

EMPLOYEE BENEFITS LAW

INFORMATION MEMO

NOVEMBER 16, 2022

IRS Provides Extension to Certain Retirement Plan Amendment Deadlines

2022 Plan Amendment Extensions:

On Aug. 3, 2022, the IRS issued [Notice 2022-33](#) which extends the deadlines for certain plan sponsors to adopt amendments pursuant to the Setting Every Community Up for Retirement Enhancement Act of 2019 (SECURE Act), the Coronavirus Aid, Relief, and Economic Security Act (CARES Act) and the Bipartisan American Miners Act of 2019 (Miners Act) until **Dec. 31, 2025**.

This extension applies to non-governmental qualified retirement plans, 403(b) plans as well as collectively bargained plans and IRAs. Governmental plans, whether qualified, 403(b) or 457(b) plan, have an extended deadline.

Prior to the extension, amendments were required to be adopted by **Dec. 31, 2022**, for calendar year plans. Notable amendment extensions include:

- SECURE Act: Increasing the required beginning date for minimum required distributions from age 70-1/2 to age 72 and other changes to the required minimum distribution rules;
- Miners Act: Changing in-service distributions to age 59-1/2 for defined benefit plans and 457(b) plans;
- CARES Act: Suspending minimum required distributions in 2020.

While Notice 2022-33 did not extend the amendment deadline for certain optional CARES Act plan amendments, on Sept. 26, 2022, the IRS issued Notice 2022-45 and extended the amendment deadline for those amendments to Dec. 31, 2025.

The extension applies to:

- Increased Limits on Plan Loans: For defined contribution plans that allowed plan loans, plan sponsors were permitted to increase the limit on participant loans granted to qualified individuals between March 27, 2020 and Sept. 22, 2020 to the lesser of \$100,000 or 100% of the participant's vested balance under the plan.
- Extended Loan Repayment Period: For any loan repayments due between March 27, 2020 and Dec. 31, 2020, plan sponsors were permitted to extend the repayment date for up to one year.
- Temporary Suspension of Loan Repayments: Plans could suspend loan repayments due between March 27, 2020 and Dec. 31, 2020, for up to one year.
- Ability to Take Coronavirus-Related In-Service Withdrawals: Coronavirus related withdrawals or loans could be made to an individual for various reasons.

Notably, tax-exempt 457(b) plans are not explicitly included in either of the Notice extensions. As such, tax-exempt 457(b) plans must adopt any SECURE Act, CARES Act or Miners Act amendments by the end of the 2022 plan year.

If you have any questions about the information presented in this memo, please contact any attorney in our [employee benefits and executive compensation practice](#) or the attorney at the firm with whom you are regularly in contact.

