

SIFM Holiday Meeting

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Plan Sponsor Council of America



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2022 LEGISLATIVE OUTLOOK



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SECURING A STRONG RETIREMENT ACT HIGHLIGHTS

Sec 101 – Require Automatic Enrollment for New Plans

- Only \$500 employer tax credit in Senate

Sec 102 – Enhanced Tax Credits for New Smaller Plans

- For new plans up to 50 employees, start-up credit increased to 100 %
- 100% tax credit for employer contributions up to \$1k per NHCE for 2 years then phased out by 25% over the next 3 years
- Senate only increases existing credit to 75% for employers with up to 25 employees

SECURING A STRONG RETIREMENT ACT HIGHLIGHTS

Sec 104 – Modify Existing Law SAVERS Credit

- Eliminates eligibility cliffs and increases income eligibility beginning phase out at \$48k for joint filers

Sec 105 – 403(b)s Allowed to Invest in CITs

Sec 106 – New Required Beginning Dates for RMDs

- Age 73 beginning in 2027
- Age 75 beginning in 2033
- Senate—age 75 beginning in 2031

Sec 108 – Catch-Up Contribution Limit Increased to \$10k

- \$5K for SIMPLEs
- Eligible individuals = Ages 62-64
- Senate—same but for ages 60-63

SECURING A STRONG RETIREMENT ACT HIGHLIGHTS

Sec 110 – 403(b) PEPs

Sec 111 – Student Loan Matching Program

- ADP testing disaggregation provision
- Senate bill treats student loan payments as elective deferrals for testing purposes

Sec 114 – Small Financial Incentives for Contributions Allowed

Sec 116 – New Long-term Part-time (LTPT) Worker Definition

- 500 hours for TWO consecutive years
- Prior service for vesting does not apply
- Effective as if included in SECURE Act (new eligibility rules begin in 2023)

SECURING A STRONG RETIREMENT ACT HIGHLIGHTS

Sec 305 – Eliminate Notice Requirements for Non-Participants

Sec 306 – Retirement Savings Lost and Found Program

- Requires DOL to create database
- Senate requires Treasury to hold forced cash-outs under \$1K

Sec 307 – Increase Cash-Out Amount from \$5k to \$7k

Sec 308 – Expansion of EPCRS

- Allows IRA RMD errors to be self-corrected within 180 days

SECURING A STRONG RETIREMENT ACT HIGHLIGHTS

Sec 314 – Paper Statement Mandate

- Requires at least one quarterly benefit statement to be delivered on paper
- Not in Senate bill—possible compromise re: IRS electronic delivery

Sec 315 – Top-Heavy Rules Do Not Apply to Otherwise Excludable Employees

- Less than 1000 hours or under age 21
- Makes it easier to allow for immediate eligibility to make deferrals

SECURING A STRONG RETIREMENT ACT HIGHLIGHTS

Sec 319 – Family Attribution Rule Fixes

- Stock attribution rules do not apply for spouses with separate businesses in community property states
- Stock attribution rules do not apply for spouses with separate businesses on account of a minor child

Sec 320 – Discretionary Amendments That Increase Benefits Allowed for Previous Year Up Until Employer Tax Return Due Date

SECURING A STRONG RETIREMENT ACT HIGHLIGHTS

Sec 601 – SIMPLE and SEP Roth IRAs

- SIMPLE and SEPs are permitted to be designated at Roth IRAs

Sec 602 – Hardship Rules for 403(b) Plans

- Conforms the existing hardship distribution rules for 401(k)s to 403(b)s
- QNECs, QMACs, plus earnings in 403(b)s can now be distributed

SECURING A STRONG RETIREMENT ACT HIGHLIGHTS

Sec 603 – Catch-Up Contributions Required to be Roth

- Does not apply to SIMPLEs or SEPs
- Senate—not required if employee made less than 100k in prior year
- Senate—delays effective date to 24 but also prohibits recharacterization of excess contributions to “catch-ups” if employee makes more than 100k

Sec 604 – Optional Roth Treatment of ER Matching Contributions

- Employer may permit an employee to designate matching contributions as Roth

ENHANCING AMERICANS RETIREMENT NOW ACT AND RISE AND SHINE ACT HIGHLIGHTS

Starter 401(k) Plans

- Deferral-only 401(k) safe harbor plan so no testing
- Contributions limits same as with IRAs (currently \$6k—indexed) plus catch-up (currently \$1k—indexed under the bill)
- Auto-enrollment required at 3%

New Stretch Match 401(k) Plan Safe Harbor

- Match: 100% for the first 2%; 50% for the next 4%; 20% for the next 4%
- Auto-enroll required at 6% with auto-escalation of 1% up to 10%
- Adopting employers with less than 100 employees would get tax credit for 5 years for NHCE matching contributions up to 2%

ENHANCING AMERICANS RETIREMENT NOW ACT AND RISE AND SHINE ACT HIGHLIGHTS

SAVERS Credit Matching Contribution

- Changes tax credit to government match regardless of tax liability
- Contributed directly into the plan account IRA of the taxpayer

- 50% match on contribution up to \$2k per person
- Match phased out between \$41-\$71k for joint filers (half for singles)
- Effective in 2026

ENHANCING AMERICANS RETIREMENT NOW ACT AND RISE AND SHINE ACT HIGHLIGHTS

Emergency Savings

- EARN Act allows distributions from DC plans up to \$1k per year without penalty that must be repaid within 3 years before another distribution
- R&S Act allows plans to create “pension-linked emergency savings accounts”
 - Employees must be opted in at 3% with a cap of \$2500—can be taken out at any time
 - Contributions to PLESA are after-tax but must still get matching contributions as if an elective deferral

ENHANCING AMERICANS RETIREMENT NOW ACT AND RISE AND SHINE ACT HIGHLIGHTS

Permanent Rules for Natural Disasters

- Would automatically allow for penalty-free distributions for affected taxpayers when a natural disaster is declared but only up to \$22k (not 100k)

Clarifies Incidental Plan Expenses Allowed to be Paid from Plan Assets

RMDs No Longer Required for Roth
Plan Accounts

Enables Plans to Utilize a Rollover
Clearinghouse

Allow Cash Balance Plans to Use
Variable Interest Crediting Rate Up
to 6%

ENHANCING AMERICANS RETIREMENT NOW ACT AND RISE AND SHINE ACT HIGHLIGHTS

Allow Mid-Year Replacement
of SIMPLE IRA Plan with Safe
Harbor 401(k) or 401(k) that
Provides Profit Sharing
Contributions

Allow SEP Contributions for
Domestic Employees

SIMPLE IRA Changes:

- Contribution limits increased to \$16,500 (indexed) and \$4,750 (indexed) for catch-ups, but if employer has more than 25 employees matching contributions must increase to the same as a safe harbor 401(k) plan (total 4%)
- Allows additional employer contributions up to 10% but no more than \$5K

STATE RETIREMENT PLAN OVERVIEW

Since 2012, 46 states have acted to implement, study, or introduce legislation to establish state-facilitated retirement savings programs

14 states and 2 cities have enacted a state-facilitated retirement savings program for private sector workers

Programs are currently open to employers in 6 states

- California = Mandatory Auto-IRA
- Illinois = Mandatory Auto-IRA
- Massachusetts = Voluntary Open MEP
- Oregon = Mandatory Auto-IRA
- Washington = Voluntary Marketplace

Programs Pending with Mandates

- New York, New Jersey, Maryland, Virginia, Maine, and Colorado

2022 LITIGATION OUTLOOK

BlackRock Index Fund Cases

- Complaints Claim Plan Sponsors Failed to Prudently Evaluate BlackRock Index Funds as an Investment Option
- 11 Plan Sponsors Sued by Same Law Firm
- Are any Plans Safe from Litigation?

Grab Bag of Topics

- ESG Funds
- Cryptocurrency
- Retirement Income
- Other?



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