



Legislative and Regulatory Report

A monthly review of the latest information of importance to retirement plan sponsors

September 2022

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Senate Finance Committee releases EARN Act text

On September 8, Senate Finance Committee Chair, Sen. Ron Wyden (D-OR) and Ranking Member Sen. Mike Crapo (R-ID) [officially introduced](#) the Enhancing American Retirement Now (EARN) Act — the Senate version of SECURE 2.0. The Finance Committee [previously considered and approved](#) the EARN Act during a conceptual markup in June but had not released legislative text. House and Senate leaders are currently negotiating the details of a final SECURE 2.0 package, which will draw from the EARN Act, the [RISE & SHINE](#) Act and the [Securing a Strong Retirement Act](#).

IRS issues W-4 tax withholding guidance

On September 1, the IRS [posted](#) new guidance addressing the use of substitute and telephonic versions of Forms W-4P and W-4R, regarding federal income tax withholding from annuity, IRA and qualified plan distributions. The guidance does not extend the deadline to start using the forms by January 1, 2023, but does provide a very limited extension relating to the future release of the 2023 versions of the forms. The guidance also provides scripts that payers may use for telephonic withholding elections and announces an IRS intent to issue additional guidance on telephonic elections in the future. The new guidance also states that paper substitutes must include the applicable form's instructions and worksheets, rather than directing payees to the IRS website for such information.

Tip: Click on highlighted words to go to the topic being discussed.

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IRS announces additional plan amendment deadline extensions

On September 26, the IRS issued [Notice 2022-45](#), which extends relief granted through [Notice 2022-33](#) to also cover the plan amendment deadlines that are relevant to Section 2202 of the CARES Act and the retirement-related disaster relief included in the Taxpayer Certainty and Disaster Tax Relief Act of 2020. In August, the IRS issued Notice 2022-33, which extended plan and IRA amendment deadlines for: (1) The SECURE Act; (2) Section 104 of the Miners Act (lowering the in-service distribution age to 59½ for pensions and governmental 457(b) plans); and (3) Section 2203 of the CARES Act (waiving 2020 RMDs). Importantly, the relief described in Notice 2022-33 did not apply to Section 2202 of the CARES Act (permitting coronavirus-related distributions (CRDs) and special COVID-related loan relief) or the retirement-related disaster relief included in the Taxpayer Certainty and Disaster Tax Relief Act of 2020.

California expands CalSavers

On August 26, 2022, California Governor Gavin Newsom (D) [signed S.B. 1126](#) into law, which expands the employer mandate for California's state-run auto-IRA program, CalSavers, to most employers in the state. Prior to this expansion, California employers with five or more eligible employees were generally required to participate in CalSavers. S.B. 1126 expands the mandate to California employers that have at least one eligible employee. The new law clarifies, however, that the expanded mandate does not apply to sole proprietorships, self-employed individuals or other business entities that do not employ any individuals other than the owners of the business. Small employers affected by the expanded mandate that do not already offer a retirement savings program, such as a 401(k), SEP or SIMPLE plan, are required to begin participating in CalSavers by December 31, 2025.

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References and source material used in this publication

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Keeping watch

You can find the most recent information on issues affecting governmental defined contribution plans, plan sponsors and plan participants on the Employer page of our plan website, NRSforu.com/plansponsor.



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