BENEFITS ADVANTAGE

FuturePlan by Ascensus

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What's New with SECURE for 2021?

As the strange and challenging year that was 2020 comes to a close, now is an opportune time to focus on a few provisional changes from the SECURE Act that are likely to affect retirement plan sponsors in 2021.

It's Not Too Late to Establish a Plan for 2020

Historically, employers looking to adopt a qualified plan would have to do so by the last day of their taxable year. But effective for 2020 and later taxable years, the SECURE Act allows plans to be established up until the employer's tax filing due date, plus extensions if applicable. The new deadline applies to defined contribution and defined benefit plans under Internal Revenue Code Section (IRC Sec.) 401(a), and to plans under IRC Sec. 403(a). The deadline is now consistent with long-prescribed deadlines for establishing simplified employee pension (SEP) plans. Because deferral contributions can't be made on income already received, the retroactive effective date doesn't apply to a plan's elective deferral feature.

Adding Safe Harbor Got Easier

Employers can now amend their existing plan to add a 401(k) nonelective safe harbor design with a three percent employer contribution up to 30 days before the end of the plan year. For employers wanting to add a nonelective contribution after that date, they can do so at a rate of four

percent of compensation if they amend their plan by the close of the following plan year for which the contribution is made. Before 2020, employers would have needed to provide a "wait and see" notice to their participants in order to amend and add a safe harbor contribution during the plan year. Additionally, annual safe harbor notices are no longer required for nonelective safe harbor plans. While this seems like great news, there may be reasons to continue providing the notice (for example, if it's combined with other notice requirements). More clarity in this area is expected.

Required Distributions Got More Complicated

Pandemic relief under the CARES Act allowed many participants otherwise needing to take required minimum distributions (RMDs) to forgo their RMD for 2020. Barring additional relief, RMDs can be expected for 2021.

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The SECURE Act increased the age when RMDs must occur from age 70½ to age 72, effective for distributions required in 2020 and later, for those who reach age 70½ in 2020 or a later year. So if an individual was born on or after July 1, 1949, age 72 applies. Age 70½ applies to individuals who were born before July 1, 1949.

Eliminating the life expectancy payment option for most nonspouse beneficiaries is one of the few downsides of the SECURE Act. For deaths occurring in 2020 or later, most nonspouse beneficiaries will be required to distribute their inherited amounts within 10 years. Exceptions include those who, at the time of the account owner's death, are

- disabled individuals,
- certain chronically ill individuals,
- beneficiaries who aren't more than 10 years younger than the decedent,
- children of the account owner who are under the age of majority (they must begin a 10-year payout period upon reaching the age of majority), and
- recipients of certain annuitized payments begun before the SECURE Act's enactment.

The more rapid payouts apply to defined contribution, 403(b), governmental 457(b) plans, and IRAs, but not to defined benefit plans.

Participation Extended to Part-Time Employees

Effective for 2021 and later plan years, employees who have three consecutive 12-month periods of at least 500 hours of service and who satisfy the plan's minimum age requirement must be allowed to make elective deferrals in an employer's 401(k) plan. When determining eligibility, only periods of service that begin after January 1, 2021, are to be counted. The current, more restrictive, eligibility rules could continue to be applied to other contribution sources (e.g., matching contributions) and to ADP/ACP safe harbor plans. Employers applying the new eligibility rule to employer contributions that are subject to vesting must generally consider each 12-month period for which the employee has at least 500 hours of service—starting from the employee's date of hire, *including periods of service incurred before January 1, 2021*, in determining vesting years of service.

For employer plans with eligibility service and hours requirements more stringent than the new rules, it will be necessary to monitor census and hours data for these employees so that their service and vesting can be properly determined. The IRS has recently sought comments on how to reduce administrative concerns related to this; and additional guidance is anticipated.

Lifetime Income Projections Required

The SECURE Act requires plan administrators of ERISA-covered defined contribution plans to disclose (at least annually) an estimated monthly payment that participants could receive in a lifetime income stream that is equivalent to their current accrued benefit. Plan administrators must also provide this disclosure to beneficiaries—such as alternate payees or deceased participants' beneficiaries—who have their own individual account under the plan. Although plan administrators must *disclose* a projected annuitized payment amount, they aren't required to actually *offer* annuities as a distribution option. The Department of Labor (DOL) has issued an interim final rule effective September 18, 2021, with detailed requirements and model language that will apply to benefit statements provided to participants after that date.

These are a few highlights from the SECURE Act as we head into 2021. There will be more as agencies iron out details and provide additional guidance. Visit FuturePlan.com for the latest information and developments.

Coronavirus Loan Relief—What's Next?

If you allowed coronavirus loan relief to participants this year, you might be wondering what's next regarding these outstanding loans. And as the time approaches for borrowers to resume loan payments, there are some things you should know to keep your plan compliant.

The CARES Act increased the loan amount and percentage that participants could borrow from their accounts. This optional provision meant that new coronavirus loans could be taken until September 22, 2020. But the CARES Act also allowed plan sponsors to give relief to *all* those with plan loans—even if they aren't considered "coronavirus loans."

The CARES Act allows plan sponsors to suspend participant loan repayments that are due between March 27, 2020 and December 31, 2020. Only "qualified individuals"—those who

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are adversely affected* by the coronavirus—are granted this relief, but they can self-certify that they're eligible. In addition, loans delayed during this period may have the loan term extended for up to 12 months. For example, a participant with a five-year loan term can now extend the term to six years. Generally, qualified individuals with loans in good standing before the enactment of the CARES Act are eligible for relief. But if the outstanding loan was delinquent before March 27, 2020 and the missed payments weren't made by July 15, 2020, the loan wouldn't qualify for relief.

Once the employer-defined suspension period ends (generally on December 31, 2020), loan repayments must resume. The first step to resuming loan repayment is re-amortizing the eligible loans by adding in the accrued interest on the suspended loan repayments and extending the loan repayment schedule by the available 12 months. The extended loan term will likely reduce the participant's future loan payments—even after adding in the suspended payments and interest. To avoid missed payments, eligible loans must be timely re-amortized so that the correct repayment amounts resume in January.

Allowing loans in your qualified plan can give participants much-needed access to funds, while still reducing plan leakage. But administering loans can also trip up plan sponsors. We're here to help, so please contact your dedicated FuturePlan consultant with questions about re-amortizing loans for qualified individuals—or with any other questions that you may have.

*See Section 1 of IRS Notice 2020-50 for details on qualified individuals.

6 Good Habits for Plan Sponsors

The start of a new year is typically a time for reflection and starting or recommitting to following good habits. We're sharing six administration habits—or best practices—for you, as a retirement plan sponsor, to review and compare to your current approach. There can certainly be more than six and you and your human resources team might come up with additional ways to refresh efficiency and accuracy for administering your plan.

Remember, the plan document is a legal document that serves as the foundation for the operations of the plan. Think of it as the "operating manual" for the plan. Sometimes discrepancies can emerge between what the

document states and how the plan is administered—which can sometimes lead to disqualification of the plan or the need to complete a correction process with the Internal Revenue Service (IRS). Don't assume that "the way you've always done things" is consistent with the legal document governing your plan.

These six administration best practices provide a starting point for assessing your plan administration approach.

1. Keep Your Plan Document Up to Date.

The plan document should be updated when tax laws change affecting the plan. The IRS establishes a deadline by which plan amendments reflecting tax law changes must be adopted. If you don't remember the last time you updated your plan, you should take a look.

Reminder: Qualified retirement plans—including profit sharing, money purchase, and 401(k) plans—receive special tax benefits by meeting the requirements set forth by the IRS. These plans operate under a pre-approved plan document that is recertified by the IRS every six years. The IRS requires pre-approved retirement plans to be restated on a uniform, six-year cycle. A new six-year cycle, called Cycle 3, has begun. FuturePlan is beginning to work with plan sponsors to navigate the restatement process. We'll be reaching out to you in the coming months and through 2021 to make the process of restating your plan documents as seamless as possible.

2. Follow Plan Document Requirements for Eligibility and Vesting.

The plan document spells out employees' rights to retirement benefits and the formulas for determining them. Generally, eligibility for plan participation is based on age and/or service requirements. The plan may also have specific age and service requirements for vesting purposes.

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To comply with these requirements, you must maintain accurate service records for all employees. If these records are incorrect, the benefits provided may also be incorrect, either in excess or less than what is due the participant. Failure to properly follow the provisions of the plan can cause the plan to lose its qualified status.

3. Begin Required Minimum Distributions (RMDs) Timely.

The SECURE Act pushes back the age at which participants are required to begin receiving their RMDs from 70 ½ to 72 for those who aren't yet 70 ½ by the end of 2019. A minimum payment must be made to a participant by the required beginning date (RBD). Normally, the RBD for a participant who isn't a 5% owner is April 1 following the end of the calendar year in which the later of two events occurs: either the participant reaches age 72 or the participant retires. For 5% owners, the RBD is April 1 following the end of the calendar year in which the participant attains age 72 regardless of his/her retirement date.

Sometimes plan sponsors discover that required minimum payments either haven't been paid on a timely basis or haven't been paid at all, especially when a 5% owner continues working after reaching age 72. Failure to follow these rules, as stated in the plan document, can lead to the loss of the plan's tax-qualified status. If participants or beneficiaries don't receive their minimum distributions on time, they, not the plan, are subject to a 50% additional tax on the underpayment.

Reminder: Due to the COVID-19 pandemic, the CARES Act, enacted on March 27, 2020, waives the RMD in 2020 for plan participants, IRA owners, and beneficiaries. Given the changes for RMDs related to the SECURE and CARES Acts, please don't hesitate to contact your plan's consultant if you have any questions about RMDs for your plan's participants.

4. Deposit Participant Deferrals Timely.

A delay in depositing participant deferrals to the plan is a red flag inviting the Department of Labor (DOL) to investigate.

The law requires participant elective deferrals be deposited to the plan as soon as reasonably possible. But for small plans, the deadline is no later than the 7th business day following the payday. If you can reasonably make deposits sooner, you need to do so. It's important to note that if you've established a pattern of depositing participant deferrals in the plan less than seven days following the payday, the DOL expects you to continue this practice.

Note: The rules are different for matching contributions or other employer contributions.

5. Obtain Spousal Consent.

It's important that your human resources team classifies participant marital status correctly. If a participant is married, some retirement plans still require the primary form of benefit to be a Qualified Joint and Survivor Annuity (QJSA). A distribution in a form other than the required QJSA, a single lump sum for example, must have spousal consent.

Failure to provide proper spousal consent is an operational qualification error. This common mistake requires a correction under the IRS's Employee Plans Compliance Resolution System (EPCRS) to prevent your plan losing its tax-qualified status.

6. Paying Expenses from the Plan.

If your plan document allows for it, you may be eligible to pay certain expenses from plan assets. The DOL divides plan expenses into two categories: so-called "settlor expenses" which must be paid by the employer, and administrative expenses which, if reasonable, may be paid from plan assets.

In general, settlor expenses include services benefiting the employer rather than the plan. Examples could be establishing the plan, redesigning the plan, etc.

On the other hand, administrative expenses can be paid by plan assets. These include fees associated with activities such as amending the plan to keep it in compliance with tax laws, performing participant recordkeeping services, performing audit services, and others performed on behalf of the plan's participants.

Your plan's consultant will be glad to discuss any questions you might have about administering your plan to help avoid discrepancies between what your plan document states and how the plan is administered. ■

Reminder: Cost-of-Living Adjusted (COLA) Plan Limits for 2021

On October 26, 2020, the IRS followed its established fourth quarter practice and announced the contribution and benefit limits for qualified plans and related retirement arrangements effective in 2021. This announcement was documented as IRS Notice 2020-79. We're providing this information as a helpful reminder.

The new 2021 limits provide opportunities for both retirement plan sponsors and their employees. The 2021 cost-of-living adjusted limits are as follows.

2021 Cost-Of-Living Adjustments for Qualified Plans and Related Arrangements

	2021	2020	2019
Employee Deferral Limit 401(k)/403(b)/457 Plans	**$19,500**	$19,500	$19,000
Catch-up (age 50+) Deferral 401(k)/403(b)/457 Plans	**$6,500**	$6,500	$6,000
Defined Contribution Maximum Annual Additions	**$58,000**	$57,000	$56,000
Defined Benefit Maximum Annual Benefit	**$230,000**	$230,000	$225,000
Maximum Compensation-Qualified Retirement Plans	**$290,000**	$285,000	$280,000
Definition of Highly Compensated Employees (HCEs)	**$130,000**	$130,000	$125,000
FICA Taxable Wage Base (TWB)	**$142,800**	$137,700	$132,900
SEP Minimum Compensation	**$650**	$600	$600
SIMPLE Retirement Accounts Deferral Limit	**$13,500**	$13,500	$13,000
Catch-up Deferral Limit for SIMPLE Accounts	**$3,000**	$3,000	$3,000
Key Employee/Officer Compensation Threshold	**$185,000**	$185,000	$180,000
Traditional IRA Contribution Limit	**$6,000**	$6,000	$6,000
Qualified Longevity Annuity Contract (QLAC)	**$135,000**	$135,000	$130,000
ESOP Amount to Determine Lengthening of the 5-year Distribution Period[1]	**$230,000**	$230,000	$225,000
ESOP Maximum Balance Subject to the 5-year Distribution Rule[2]	**$1,165,000**	$1,150,000	$1,130,000

[1] The dollar amount used to determine the lengthening of the 5-year distribution period remains unchanged at $230,000.

[2] 409(o)(1)(C)(ii) for determining the maximum account balance in an employee stock ownership plan subject to a 5-year distribution period is increased from $1,150,000 to $1,165,000.

Additional Helpful Information

- The term "annual additions" generally means the sum for any year of employer contributions, employee contributions, and forfeitures.
- For plans that include salary deferral features, individuals who are age 50 and older by the end of the calendar year may make catch-up contributions in addition to the annual addition limit, if catch-up contributions are permitted under the plan.

Notes for Off-Calendar Plan Years

- Deferral limits are on a calendar year basis, regardless of plan year.
- Use the taxable wage base (TWB) in effect at the beginning of the plan year.
- Use the Annual Compensation limit in effect at the beginning of the plan year.
- Use the annual additions limit in effect at the end of the calendar year.

Please contact your plan consultant with questions about how the 2021 COLA limits relate to your plan.

Compliance Reminders 1Q2021

The following list highlights important, but not all, compliance dates for retirement plan administrators. Please contact your consultant with questions about compliance dates for your plan.

January 2021

1 – The CARES Act provides that the due date for any minimum required contribution that would ordinarily have been due in 2020 (including required quarterly contributions) is extended to January 4, 2021. Please note, the extended due date doesn't change the timing rules for deduction of employer contributions.

15 – **Minimum funding requirements** for defined benefit, money purchase, and target benefit plan years ended April 30, 2020 must be met by January 15, 2021 in order to avoid excise taxes. An electronic transfer must be completed, or a check mailed, by this date.

15 – **Retirement plan employer contributions** are due in order to be deducted on employer tax returns due to be filed January 15, 2021.

15 – **Form 5500 Series/8955-SSA –** Forms that are on extension are due for the plan year ended March 31, 2020.

February 2021

1 – Deadline to revise a defined benefit pension plan's **PBGC premium filing,** regarding variable rate premiums, *to expedite any available refund on otherwise overpaid PBGC premiums*. Such a refund could be generated by prior year pension contributions made after the usual deadline.

1 – **Form 5500 Series/8955-SSA** – Forms are due for the plan year ended June 30, 2020 that aren't on extension.

15 – **Minimum funding requirements** for defined benefit, money purchase, and target benefit pension plan years ended May 31, 2020 must be met by February 15, 2021 in order to avoid excise taxes. An electronic transfer must be completed, or a check mailed, by this date.

15 – **Retirement plan employer contributions** are due in order to be **deducted** on employer tax returns due to be filed February 15, 2021.

15 – **Form 5500 Series/8955-SSA –** Forms that are on extension are due for the plan year ending April 30, 2020.

March 2021

1 – **Form 5500 Series/8955-SSA** – Forms are due for the plan year ending July 31, 2020 that aren't on extension.

1 – *Paper* Form 1099R regarding retirement plan distributions in 2020 due to the IRS. The due date is March 31, 2021 if this information is filed *electronically*.

15 – **Minimum funding requirements** for defined benefit, money purchase, and target benefit pension plan years ended June 30, 2020 must be met by March 15, 2021 to avoid excise taxes. An electronic transfer must be completed, or a check mailed, by this date.

15 – **Calendar year 401(k) plans** must process corrective distributions for failed nondiscrimination tests to avoid a 10% excise tax. Certain automatic enrollment plans have until June 30, 2021.

15 – **Retirement plan employer contributions** are due to be deducted on employer tax returns due to be filed March 15, 2021.

15 – **Form 5500 Series/8955-SSA** – Forms that are on extension are due for the plan year ending May 31, 2020.

15 – Deadline to apply to the IRS for a waiver of the minimum funding standard for defined benefit pension plans and money purchase pension plans. This application to the IRS is due no later than 2 ½ months after the end of the applicable plan year, i.e., no later than the 15th day of the third month after the close of the plan year for which the waiver is requested.

31 – Deadline for the pension plan's enrolled actuary to prepare the funding adequacy related **AFTAP calculation** to avoid a presumed 10% funding adjustment.

31 – **Form 5500 Series/8955-SSA** – Forms are due for the plan year ending August 31, 2020 that aren't on extension.

April 2021

1 – **Initial required minimum distribution (RMD)** for those terminated participants who have attained age 72 or older during 2020. ■

We're Becoming FuturePlan by Ascensus

In 2016, Ascensus began expanding its TPA line of business by acquiring quality-focused local TPA firms from coast to coast. As a result of this expansion, we now have more than 1,300 associates serving more than 53,300 plans under the name FuturePlan.

Because we've been mindfully merging new firms into our company to help ensure ongoing quality and smooth service for clients and advisors, the FuturePlan name is being rolled out gradually. You'll continue to see our new name appear more frequently and in more places—in some cases alongside the name of the TPA firm that's been servicing your retirement plan.

Our Legacy of Leadership

Each of these leading TPA firms became part of FuturePlan by Ascensus so that we can deliver unmatched levels of service, innovation, and expertise to an ever-growing client base. By joining forces, we've become the nation's largest retirement TPA while preserving the strength and warmth of our client and partner relationships.

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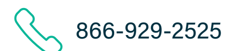 866-929-2525

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