



Navigating the *SECURE* Act

ONEAMERICA[®] is the marketing name for the companies of OneAmerica | [OneAmerica.com](https://www.OneAmerica.com)



Agenda



- Background
- Plan operation changes
- Other changes and requirements

LEGAL DISCLAIMER: The information in this presentation and related materials are for informational purposes only and is not legal advice, nor is it intended to be a complete explanation of fiduciary duties or other legal requirements. If you have a specific legal question, you should contact a licensed attorney.

For answers to specific questions, please consult a qualified attorney, tax advisor, or financial professional.

Background

SECURE Act Background

SECURE Act

*Setting
Every
Community
Up for
Retirement
Enhancement*

- Legislation spanning over 5 years
 - SECURE Act
 - RESA (Retirement Enhancement and Savings Act)
 - Bipartisan American Miners Act
- Broad bipartisan support
- Original SECURE Act and RESA similar with slight differences

SECURE Act Background

Modified SECURE Act

*(including
changes needed
by the Senate)*

- Original passed the House in May, 2019
- Untouched by Senate
 - Eliminated need to send back for House passage
- Attached to the “must pass” budget bill
- Signed into law on December 20, 2019
 - Original presumed effective dates retained
 - Resulted in some provisions being effective 11 days from passage date

Plan Operation Changes

Seven Plan Operational Changes



- Required minimum distributions (*required*)
- Beneficiary distributions (*required*)
- Long term part-time employee participation (*required for 401(k) plans*)
- Form 5500 changes (*required*)
- In-plan lifetime income disclosures and options
- New child birth and adoption in-service withdrawal rights (*optional*)
- Safe harbor plans (*optional*)

Required Minimum Distributions (RMDs)

Old RMD rules

Separated participants or a 5% owner of the employer

- Must begin taking RMDs by April 1 of the year following the year in which they turn age 70-1/2

Employed participants who attained the age of 70-1/2

- Must begin taking RMDs by April 1st of the year following the year they terminate employment

Required Minimum Distributions

New RMD rules

(required plan
change)

Substitutes age 72 for those who turn 70-1/2 in 2020

- Anyone who was required to take an RMD for 2019 **MUST STILL TAKE IT AND ALL FUTURE RMDs** even if under age 72
- Anyone except a 5% owner who is still employed can continue to defer the RMD while employed
- Effective for distributions to individuals subject to the new rule after Dec. 31, 2019

Beneficiary Distributions

Post-death spousal beneficiary rules

Spousal beneficiaries

- Generally can take distribution under the RMD rules applicable to them as the “owner” of the account
- No change under the SECURE Act, spouses can still be the “owner” of inherited account



Beneficiary Distributions

Post-death non-spousal RMD rules

(required plan
change)

Now must deplete the account by the 10th year following the year of death
EXCEPT for:

- Minor children of the deceased (but the 10 year rule applies when the child reaches age of majority)
- Disabled or chronically ill person
- Those no more than 10 years younger than decedent

Changes effective for deaths after Dec. 31, 2019

Long-term Part-time Eligibility

New for
401(k) plans
only

(required plan
change)



Impacts long term part-time employees

- Effective for service accrued after December 31, 2020
 - First year to be counted is 2021
 - First year of participation is 2024
 - Employees must meet minimum age requirement
- Employees who work at least 500 hours per year for 3 consecutive years must be allowed to contribute 401(k) deferrals to the plan
- Employer contributions may still use other eligibility requirements
- Employees participating under this provision do not count for ADP testing

In-Service Distribution Rule Changes

New in-service distribution changes

(optional)

Pension plans including money purchase pension plans

- Reduced to age 59-1/2
- Previously allowed at age 62

Section 457(b) governmental plans

- Reduced to age 59-1/2
- Previously allowed at age 70-1/2



Form 5500 Requirements Changes

Form 5500 changes

(IRS to release new form)

The IRS is “directed” to develop a Form 5500 such that:

- Only one (1) Form 5500 need be filed when the employer sponsors more than a Defined Contribution plan that has
 - the same Trustee, fiduciary (Plan Administrator); and
 - IDENTICAL investment lineups

Penalties for late filing of Form 5500 will increase

- \$250 per day, with a maximum of \$150,000 up from \$25/day and maximum of \$15,000

New In-Plan Lifetime Income Disclosure

New disclosure provision

(required after
DOL guidance)

- The plan is REQUIRED to provide an annual benefit estimate of expected monthly income as if a single life or joint & survivor annuity were purchased
- Department of Labor (DOL) to provide benefit assumptions and disclosure sample
- Implemented no earlier than 12 months after Department of Labor issues final regulations

Selecting In-plan Lifetime Income Provider

New income provision



Fiduciary safe-harbor for selecting a lifetime income provider

- Requires specific representations from the provider (usually an insurance company)
- Absolves the fiduciary of liability should the provider's financial condition deteriorate after selection
 - Costs and fees/contract provisions still need to be considered
 - Decision to offer a lifetime income provision is *still* a fiduciary responsibility (it's an “investment option.”)

In-plan Lifetime Income Portability

New income provision

Portability of lifetime income investment option

- In a “plan level” decision to eliminate the option, the plan **MUST** allow the participant to take an in-kind direct rollover of the option without regard to the existence of a distributable event
- Nothing in the SECURE Act requires another plan or Individual Retirement Account to accept the in-kind rollover of a lifetime income investment

New Birth or Adoption Withdrawal Right

New birth or adoption distributions (optional)



Distributions for birth or adoption

- Plan **may** allow distribution of up to \$5000 for the birth or adoption of a child at any time within 12 months following the event
- Taxable distribution not subject to 10% excise tax for premature distributions
- Distribution is “per child/per parent”
- Each parent may take a distribution for each child

New Birth or Adoption Withdrawal Right

New
birth or
adoption
repayments
(optional)



- “Baby” distributions may be repaid by the participant to the plan
 - Typically should be treated as a “rollover”
 - Tax situation unclear – taxes would have already been withheld and paid when distributed
 - Repayable to the plan and not eligible for rollover
- Internal Revenue Service (IRS) guidance is needed

Safe-Harbor Plan Rule Changes

New
design
changes
(optional)

*(Effective for plan
years beginning
after 12/31/2019)*

Additional time to elect a **non-elective** safe harbor provision by amendment

- 3% non-elective: until the 30th day before the plan year end
- 4% non-elective: until the end of the plan year following the plan year to which it relates

Timing of amendment

- Could be after the due date of the
 - Annual Form 5500
 - Employer's tax return with extensions

Safe-Harbor Plan Rule Changes

New
design
changes
(optional)

*(Effective for plan
years beginning
after 12/31/2019)*

Annual notices no longer required for safe-harbor plans that only have used the ADP safe-harbor

Qualified Auto-Contribution Arrangement (“QACA”) safe harbor plans

- Maximum auto escalation deferral rate of 15%
- Initial auto-enrollment deferral rate remains no higher than 10%

Other Changes and Requirements

Combinations of Plans



Multi Employer Plans (MEPs)

- Closed MEPs – “Association” plans and currently authorized MEPs
 - Commonality of interest
- Open MEPS¹
 - Adopting employers do not need to have a commonality of interest

Pooled Employer Plans (PEPs)

- Require a “Pooled Plan Provider”
- Who is a NAMED fiduciary
- Who functions as the 3(16) Plan Administrator

Groups of Plans

- Considered single employer plans that can file a single 5500 (with only one audit)

¹Open MEPs/PEPS are limited to 401(a) plans

Additional Incentives for Small Employers



Start-up plans credit for small employer (up to 100 employees)

- Employers with up to 100 employees may receive a credit of the greater of \$500 or the lesser of \$250 times the number of NHCEs eligible to participate, or \$5000
- Credit is for the first three years of the plans existence
- Initial participation in a MEP/PEP may qualify, but the “three year” rule starts from the initiation of the MEP/PEP



Auto-enroll credit for small employer (up to 100 employees)

- Employers who adopt an auto enrollment provision in a plan may receive a credit of \$500 per year for up to three years after implementation

Miscellaneous Changes



- Elimination of the maximum age for “traditional” IRA contributions (previously 70-1/2) (required)
- Elimination of the use of credit/debit cards to issue plan loans (required)
- Allows certain tuition reimbursement and educational stipends to count as compensation for IRS contribution purposes
- Counts “difficulty of care” payments to home health care workers as compensation for plan or IRA purposes

Miscellaneous Changes



- Clarification of retirement income account rules for church-controlled organizations
- Allows for the retroactive adoption of a plan up until the tax return due date of the employer
- Provides that plans need not be amended for any of the SECURE Act changes until the end of the plan year beginning in 2022
- Section 529 Plans expanded to include costs for apprenticeships and qualified educational loans



Questions?



Thank you!

Disclosures

OneAmerica is the marketing name for the companies of OneAmerica.[®] Products issued and underwritten by American United Life Insurance Company[®] (AUL), a OneAmerica company. Administrative and recordkeeping services provided by McCready and Keene, Inc. or OneAmerica Retirement Services LLC, companies of OneAmerica which are not broker/dealers or investment advisors. Provided content is for overview and informational purposes only and is not intended and should not be relied upon as individualized tax, legal, fiduciary, or investment advice.

Registered Representative of and securities offered through OneAmerica Securities, Inc., a Registered Investment Advisor, Member FINRA, SIPC. Not affiliated with or endorsed by any governmental agency.

LEGAL DISCLAIMER: The information in this presentation is for informational purposes only and is not legal advice, nor is it intended to be a complete explanation of fiduciary duties or other legal requirements. If you have a specific legal question, you should contact a licensed attorney.

For answers to specific questions, please consult a qualified attorney, tax advisor, or financial professional.

LIFE INSURANCE | RETIREMENT | EMPLOYEE BENEFITS

ONEAMERICA[®] *companies:*

AMERICAN UNITED LIFE INSURANCE COMPANY[®]

THE STATE LIFE INSURANCE COMPANY[®]

ONEAMERICA RETIREMENT SERVICES LLC

MCCREADY and KEENE, INC.

ONEAMERICA SECURITIES, INC.

PIONEER MUTUAL LIFE INSURANCE COMPANY[®]

A stock subsidiary of American United Mutual Insurance Holding Company