §3(43) & §3(44) (new) ERISA §103(g), §104(a)(2)
Increase in 10 Percent Cap for Automatic Enrollment Safe Harbor After 1st Plan Year	Safe harbor required automatic escalation of employee elective deferrals to be capped at 10% of employee pay.	Increases safe harbor automatic escalation cap to 15% of employee pay after the first plan year. Effective for plan years beginning after December 31, 2019.	Portfolios 358 T.M., III.B., V.C. Tax Practice Series ¶5560.01.C.	Div. O, §102	§401(k)(13)

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Election of Safe Harbor Status	A design-based safe harbor 401(k) plan generally complies with applicable nondiscrimination tests if the cash or deferred arrangement (CODA) satisfies: (1) a safe harbor contribution (matching or nonelective) requirement; (2) certain withdrawal and vesting requirements; (3) notice requirements, and (4) timing requirements for adoption of, and duration, of safe harbor status. Written notice, sufficiently accurate and comprehensive to inform eligible employees of their rights and obligations under the CODA, is required to be given to each eligible employee within a reasonable period of time before each plan year.	Limits the safe harbor notice to matching contribution plans (CODAs). Permits amendments to nonelective status at any time before the 30th day before close of plan year. Later amendments are permitted if the amendments provide a nonelective contribution of at least 4% of compensation for all eligible employees, and the plan is amended no later than the last day for distributing excess contributions for the applicable plan year. Effective for plan years beginning after December 31, 2019.	Portfolios 358 T.M., V.B., V.C. Tax Practice Series ¶5560.01.C.	Div. O, §103	§401(k)(12), §401(k)(13)
Increase in Credit for Small Employer Pension Plan Startup Costs	A nonrefundable income tax credit is available for qualified startup costs of an eligible small employer that adopts a new qualified retirement plan, SIMPLE IRA plan, or SEP (referred to as an eligible employer plan), provided that the plan covers at least one non-highly compensated employee (NHCE). The credit is equal to the lesser of (1) a flat dollar amount of $500 per year or (2) 50 percent of the qualified startup costs. The credit applies for up to three years beginning with the year the plan is first effective, or, at the election of the employer, with the year preceding the first plan year.	Increases the credit limitation by changing the flat dollar amount calculation to the greater of (1) $500 or (2) the lesser of (a) $250 multiplied by the number of NHCEs of the eligible employer who are eligible to participate in the plan or (b) $5,000. The credit applies for up to three years, as under prior law. Effective for tax years beginning after December 31, 2019.	Portfolios 353 T.M., III.F.3. 514 T.M., IV.F.2 through .6 Tax Practice Series ¶3170.12.J.	Div. O, §104	§45E
Small Employer Automatic Enrollment Credit	No existing provision.	Adds a $500 per year general business tax credit for employers with no more than 100 employees receiving at least $5,000 of compensation for the preceding year. The employer may take the credit for up to three years for (1) startup costs for a qualified employer plan (e.g., §401(k), SIMPLE IRA) that includes automatic enrollment (in addition to the §45E credit), or (2) for costs for converting an existing plan to an automatic enrollment design. Effective for taxable years beginning after December 31, 2019.	Portfolios 353 T.M., III.F.3. 368 T.M., I.B. 514 T.M., IV.F. Tax Practice Series ¶3170.12. ¶5560.800	Div. O, §105	§45T (new), §38(b)

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Certain Non-Tuition Fellowship and Stipend Payments Treated as Compensation for IRA Purposes	The total amount that an individual may contribute to one or more IRAs for a year is generally limited to the lesser of: (1) a dollar amount; and (2) the amount of the individual's compensation that is includible in gross income for the year. In the case of an individual who has attained age 50 by the end of the year, the dollar amount is increased by $1,000. In the case of a married couple, contributions can be made up to the dollar limit for each spouse if the combined compensation of the spouses that is includible in gross income is at least equal to the contributed amount. An individual may make contributions to a traditional IRA (up to the contribution limit) without regard to adjusted gross income.	For purposes of IRA contributions, treats an amount includible in an individual's income and paid to the individual to aid in the pursuit of graduate or postdoctoral study or research (such as a fellowship, stipend, or similar amount) as compensation for tax years beginning after December 31, 2019. This will allow graduate and postdoctoral students use of an IRA to save for retirement.	Portfolios 367 T.M., III.A.4.b. Tax Practice Series ¶5610.03.A.4.b.	Div. O, §106	§219
Repeal of Maximum Age for Traditional IRA Contributions	Beneficiary must be under age 70 ½ to make a deductible contribution to a traditional IRA. Up to $100,000 per year of qualified charitable distributions from a traditional or Roth IRA are excluded from tax.	Repeals the prohibition on deductible contributions to a traditional IRA by an individual who has attained age 70 ½. Reduces the qualified charitable distribution exclusion by the excess of the allowed IRA deduction for all taxable years ending on or after age 70 ½ over the amount of all prior year reductions. Effective for contributions and distributions made for taxable years beginning after December 31, 2019.	Portfolios 367 T.M., III.A.2., III.D.7. Tax Practice Series ¶5610.03.A.	Div. O, §107	§219(d), §408(d)(8)(A)
Qualified Employer Plans and Loan Prohibition	Employer-sponsored retirement plans may provide loans to participants, but the amount of the loan is considered a deemed distribution unless (1) the loan does not exceed the lesser of 50% of the participant's account balance or $50,000; and (2) the loan must provide for repayment within 5 years (unless to acquire participant's principal residence), with substantially level amortization. There is no prohibition against distributing plan loans through a credit card or similar arrangement.	Treats plan loans made through the use of a credit card or similar arrangement as a deemed distribution. Effective for loans made after December 20, 2019 (the date of enactment).	Portfolios 370 T.M., III.D. Tax Practice Series ¶5550.08.A.	Div. O, §108	§72(p)(2)

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Portability of Lifetime Income Options	A distribution from an employer-sponsored retirement plan generally may be rolled over on a nontaxable basis to another such plan or to an IRA, either by a direct transfer or by rollover within 60 days. Some investments impose a charge or fee when the investment is liquidated (e.g., an annuity contract or other lifetime income product imposes a surrender charge when discontinued).	Clarifies that if a lifetime income investment is no longer authorized to be held as an investment option under a defined contribution plan, §403(b) plan, or governmental §457(b) plan, the plan may allow qualified distributions of a lifetime income investment, or distributions of a lifetime income investment in the form of a qualified plan distribution annuity contract, within 90 days before the date the lifetime income investment is no longer authorized to be held as a plan investment option. Applies to plan years beginning after December 31, 2019.	Portfolios 358 T.M., III.D., 388 T.M., VI.C., 372 T.M., III.I. Tax Practice Series ¶5550.06., ¶5630.05.C., ¶ 5710.11.A.	Div. O, §109	§401(a)(38) (new), §401(k)(2), §403(b), §457(d)(1)
Treatment of Custodial Accounts on Termination of §403(b) Plans	Termination of a §403(b) plan generally requires all accumulated benefits to be distributed to all participants and beneficiaries as soon as administratively practicable after plan termination. Assets associated with §403(b) plans often consist of annuity contracts issued in the name of the particular participant or mutual funds held in a custodial account in the participant's name. This may prevent an employer from distributing these assets to effectuate a plan termination. Rev. Rul. 2011-7 provides guidance regarding plan termination and the tax treatment of delivery of a fully paid individual annuity contract to participants or beneficiaries.	Mandates Treasury to issue guidance providing a mechanism under which plan termination may proceed while assets that cannot otherwise be distributed remain in a tax-favored retirement savings vehicle. Treasury must issue such guidance not later than 6 months after December 20, 2019 (the date of enactment) to provide that: (1) if an employer terminates a §403(b) plan under which amounts are contributed to custodial accounts, the plan custodian may distribute an individual custodial account in kind to a plan participant or beneficiary and must maintain the distributed account on a tax-deferred basis as a §403(b)(7) custodial account, similar to the treatment of fully-paid annuity contracts under Rev. Rul. 2011-7, until amounts are actually paid; (2) distributed custodial account's §403(b)(7) status is generally maintained if it adheres to the §403(b) requirements in effect at distribution; and (3) a custodial account would not be considered distributed if the employer has any material retained rights under the account. Guidance must be retroactively effective for taxable years beginning after December 31, 2008.	Portfolios 388 T.M., VI.E. Tax Practice Series ¶5630.06.E.	Div. O, §110	§403(b)

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Clarification of Retirement Income Account Rules Relating to Church-Controlled Organization	Some rules prohibiting discrimination in favor of highly compensated employees apply to §403(b) plans generally but not to a plan maintained by a church or qualified church-controlled organization. The law does not state whether employees of nonqualified church-controlled organizations may be covered under a §403(b) plan that consists of a retirement income account.	Clarifies that a retirement income account may cover: a duly ordained, commissioned, or licensed minister of a church in the exercise of his ministry; an employee of an organization that is tax-exempt under §501 and is controlled by or associated with a church or a convention or association of churches; and an employee who is included in a church plan under certain circumstances after separation from the service of a church, a convention or association of churches, or an organization described above. Effective for years beginning before, on, or after December 20, 2019 (date of enactment).	Portfolios 372 T.M., III.H.2., 388 T.M., III.C. Tax Practice Series ¶5630.02.C.	Div. O, §111	§403(b)(9)
Qualified Cash or Deferred Arrangements Must Allow Long-Term Employees Working More Than 500 but Less Than 1,000 Hours Per Year to Participate	A qualified retirement plan generally may exclude from participation employees who do not attain age 21 or complete a year of service (a 12-month period with at least 1,000 hours of service) during a plan year. Qualified plans also can provide that an employee is not entitled to an allocation of employer non-elective or matching contributions for a plan year unless the employee completes either 1,000 hours of service during the plan year or is employed on the last day of the year even if the employee previously completed 1,000 hours of service in a prior year.	Allows long-term, part-time workers who work for at least 500 hours per year with an employer for at least three consecutive years that meet age 21 by the end of the three consecutive year period to become eligible to participate in their employer's qualified retirement plans. Employers may exclude employees who are eligible to participate in the plan solely due to this provision from the nondiscrimination and coverage rules and the application of the top-heavy rules. The provision is effective for plan years beginning after December 31, 2020, except for determining whether the three consecutive year period is met, 12-month periods beginning before January 1, 2021 are not taken into account.	Portfolios 358 T.M., V.B.2. 351 T.M., III.A.1. Tax Practice Series ¶5520.03.G.	Div. O, §112	§401(k), §410

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Penalty-Free Withdrawals from Retirement Plans for Individuals in Case of Birth of Child or Adoption	A distribution from a qualified retirement plan, a tax-sheltered annuity plan (a §403(b) plan), an eligible deferred compensation plan of a state or local government employer or an IRA generally is included in income for the year distributed. In addition, unless an exception applies, a distribution from a qualified retirement plan, a §403(b) plan, or an IRA received before age 59 ½ is subject to a 10-percent additional tax (the "early withdrawal tax") on the amount includible in income.	Provides an exception to the 10% early withdrawal tax for qualified birth or adoption distributions from an applicable eligible retirement plan made after December 31, 2019. The maximum aggregate amount that may be treated as qualified birth or adoption distributions by any individual is $5,000. A qualified birth or adoption distribution is a distribution from an applicable eligible retirement plan to an individual if made during the 1-year period beginning on the date on which the individual's child is born or on which the legal adoption of an eligible adoptee is finalized. Qualified birth or adoption distributions may be recontributed to an individual's applicable eligible retirement plans, subject to certain requirements. Eligible retirement plans include the following plans, other than defined benefit plans: qualified defined contribution plans, §403(b) plans, governmental §457(b) plans, and IRAs.	Portfolios 370 T.M., IV.C. 367 T.M., X.E. Tax Practice Series ¶5610.03.D.	Div. O, §113	§72(t), §401-§403, §408, §457, §3405
Increase in Age for Required Beginning Date for Mandatory Distributions	Employer-provided qualified retirement plans, traditional IRAs, and individual retirement annuities are subject to required minimum distribution rules. Required minimum distributions generally must begin on April 1 of the calendar year following the later of the calendar year in which the individual reaches age 70 ½ or retires.	Increases age for required minimum distributions to age 72. Applies to distributions required to be made after December 31, 2019, with respect to individuals who attain age 70 ½ after such date.	Portfolios 370 T.M., VI.A. 367 T.M., III.D.2. 388 T.M., VI.B. Tax Practice Series ¶5520.10.C. ¶5610.03.D. ¶5630.05.C.	Div. O, §114	§401(a)(9)

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Election to Apply Alternative Minimum Funding Standards to Certain Single Employer Community Newspaper Plans	Defined benefit plans must generally meet minimum funding requirements, and when plan assets do not meet a plan's target funding level, a funding shortfall exists. Plans with funding shortfalls must make ameliorative contributions over a 7-year period to restore plan assets to the target funding level. Shortfall funding contributions must include target normal costs. Interest rates used to determine the funding target and target normal cost are as set forth under §430(h)(2).	Provides alternative minimum funding standards to certain community newspaper plan sponsors with funding shortfalls. Such plans may extend ameliorative contributions over a 30-year period to restore plan assets to the target funding level. Also increases the interest rates used to determine the funding target and target normal cost to 8%. Plan sponsors of community newspaper plans may elect to apply the alternative funding status if no participant has had an accrued benefit increase after December 31, 2017. Any election would apply for all subsequent plan years after the date of election, unless revoked with permission of the Treasury Secretary. Generally effective for plan years ending after December 31, 2017.	Portfolios 371 T.M., XV.C. Tax Practice Series ¶5520.07.C. ¶5520.07.I.	Div. O, §115	§430(m) (new), ERISA §303(m) (new)
Treating Excluded Difficulty of Care Payments as Compensation for Determining Retirement Contribution Limitations	A qualified foster care payment that is a ''difficulty of care'' payment is compensation that the State determines is needed to provide additional care for qualified foster individuals with a disability. The payments are excluded from income. Home healthcare workers receiving only these payments cannot participate in qualified retirement plans or IRAs because the payments are not considered compensation or earnings upon which contributions may be made.	Allows individuals who exclude difficulty of care payments from income to elect to increase the nondeductible contribution limit for an IRA to include those payments. Applies to contributions made after December 20, 2019 (the date of enactment). Allows individuals who exclude difficulty of care payments from income to treat the excluded amount as compensation in determining their defined contribution plan contribution for a year. The amount is treated as an after-tax contribution. With respect to defined contribution plans, the provision applies to plan years beginning after December 31, 2015, and with respect to IRAs, the provision applies to contributions after December 20, 2019 (the date of enactment).	Portfolios 367 T.M., III.A.4. Tax Practice Series ¶5610.03.A.	Div. O, §116	§408(o)(5) (new), §415(c)(8) (new)

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Plan Adopted by Filing Due Date for Year May Be Treated as in Effect as of Close of Year	A qualified retirement plan must be in existence by the last day of a taxable year to be treated as maintained for that taxable year. Section 401(b) does not permit a plan to be made retroactively effective, for qualification purposes, for a taxable year prior to the taxable year of the employer in which the plan was adopted.	Provides that an employer may elect to treat a qualified retirement plan adopted after the close of a taxable year but before the employer's tax return is due (including extensions) as having been adopted as of the last day of the taxable year. Effective for plans adopted for taxable years beginning after December 31, 2019.	Portfolios 351 T.M., II.C.1. 375 T.M., IV.A. Tax Practice Series ¶5520.01.A.	Div. O, §201	§401(b)
Combined Annual Report for Group of Plans	I.R.C. §6058 requires an employer maintaining a qualified retirement plan generally to file an annual return containing information related to the qualification, financial condition, and operation of the plan. ERISA §104 requires plan sponsors to file Form 5500, Annual Return/Report of Employee Benefit Plan, with the Labor Department, which shares information with the IRS. A separate Form 5500 is required for each plan.	Requires the Secretaries of Labor and the Treasury, in cooperation, not later than January 1, 2022, for plan years beginning after December 31, 2021, to modify the returns required under I.R.C. §6058 and ERISA §104 so that all members of a group of identical individual account or defined contribution plans (same trustee, named fiduciaries, administrator, and plan year start date) may file a single aggregated annual return or report that satisfies both I.R.C. §6058 and ERISA §104. Also requires that, in determining whether mandatory electronic filing is triggered for a return required under §6058, information regarding each plan for which information is provided on such return is treated as a separate return. Effective for returns required to be filed with respect to plan years beginning after December 31, 2019.	Portfolios 361 T.M., IV.A., IV.O. Tax Practice Series ¶5570.02.A.	Div. O, §202	§6011(e)
Disclosure Regarding Lifetime Income	The administrator of a defined contribution plan must provide benefit statements to participants annually, or if a participant has the right to direct the investment of assets in the account, quarterly. A benefit statement for a defined contribution plan is not required to include a lifetime income disclosure.	Requires the Labor Secretary to (1) issue a model lifetime income disclosure, (2) prescribe assumptions that individual account plan administrators may use to convert total accrual benefits into lifetime income stream equivalents for purpose of the disclosure, and (3) issue interim final rules not later than 1 year after December 20, 2019 (the date of enactment). Pension benefit statements must include disclosures regarding lifetime income effective for pension benefit statements furnished more than 12 months after the latest of the three actions described above.	Portfolios 361 T.M., VIII.N. Tax Practice Series ¶5570.03.F.	Div. O, §203	ERISA §105(a)(2)

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Fiduciary Safe Harbor for Selection of Lifetime Income Provider	An ERISA plan fiduciary has core duties of loyalty, prudence, investment diversification, and following the terms of plan documents that comply with ERISA. Labor Department regulations provide a safe harbor for a fiduciary to satisfy the prudence requirement in selecting an annuity provider and a contract for benefit distributions from a defined contribution plan. ERISA and the regulations do not establish a fiduciary standard for selection of a lifetime income provider.	Sets forth measures that a plan fiduciary has the option to take to ensure that the prudence requirement is satisfied in selecting an insurer to provide a guaranteed retirement income contract to the plan. Effective December 20, 2019 (date of enactment).	Portfolios 365 T.M., VI.A. Tax Practice Series ¶5530.02.D.	Div. O, §204	ERISA §404(e) (new)
Modification of Nondiscrimination Rules to Protect Older, Longer Service Participants	Tax-qualified plans must meet tests to demonstrate that benefits and contributions do not discriminate in favor of highly compensated employees. Funding concerns may prompt a plan sponsor to freeze a defined benefit plan. A "soft" freeze permits no new participants, but some or all existing participants continue to accrue benefits. The plan must continue to satisfy all qualification requirements. Under the "minimum participation" rule, a qualified defined benefit plan generally must benefit on each day of the plan year at least the lesser of: (1) 50 employees, or (2) the greater of two employees (or if there is only one employee, that employee) or 40% of all employees.	Provides special nondiscrimination rules to test defined benefit plans with closed classes of participants. Also, provides that defined contribution plans that provide make-whole contributions to a closed class whose defined benefit plan accruals have been reduced or eliminated and meet other requirements may be tested on a benefits basis. A plan that is amended to cease all benefit accruals or to provide future accruals only to a closed class satisfies the general minimum participation rule if the amendment was adopted before April 5, 2017, or the plan was in effect for 5 or more years before it closed and had not had a substantial increase in coverage or benefits in 5 years. Generally effective on December 20, 2019 (the date of enactment), without regard to whether amendment-related plan modifications are adopted or effective before, on, or after the date of enactment. Plan sponsors may elect to apply the rules to plan years beginning after December 31, 2013.	Portfolios 351 T.M., III.C., IX.B.12. 352 T.M. Tax Practice Series ¶5520.03. ¶5520.06.	Div. O, §205	§401(a)(26), §401(o) (new)

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Modification of PBGC Premiums for CSEC Plans	Plan sponsors of single employer and multiemployer plans, including cooperative and small employer charity plans (CSEC plans), must participate in the Pension Benefit Guaranty Corporation (PBGC) insurance program. PBGC premium rules require flat-rate, per participant premiums and variable rate premiums based on unfunded vested benefits (UVB). Although CSEC plans are subject to less stringent minimum funding rules, they must pay the same premium rates as non-CSEC plans.	Lowers the flat-rate and variable rate premiums for CSEC plans to $19 and to $9 per $1,000 of UVBs, respectively, and provides a separate definition of UVBs for CSEC plans. Effective for plan years beginning after December 31, 2018.	Portfolios 361 T.M., V.A. Tax Practice Series ¶5570.02.B.	Div. O, §206	ERISA §4006(a)
Benefits Provided to Volunteer Firefighters and Emergency Medical Responders	Volunteer firefighters and emergency medical responders could exclude from gross income qualified state and local tax benefits and qualified payments for services performed as a member of a qualified volunteer emergency response organization for taxable years beginning in 2008 through 2010.	Reinstates the exclusions from gross income for one year and increases the qualified payment exclusion amount from $30 to $50 for each month during which a volunteer performs services. Effective for taxable years beginning after December 31, 2019.	Portfolios 501 T.M., VIII.F.7. Tax Practice Series ¶1370.22.	Div. O, §301	§139B
Expansion of Section 529 Plans	Qualified higher education expenses reimbursed by a qualified tuition program include: tuition, fees, books, supplies, and equipment required for a designated beneficiary's enrollment or attendance at an eligible educational institution; special needs services expenses for a special needs beneficiary that are incurred in connection with enrollment or attendance; room and board for students who are enrolled at least halftime; and computer technology or equipment, or Internet access or related services, to be used primarily by the beneficiary during any years of enrollment.	Provides that tax-free treatment for higher education expense distributions also applies to certain expenses for: (1) a registered apprenticeship program's required fees, books, supplies, and equipment; and (2) qualified education loan repayments of up to $10,000, with a separate accounting for siblings. The deduction for student loan interest is reduced by distributions for loans that are treated as qualified higher education expenses. Effective for distributions made after December 31, 2018.	Portfolios 518 T.M., III. Tax Practice Series ¶1370.19.C.	Div. O, §302	§221(e)(1), §529(c)

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Modification of Minimum Required Distribution Rules for Designated Beneficiaries	In general, the date by which distributions of retirement plan benefits must be made to the participant's beneficiary is controlled by the pay status of plan benefits at the time of the participant's death and the participant's choice of beneficiary. If the participant dies before distributions have begun, the participant's entire benefit must be distributed by December 31 of the calendar year that contains the fifth anniversary of the participant's death (the five-year rule), unless either the designated beneficiary exception or the spousal exception applies.	Requires the entire interest to be distributed to a designated beneficiary within 10 years after the death of the employee, whether or not distributions of the employee's interests have begun. An exception exists for eligible designated beneficiaries that generally allows distributions over the life or life expectancy of the eligible beneficiary beginning in the year following the year of the employee's death. Eligible designated beneficiaries include (1) surviving spouses, (2) children who have not reached the age of majority, and (3) disabled and chronically ill beneficiaries. Surviving spouses can still elect to delay distributions until the end of the year that the employee (or IRA owner) would have attained age 70 ½ (or age 72, as appropriate). Generally, applicable to distributions with respect to employees who die after December 31, 2019. Certain exceptions exist (e.g., governmental plans).	Portfolios 370 T.M., VI.E. Tax Practice Series ¶5520.10.C.	Div. O, §401	§401(a)(9)
Increase in Penalty for Failure to File	Where an income tax return is more than 60 days late, the failure to file penalty cannot be less than $205, adjusted for inflation, or the tax required to be shown on the return (whichever is lesser), unless the failure is due to reasonable cause and not willful neglect. For returns required to be filed after December 31, 2019, the statutory penalty amount cannot be less than $330, adjusted for inflation.	Further increases the statutory amount under §6651(a) and §6651(j) from $330 to $435. Applicable to returns the due date for which (including extensions) is after December 31, 2019.	Portfolios 634 T.M., II.B. 462 T.M., V.D. Tax Practice Series ¶3830.01.A.	Div. O, §402	§6651(a), §6651(j)

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Increased Penalties for Failure to File Retirement Plan Returns	A penalty of $1 per day of delinquency is imposed upon the plan administrator for each participant for whom there is failure to file a Form 8955-SSA, up to a maximum of $5,000, unless the failure is due to reasonable cause. The IRS may impose a penalty of $25 per day, up to a maximum of $15,000, for failure to file an annual report, unless the failure is due to reasonable cause. The payor of a designated distribution must provide notice of the right to elect out of §3405 withholding. There is a $10 penalty tax, up to a maximum of $5,000 per calendar year, on each failure to provide notice, unless the failure is due to reasonable cause and not willful neglect.	Increases penalties ten-fold (e.g., $10 per day up to a maximum of $50,000 for failure to file Form 8955-SSA, $250 per day, up to a maximum of $150,000 for failure to file an annual report, and $100 a day up to a maximum of $50,000 for failure to provide notice to elect out of §3405 withholding). Applicable to returns, statements, and notifications required to be filed, and notices required to be provided, after December 31, 2019.	Portfolios 361 T.M., IV.C. 361 T.M., VI.D. 370 T.M., VIII.A.6. Tax Practice Series ¶5570.04.C.	Div. O, §403	§6652(d), §6652(e), §6652(h)
Increase Information Sharing to Administer Excise Taxes	Generally, tax returns and return information are confidential, and may not be disclosed unless the I.R.C. specifically authorizes it. I.R.C. §6103 provides exceptions to the general rule of confidentiality, detailing permissible disclosures. Under §6103(h)(1), tax information is open to inspection by or disclosure to Treasury officers and employees whose official duties require the inspection or disclosure for tax administration purposes. **Editors' Note: This is not an employee benefits provision.**	Allows the IRS to share returns and return information with employees of U.S. Customs and Border Protection for purposes of administering and collecting the heavy vehicle use tax. Effective December 20, 2019 (date of enactment).	Portfolios 625 T.M., II.C. Tax Practice Series ¶3823.01.	Div. O, §404	§6103(o), §6103(p)(4)
Modification of Rules Relating to the Taxation of Unearned Income of Certain Children	The "kiddie tax" taxes certain unearned income of a child as if it's the parents' income. For tax years beginning after 2017 and before 2026, the Tax Cuts and Jobs Act (TCJA), Pub. L. No. 115-97, modifies the kiddie tax to effectively apply ordinary and capital gains rates applicable to trusts and estates to the net unearned income of a child. **Editors' Note: This is not an employee benefits provision.**	Strikes the TCJA amendment to the tax rates under the kiddie tax. Applies to taxable years beginning after December 31, 2019. Taxpayers may elect, as provided by the IRS, to also apply to taxable years beginning in 2018, 2019, or both. Coordinating amendment to the alternative minimum tax applies to taxable years beginning after December 31, 2017.	Portfolios 507 T.M., II.A.2. Tax Practice Series ¶3310.03.F.	Div. O, §501	§1(j), §55(d)(4)

Topic	Prior Law	SECURE Act	Bloomberg Tax Coverage	Act Sections	I.R.C. Sections
Provisions Relating to Plan Amendments	A qualified retirement plan has a remedial amendment period during which, under certain circumstances, it may be amended retroactively to comply with the qualification requirements. The anti-cutback rule generally prohibits plan amendment that reduce accrued benefits.	Provides that compliance with the qualification requirements and relief from the anti-cutback rule generally is available for an amendment to any retirement plan or annuity contract made pursuant to any amendment made by the Act or a Treasury or Labor regulation issued under the Act, if made on or before the last day of the first plan year beginning on or after January 1, 2022 (2024 for governmental plans under §414(d) and certain collectively bargained plans), or a later date prescribed by the Treasury Secretary.	Portfolios 375 T.M., IV.A.	Div. O, §601	

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Product Support
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UK, Europe, Middle East, Africa, and South America
+44(0) 207.847.5821

Asia Pacific Region
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