SECURE Act Makes Big Changes to Retirement Plans

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Employers, plan sponsors, and plan administrators ring in the New Year with new recordkeeping and administrative challenges for 2020 and beyond. After much anticipation, on December 20, 2019, Pres. Donald Trump signed into law the Setting Every Community Up for Retirement Enhancement Act ("SECURE Act") as part of the Further Consolidated Appropriations Act. The SECURE Act is publicized as the most significant change to the laws governing employer-provided retirement plans since the Pension Protection Act of 2006.

Some highlights of the SECURE Act include:

- Relaxed rules related to the ability of unrelated employers to participate in a single ERISA plan under certain conditions through a pooled employer plan, effective for plan years beginning after December 31, 2020
- An increase to the age for commencing required minimum distributions ("RMDs") from 70½ to 72, effective for distributions required to be made after December 31, 2019, with respect to individuals who turn age 70½ after December 31, 2019
- More favorable tax credits for certain small employer plans (with respect to automatic enrollment and plan start-ups), effective for taxable years/plan years beginning after December 31, 2019
- An increase to the maximum default automatic contribution rate for automatic enrollment safe harbor plans after the first-year period from 10% to 15%, effective for plan years beginning after December 31, 2019
- Prohibition on non-collectively bargained 401(k) plans from excluding certain long-term part-time employees working at least 500 but less than 1,000 hours per year for three consecutive years from making elective deferrals, effective for plans years beginning after December 31, 2020 (but hours of service during 12-month periods beginning before 2021 are not taken into account)
- Changes to the notice and amendment requirements for certain nonelective 401(k) safe harbor plans, effective for plan years beginning after December 31, 2019
- Repeal of the maximum age for making contributions to a traditional IRA, effective for contributions made for tax years beginning after December 31, 2019
- Modifications to the post-death RMD with respect to defined contribution plan and IRA balances by generally eliminating "stretch IRAs" and generally requiring that all distributions to a designated beneficiary be made by the end of the 10th calendar year following the year of the employee or IRA owner's death, generally effective for distributions by reason of an employee or IRA owner’s death after December 31, 2019
- Allowance of penalty-free distributions (with repayment permitted at a later date) from certain defined contribution plans and IRAs of up to $5,000 for certain expenses related to the birth or adoption of a child, effective for distributions made after December 31, 2019
- Prohibition on qualified retirement plans from making loans to participants through credit cards or other similar arrangements, generally effective to loans made on or after December 20, 2019

- Nondiscrimination, coverage, and minimum participation relief for certain closed defined benefit plans, generally effective on December 20, 2019
- Extension of the deadline for employers to adopt new retirement plans for the preceding taxable year until the due date of the employer's tax return, effective for plans adopted for taxable years beginning after December 31, 2019
- An increase to the penalties for failure to file retirement plan returns, effective for returns due after December 31, 2019
- Allowance of consolidated Form 5500 filings by a group of similar individual account plans or defined contribution plans with common trustees, named fiduciaries, plan administrators, plan year, and investments for participants and beneficiaries, effective for returns for plan years beginning after December 31, 2021

The SECURE Act has a major impact on plan sponsors, plan administrators, and plan participants. Please contact your Miller Canfield attorney as soon as possible to determine whether immediate action is required with respect to your plan.