

## 2024 Required Amendments List for Qualified and Section 403(b) Plans

Notice 2024-82

### I. PURPOSE

This notice sets forth the 2024 Required Amendments List (2024 RA List). The Required Amendments List (RA List) applies to individually designed plans qualified under section 401(a) of the Internal Revenue Code (Code) (qualified individually designed plans) and individually designed plans that satisfy the requirements of section 403(b) (section 403(b) individually designed plans). The RA List also applies to pre-approved plans with respect to interim amendments.

### II. BACKGROUND

Section 401(b) provides a remedial amendment period during which a plan may be amended retroactively to comply with the qualification requirements under section 401(a). Treas. Reg. § 1.401(b)-1 describes the disqualifying provisions that may be amended retroactively and the remedial amendment period during which retroactive amendments may be adopted. That regulation also grants the Commissioner of Internal Revenue the discretion to designate certain plan provisions as disqualifying provisions and to extend the remedial amendment period in guidance published in the Internal Revenue Bulletin (IRB).

Section 5 of Rev. Proc. 2019-39, 2019-42 IRB 945, as modified by section III.B.2(e) of Notice 2020-35, 2020-25 IRB 948, establishes a system of recurring remedial amendment periods for section 403(b) individually designed plan form defects first occurring after June 30, 2020.

Section 5.03(1)(c) of Rev. Proc. 2022-40, 2022-47 IRB 487, provides generally that, except as otherwise provided by statute or in regulations or other guidance published in the IRB, in the case of a qualified or section 403(b) plan that is individually designed and is not a governmental plan within the meaning of section 414(d) of the Code, the remedial amendment period for (1) a disqualifying provision or (2) a form defect first occurring after June 30, 2020, that arises as a result of a change in qualification requirements or section 403(b) requirements, as applicable, expires on the last day of the second calendar year that begins after the issuance of the RA List on which the change in qualification requirements or section 403(b) requirements appears. Section 5.03(2)(c) provides a special rule for governmental plans that may further extend the remedial amendment period in some cases.

Section 6.01 of Rev. Proc. 2022-40 provides that the plan amendment deadline with respect to (1) a disqualifying provision in a qualified individually designed plan, or (2) a form defect first occurring after June 30, 2020, in a section 403(b) individually

designed plan is the date on which the remedial amendment period expires in accordance with section 5 of Rev. Proc. 2022-40 with respect to that disqualifying provision or form defect.

Section 7 of Rev. Proc. 2022-40 provides that the Department of the Treasury (Treasury Department) and the Internal Revenue Service (IRS) publish an annual RA List.<sup>1</sup> In general, a change in qualification requirements or section 403(b) requirements will not appear on an RA List until guidance with respect to that change (including, any model amendment, if applicable) has been provided, in regulations or in other guidance published in the IRB. However, in the discretion of the Treasury Department and the IRS, a change in qualification requirements or section 403(b) requirements may be included on an RA List in other circumstances, such as in cases in which a statutory change is enacted and the Treasury Department and the IRS anticipate that no guidance will be issued.

Section 7.01(1)(a) of Rev. Proc. 2023-37, 2023-51 IRB 1491, provides that for a pre-approved plan that is not a governmental plan, a provider (or the adopting employer, if applicable) adopts an interim amendment (as defined in section 4.01(9) of Rev. Proc. 2023-37) timely if the plan amendment is adopted by the last day of the second calendar year that begins after the issuance of the RA List in which the change in qualification requirements or section 403(b) requirements appears.

The remedial amendment period applicable to a disqualifying provision or form defect arising as a result of a change in qualification requirements or section 403(b) requirements may be extended beyond the date that normally would apply to an item included on an RA List, if a statute, regulation, or other guidance published in the IRB provides for a later deadline.

Section 501 of the SECURE 2.0 Act<sup>2</sup> provides, in general, that a retirement plan or annuity contract will be treated as being operated in accordance with the terms of the plan during a specified period and, except as provided by the Secretary of the Treasury (or the Secretary's delegate), a retirement plan will not fail to satisfy the anti-cutback requirements of section 411(d)(6) of the Code or section 204(g) of the Employee Retirement Income Security Act of 1974, Pub. L. 93-406, 88 Stat. 829, as amended (ERISA), by reason of a plan amendment made pursuant to any amendment made by the SECURE 2.0 Act or pursuant to any regulation issued by the Secretary of the Treasury or the Secretary of Labor (or a delegate of either such Secretary) under the SECURE 2.0 Act, provided that:

---

<sup>1</sup> In order to help plan sponsors achieve operational compliance with changes in requirements, the IRS also provides the Operational Compliance List, which is a list of changes in both qualification requirements and section 403(b) requirements that are effective during a calendar year, on the IRS website at <https://www.irs.gov/retirement-plans/operational-compliance-list>. See generally section 8 of Rev. Proc. 2022-40.

<sup>2</sup> Division T of the Consolidated Appropriations Act, 2023, Pub. L. 117-328, 136 Stat. 4459 (2022), known as the SECURE 2.0 Act of 2022 (SECURE 2.0 Act).

(1) the amendment is adopted no later than the last day of the first plan year beginning on or after January 1, 2025, or, for an applicable collectively bargained plan (a plan maintained pursuant to one or more collective bargaining agreements between employee representatives and one or more employers ratified before December 29, 2022), or for a governmental plan (within the meaning of section 414(d) of the Code), the last day of the first plan year beginning on or after January 1, 2027, or such later date as the Secretary may prescribe (the section 501 date);

(2) the amendment applies retroactively to the effective date of the SECURE 2.0 Act provision or the regulations thereunder (or, in the case of an amendment not required by a provision of the SECURE 2.0 Act or the regulations thereunder, the effective date specified by the plan); and

(3) the plan or contract is operated as if the amendment were in effect during the period beginning on the effective date of the SECURE 2.0 Act provision or the regulations thereunder (or, in the case of an amendment not required by a provision of the SECURE 2.0 Act or the regulations thereunder, the effective date specified by the plan or contract) and ending on the section 501 date or, if earlier, the date the amendment is adopted.

Section 501(c) of the SECURE 2.0 Act modifies section 601(b)(1) of the Setting Every Community Up for Retirement Enhancement Act of 2019 (SECURE Act),<sup>3</sup> sections 2202(c)(2)(A) and 2203(c)(2)(B)(i) of the Coronavirus Aid, Relief, and Economic Security Act (CARES Act),<sup>4</sup> and section 302(d)(2)(A) of Title III of the Taxpayer Certainty and Disaster Tax Relief Act of 2020 (Relief Act)<sup>5</sup> to extend plan amendment deadlines with respect to these sections to coordinate with the plan amendment deadlines under section 501 of the SECURE 2.0 Act, as applicable.<sup>6</sup>

Notice 2024-2, 2024-2 IRB 316, Q&A J-1, provides the deadlines by which a retirement plan must be amended to reflect the provisions of the SECURE Act, section 104 of the Miners Act, section 2202 or 2203 of the CARES Act, section 302 of the Relief Act, and the SECURE 2.0 Act (the Acts) and the regulations thereunder.<sup>7</sup> In general, the deadline for a qualified plan: (1) that is not a governmental plan within the meaning of section 414(d) of the Code or an applicable collectively bargained plan is December 31, 2026; (2) that is an applicable collectively bargained plan is December 31, 2028; or (3) that is a governmental plan within the meaning of section 414(d) is December 31, 2029.

---

<sup>3</sup> Division O of the Further Consolidated Appropriations Act, 2020, Pub. L. 116-94, 133 Stat. 2534 (2019).

<sup>4</sup> Pub. L. 116-136, 134 Stat. 281 (2020).

<sup>5</sup> Division EE of the Consolidated Appropriations Act, 2021, Pub. L. 116-260, 134 Stat. 1182 (2020).

<sup>6</sup> Section G of Notice 2020-68, 2020-38 IRB 567, extended the deadline to amend a plan to reflect section 104 of Division M of the Further Consolidated Appropriations Act, known as the Bipartisan American Miners Act of 2019 (Miners Act), to coordinate with the plan amendment deadlines provided in section 601 of the SECURE Act.

<sup>7</sup> See section II.H of Notice 2024-2 relating to section 348 of the SECURE 2.0 Act for guidance that (1) addresses which cash balance plan amendments are made pursuant to section 348 of the SECURE 2.0 Act for purposes of applying section 501, and (2) sets forth the application of the exception under section 411(d)(6) for those plan amendments changing the interest crediting rate under the plan.

In general, the deadline to amend a section 403(b) plan: (1) that is not maintained by a public school, as described in section 403(b)(1)(A)(ii), is December 31, 2026; (2) that is an applicable collectively bargained plan of a tax-exempt organization described in section 501(c)(3) is December 31, 2028; or (3) that is maintained by a public school, as described in section 403(b)(1)(A)(ii), is December 31, 2029.

### III. REMEDIAL AMENDMENT PERIOD AND PLAN AMENDMENT DEADLINE

For individually designed plans, December 31, 2026, is generally both the last day of the remedial amendment period and the plan amendment deadline with respect to (1) a disqualifying provision arising as a result of a change in qualification requirements that appears on the 2024 RA List, and (2) a form defect arising as a result of a change in section 403(b) requirements that appears on the 2024 RA List. For pre-approved plans, December 31, 2026, is also generally the last day for a provider (or the adopting employer, if applicable) to timely adopt an interim amendment. Later dates may apply to a governmental plan within the meaning of section 414(d) pursuant to section 5.03(2)(c) of Rev. Proc. 2022-40 for individually designed plans and section 7.01(2) of Rev. Proc. 2023-37 for pre-approved plans.

### IV. CONTENT AND ORGANIZATION OF RA LIST

In general, an RA List includes changes to statutory and administrative qualification requirements and section 403(b) requirements<sup>8</sup> with which the plan must comply in operation during the calendar year in which the list is published.<sup>9</sup> However, an RA List does not include:

- Guidance issued or legislation enacted after the list has been prepared;
- Changes in requirements that cannot reasonably be reflected in plan language without guidance and with respect to which the Treasury Department and the IRS expect to issue guidance that would be included on an RA List issued in a future year;
- Changes in requirements that permit (but do not require) optional plan provisions, in contrast to changes in requirements that cause existing plan provisions (which may include optional plan provisions previously adopted) to become disqualifying provisions or section 403(b) form defects;<sup>10</sup> or
- Changes in the tax laws affecting qualified plans or section 403(b) plans that do not cause plan provisions to become disqualifying provisions or

---

<sup>8</sup> References to qualification requirements and to section 403(b) requirements in Parts IV and V of this notice are referred to as “requirements.”

<sup>9</sup> RA Lists also may include changes in requirements that were first effective in a prior year that were not included on a prior RA List under certain circumstances, such as changes in requirements that were issued or enacted after the prior year’s RA List was prepared.

<sup>10</sup> The remedial amendment period and plan amendment deadline for discretionary changes to the terms of an individually designed qualified or section 403(b) plan are governed by sections 5.03(1)(b), 5.03(2)(b), and 6.02 of Rev. Proc. 2022-40. The remedial amendment period and plan amendment

section 403(b) form defects (such as changes to the tax treatment of plan distributions or changes to the plan funding requirements).

The RA List is divided into three parts. Part A includes changes in requirements that (1) generally would require an amendment to most plans or to most plans of the type affected by the changes, and (2) do not relate to optional plan provisions previously adopted.

Part B includes changes in requirements that (1) the Treasury Department and the IRS anticipate will not require amendments to most plans but might require an amendment because of an unusual plan provision in a particular plan, and (2) do not relate to optional plan provisions previously adopted. For example, if a change affects a particular requirement that most plans incorporate by reference, Part B would include that change because a particular plan might not incorporate the requirement by reference and, thus, might include language inconsistent with the change.

Part C includes changes in requirements that relate to optional plan provisions previously adopted. For example, changes in requirements included in section L of Notice 2024-2 relating to the treatment of employer contributions or nonelective contributions as Roth contributions under section 604 of the SECURE 2.0 Act are included in Part C. This placement is because plans are not required to include terms providing for that Roth treatment (so that section 604 of the SECURE 2.0 Act will not be listed on any RA List) but plans that were amended to provide for the treatment of employer contributions as Roth contributions prior to the release of section L of Notice 2024-2 are required to comply with administrative guidance relating to that treatment.

Amendments to an eligible retirement plan (including an annuity contract) made pursuant to a provision of the Acts, or any regulations or other guidance published in the IRB under the Acts, that are made on or before the plan amendment deadline established under the RA List in which the provision is included will not cause the plan to fail to satisfy the anti-cutback requirements of section 411(d)(6) of the Code or section 204(g) of ERISA, if applicable, by reason of the amendments.

Annual, monthly, or other periodic changes to (1) the various dollar limits that are adjusted for cost of living increases as provided in section 415(d) or other Code provisions, (2) the spot segment rates used to determine the applicable interest rate under section 417(e)(3), and (3) the applicable mortality table under section 417(e)(3), are treated as included on the RA List for the year in which such changes are effective even though they are not directly referenced on that RA List. The Treasury Department and the IRS anticipate that few plans have language that will need to be amended on account of these changes.

The fact that a change in a requirement is included on the RA List does not necessarily mean that a plan must be amended as a result of that change. Each plan

---

deadline for discretionary changes are not affected by the inclusion of a change in requirements on an RA List.

sponsor must determine whether a particular change in a requirement requires an amendment to its plan.

## V. 2024 REQUIRED AMENDMENTS LIST

Part A. Changes in requirements that generally would require an amendment to most plans or to most plans of the type affected by the change and do not relate to optional plan provisions previously adopted.

- *None*

Part B. Changes in requirements that may require an amendment because of an unusual plan provision in a particular plan and do not relate to optional plan provisions previously adopted.

- *Application of section 415 limit for certain employees of rural electric cooperatives* (SECURE 2.0 Act section 119). Under section 415(b)(12) of the Code, rural electric cooperative retirement plans no longer have a compensation-based limit for participants who are non-highly compensated employees.
- *Reform of family attribution rule* (SECURE 2.0 Act section 315). Section 414 of the Code is amended to eliminate automatic attribution of ownership between spouses with separate businesses in community property states, and to modify the attribution rules regarding ownership between parents and minor children, for purposes of applying the rules relating to a controlled group of corporations under section 414(b) or an affiliated service group under section 414(m).

Part C. Changes in requirements that relate to optional plan provisions previously adopted.

- *Guidance for Coronavirus-Related Distributions from Retirement Plans Under the CARES Act* (Notice 2020-50, 2020-28 IRB 35). Under section 2202 of the CARES Act, plans may provide for in-service coronavirus-related distributions. Notice 2020-50 provides guidance with respect to this optional provision.
- *Guidance on Waiver of 2020 Required Minimum Distributions* (Notice 2020-51, 2020-29 IRB 73), *Transition Relief and Guidance Relating to Certain Required Minimum Distributions* (Notice 2023-54, 2023-31 IRB 382), and *Certain Required Minimum Distributions for 2024* (Notice 2024-35, 2024-19 IRB 1051). Guidance is provided with respect to optional required minimum distribution provisions.

- *Miscellaneous Changes Under the SECURE Act and the Miners Act* (Notice 2020-68, 2020-38 IRB 567):
  - SECURE Act section 113. Under section 113 of the SECURE Act, certain plans may permit qualified birth or adoption distributions. Section D of Notice 2020-68 provides guidance with respect to this optional provision.
  - Miners Act section 104. Under section 104 of the Miners Act, the minimum age is reduced for allowable in-service distributions. Section F of Notice 2020-68 provides guidance with respect to this optional provision.
- *Guidance on Sections 102 and 103 of the SECURE Act with Respect to Safe Harbor Plans* (Notice 2020-86, 2020-53 IRB 1786). Under sections 102 and 103 of the SECURE Act, the 10-percent cap for automatic enrollment safe harbor plans is increased and certain other changes with respect to safe harbor plans are made. Guidance is provided with respect to optional safe harbor plan provisions.
- *Repayment of qualified birth or adoption distribution limited to 3 years* (SECURE 2.0 Act section 311). Under section 113 of the SECURE Act, plans may permit qualified birth or adoption distributions and those distributions may be repaid to an applicable eligible retirement plan. Under section 311 of the SECURE 2.0 Act, repayment of qualified birth or adoption distributions is limited to a 3-year period beginning on the day after the date on which the distribution was received.
- *Amendments relating to Setting Every Community Up for Retirement Enhancement Act of 2019* (SECURE 2.0 Act section 401). Section 103 of the SECURE Act provides rules relating to election of safe harbor 401(k) status. Section 401 of the SECURE 2.0 Act provides a technical amendment with respect to optional safe harbor plan provisions.
- *Miscellaneous Changes Under the SECURE 2.0 Act of 2022* (Notice 2024-2, 2024-2 IRB 316):
  - Section 113 of the SECURE 2.0 Act. Under section 113 of the SECURE 2.0 Act, employers may offer small immediate financial

incentives for contributing to a plan. Section D of Notice 2024-2 provides guidance with respect to this optional provision.<sup>11</sup>

- Section 117 of the SECURE 2.0 Act. Under section 117 of the SECURE 2.0 Act, the contribution limit for SIMPLE 401(k) plans is increased for certain eligible employers. Section E of Notice 2024-2 provides guidance with respect to this optional provision.
  - Section 332 of the SECURE 2.0 Act. Under section 332 of the SECURE 2.0 Act, employers are allowed to replace SIMPLE retirement accounts with safe harbor 401(k) plans during a year. Section G of Notice 2024-2 provides guidance with respect to this optional provision.
  - Section 348 of the SECURE 2.0 Act. Under section 348 of the SECURE 2.0 Act, a cash balance plan that provides for pay credits to participants that increase with a participant's age or service and provides for a variable interest crediting rate no longer risks violating the accrual requirements of section 411(b)(1) of the Code if that interest crediting rate falls below a certain point. Section H of Notice 2024-2 provides guidance with respect to the application of section 501 of the SECURE 2.0 Act for amendments made pursuant to this optional provision.
  - Section 604 of the SECURE 2.0 Act. Under section 604 of the SECURE 2.0 Act, a plan may permit certain matching contributions or nonelective contributions to be designated as Roth contributions. Section L of Notice 2024-2 provides guidance with respect to this optional provision.
- *Guidance on Anti-Abuse Rules Under Section 127 of the SECURE 2.0 Act of 2022 and Certain Other Issues with Respect to Pension-Linked Emergency Savings Accounts* (Notice 2024-22, 2024-6 IRB 662). Under section 127 of the SECURE 2.0 Act, plans may implement pension-linked emergency savings accounts. Notice 2024-22 provides guidance regarding anti-abuse rules with respect to this optional provision.
  - *Certain Exceptions to the 10 Percent Additional Tax Under Code Section 72(t)* (Notice 2024-55, 2024-28 IRB 31). Under section 115 of the SECURE 2.0 Act, certain plans may permit emergency personal expense

---

<sup>11</sup> A plan sponsor that does not offer small immediate financial incentives outside of the plan, based on contributions to the plan, would not need to adopt plan language with respect to small immediate financial incentives. In addition, even if the plan sponsor were to offer small immediate financial incentives outside of the plan, it is anticipated that the plan generally would not include language with respect to those small immediate financial incentives (so that amendments to comply with section D of Notice 2024-2 would not be required).



distributions. Under section 314 of the SECURE 2.0 Act, certain plans may permit domestic abuse victim distributions. Notice 2024-55 provides guidance with respect to these optional provisions.

## VI. DRAFTING INFORMATION

The principal author of this notice is Tom Morgan of the Office of Associate Chief Counsel (Employee Benefits, Exempt Organizations, and Employment Taxes). For further information regarding this notice, contact Mr. Morgan at (202) 317-6700 (not a toll-free number).