Is Automatic Enrollment Required for Your Plan?

An automatic enrollment provision can be a useful tool to drive employee engagement in plans, particularly for participants who otherwise have not yet considered their retirement situation.

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These provisions allow an employer to withhold deferrals from the employee's pay without the employee making an election. By utilizing automatic enrollment, an employer can boost participation while simultaneously simplifying the enrollment process.

Although commonplace, these provisions have historically been entirely optional. Now, due to the SECURE (Setting Every Community Up for Retirement Enhancement) 2.0 Act of 2022, automatic enrollment provisions will be mandatory in certain cases. While some plans are considered to be "grandfathered" into their current provisions, others will need to be updated to comply with the new requirements starting in 2025. To find out if these new requirements apply to you, consider the following questions:

- Is your plan a 401(k) or 403(b) plan?
- Was your plan adopted after December 29, 2022?*
- Does your business have more than 10 employees?
- Have you been in business for more than three years?

* Please note, if your plan was part of a merger, there are certain exceptions that may apply that are not addressed in this article. We can take a closer look together.

If you answered "Yes" to all of these questions, your plan must include the following automatic enrollment provisions beginning January 1, 2025:

- The default deferral percentage must start between 3% and 10% as determined by the plan.
- On the first day of each new plan year following enrollment, the deferral amount will increase by 1% until it reaches a cap of 10-15%, again determined by the plan. This increase, called auto-escalation, is not required if the initial default rate is set to 10%.
- You will need to choose a Qualified Default Investment Alternative (QDIA) that meets criteria for transferability and safety per the Department of Labor's (DOL's) standards. While a QDIA was optional in the past, SECURE 2.0 provisions require it.

If you are not required to include automatic enrollment provisions in the plan, you may choose to add them anyway. In this case, you have more flexibility in your options as you don't need to fulfill the above requirements. As such, there are various types of automatic enrollment provisions to consider:

The **automatic contribution arrangement (ACA)** is the most basic type of automatic enrollment. Employees are enrolled when they become eligible for the plan unless they opt out of deferrals or elect to defer at a different rate.

The **eligible automatic contribution arrangement (EACA)** builds onto the ACA. Instead of applying only to new participants, the EACA also includes any existing participants who have not yet made an election. A participant who elects to stop automatic deferrals within the first 90 days may withdraw the amount deferred, plus any earnings. EACAs also have an additional notice requirement, meaning that certain details must be communicated to employees prior to enrollment, as well as on an annual basis once enrolled.

The **qualified automatic contribution arrangement (QACA)** is a variant of the EACA which can be used for safe harbor plans, meaning it has stricter requirements. This includes a default deferral percentage that is at

least 3%—but not more than 10%—of compensation. Auto-escalation is also required, increasing this default deferral by at least 1% per year until it reaches a cap set between 6% and 15%. Auto-escalation is not required if the initial default rate is set to 6% or more. Your plan document will state the percentages.

Since this pertains to safe harbor plans, one of the following employer contributions is required:

- A 100% matching contribution on deferrals up to 1% of compensation, plus a 50% match for deferrals between 1% and 6% (a maximum of 3.5%), or
- A non-elective contribution of 3% of compensation for all participants.

The safe harbor matching contribution for a QACA is less than the traditional safe harbor plan, which is 4%. In addition, while the employer contribution must be immediately vested in a traditional safe harbor plan, a QACA allows contributions to be 100% vested after two years.

Regardless of the reason the provisions are included in your plan, automatic enrollment is a beneficial feature that helps employees save for retirement, as they no longer need to opt in to begin deferring. Employees who delayed or ignored their initial enrollment will still have their deferred funds to fall back on later. Choosing the initial default deferral rate and the maximum rate after auto-escalation are important plan decisions. While SECURE 2.0 sets the minimum requirements for plans, there may be a certain combination of provisions that best suits your plan (how complex will it be to administer year after year?) and your participants (what percentage will help them save for retirement without drastically impacting their take-home pay?). A discussion with us can help you find the right fit.

A Refresher on RMDs

Although required minimum distributions (RMDs) are now mandatory components of tax-deferred retirement plans, this was not always the case. RMD rules began to apply to qualified plans following the Tax Reform Act of 1986, after policy makers noticed that retirement account holders were saving the funds for their beneficiaries rather than their own retirement spending. A plan retains qualification by following rules designed to delay taxation until the participant's retirement. However, required minimum distributions require participants to start withdrawing funds from retirement plans and IRAs at a certain age so that the deferred taxes can be recouped.

Fast-forward to the current day, where the RMD rules have continued to evolve as a result of the SECURE Act of 2019 and SECURE 2.0 Act of 2022. To help keep you informed, this article will discuss the most important aspects of RMDs in their present form.

Who needs to take an RMD?

An RMD must be taken in the year the participant reaches age 73. Your plan document may have an exception for participants who continue to work after age 73. This exception, however, does not apply to individuals with more than 5% ownership, including attributed ownership, of the company that sponsors the plan.

When must an RMD be taken?

RMDs are due by the end of the calendar year to avoid paying an excise tax. The participant's first RMD can be delayed until April 1st of the following year; this is called the required beginning date. The taxation of the first RMD should be considered when deciding whether to take the money by the end of the year or delay it until the following year. If the first RMD is delayed, two taxable distributions will be made in the same year.

How much is distributed as an RMD?

For a defined contribution plan, the RMD amount is calculated by taking the account balance (as of the end of the preceding calendar year) and dividing it by a value which estimates life expectancy. The IRS provides tables to determine this value based on the beneficiary's age and the age of their spouse, if applicable. Prior to 2024, both pre-tax and designated Roth accounts were part of this calculation; beginning in 2024, however, designated Roth accounts are not subject to the RMD rules while the account owner is still alive.

An RMD can't be rolled over, so it is not subject to the mandatory 20% Federal Income Tax withholding. Instead, the default tax withholding rate for an RMD is 10%. The participant can choose to withhold more or less than this 10%, or even elect to waive the withholding. However, even if the withholding is waived, the amount distributed will still be considered taxable income for the participant.

What happens if an RMD isn't taken?

The excise tax for failing to take an RMD used to be 50%. SECURE 2.0 lowered this to 25%; however, the excise tax may be further reduced to 10% if a correction is made within two years. This excise tax is paid by the participant, but there may be additional consequences for the plan as a whole. If the RMD isn't taken on time, the plan could be considered disqualified. Disqualification means that the

plan is no longer tax exempt, and funds held by the trust are immediately taxable.

If the participant has an account balance in more than one plan, RMDs must be taken from each plan. Also, taking an RMD from an IRA does not satisfy the requirement to take the RMD from a plan. The RMD for each plan is calculated independently.

Although RMDs are a taxable distribution to the participant, as the plan sponsor, you can help ensure they are issued timely by verifying that dates of birth are correct on the year-end census. In addition, if your plan document has an exception for individuals over 73 who are still employed, dates of termination are critical for those participants. If a question arises regarding when a certain employee is required to receive a distribution, a closer look at age, employment status, and ownership information can help determine the correct answer.

New Questions on the 2023 Form 5500

The IRS Form 5500 is an annual return that is filed for most qualified retirement plans. Here are a few new items you may notice on the form for plan years that began in 2023.

Participant count has been expanded for defined contribution plans.

The large plan audit requirement is now based on the number of participants with account balances at the beginning of the plan year, rather than the total number of participants, which includes participants without balances. This change will likely reduce the number of plans that require an independent accountant's audit report to be filed with the Form 5500. This information is reflected on the following line items:

Form 5500 (used by audited plans and plans with non-qualified assets):

Line 6g is now 6g(1) and 6g(2)

Form 5500-SF (the short form for plans that meet exceptions due to size and investments):

Line 5c is now split into 5c(1) and 5c(2)

IRS Compliance Questions have been added.

The first question asks if the plan was combined with another plan to pass coverage or non-discrimination testing. Most plans pass individually, but a plan might be combined with another plan based on ownership, business lines or if the plan sponsor maintains another qualified retirement plan.

The second question, specific to 401(k) plans, asks how the Actual Deferral Percentage (ADP) and Actual Contribution Percentage (ACP) testing was performed. These tests compare the average deferral percentage or match percentage for the highly compensated employees (HCE) to the average percentage for the non-highly compensated employees (NHCE). Generally, this comparison is made between the current year percentages for HCEs and current or prior year percentages for NHCEs, although testing may not be necessary based on plan design or other factors, such as a plan having no HCEs.

The third question, which asks about an IRS Opinion Letter, is used to ensure that the plan document is up to date.

This information is reflected on the following line items:

Form 5500, Schedule R:

Line 21a, 21b, 22

Form 5500-SF:

Line 14a, 14b, 15

Form 5500-EZ (plans that cover the owners of the company and their spouses only):

Line 12 (the first two questions do not apply)

Administrative expenses for large plan filings have been expanded.

This change provides more detailed reporting of plan expenses—particularly those related to service providers—including fee categories related to contract administration, recordkeeping, audit fees, investment advisory and management, trustee and custodial, actuarial, legal, valuation/appraisal and other expenses. This information is reflected on the following line item:

Form 5500, Schedule H:

Part II, Line 2i

Information provided on the Form 5500 series is used by federal agencies such as the Department of Labor (DOL), Internal Revenue Service (IRS), and Pension Benefit Guarantee Corporation (PBGC) to understand plan operations, funding, and investments. It is also a source of information disclosed to plan participants through the Summary Annual Report (SAR) or Annual Funding Notice (AFN). As reporting needs change over time to adjust to shifting trends, these forms are updated to assist in painting the most accurate picture.

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Upcoming Compliance Deadlines for Calendar-Year Plans

May 15th

Quarterly Benefit Statement – Deadline for participant-directed plans to supply participants with the quarterly benefit/disclosure statement, including a statement of plan fees and expenses charged to individual plan accounts during the first quarter of 2024.

June 30th

EACA ADP/ACP Corrections – Deadline for processing corrective distributions for failed ADP/ACP tests to avoid a 10% excise tax on the employer for plans that have elected to participate in an Eligible Automatic Enrollment Arrangement (EACA).

July 28th

Summary of Material Modifications (SMM) – An SMM is due to participants no later than 210 days after the end of the plan year in which a plan amendment was adopted.

July 31st

Due date for calendar year end plans to file **Form 5500** and **Form 8955-SSA** (without extension).

Due date for calendar year end plans to file **Form 5558** to request an automatic extension of time to file **Form 5500** and **Form 8955-SSA**.

Note: The RMD deadline mentioned on the Winter calendar should have referenced age 73 during 2023.