October 11, 2022

IRS Extends CARES and CAA Amendment Deadlines

by R. Sterling Perkinson

As discussed in our prior blog post, the IRS previously extended the deadline to adopt most plan amendments relating to the Setting Every Community Up for Retirement Act of 2019 (“Secure Act”), the Bipartisan American Miners Act of 2019, and the Coronavirus Aid, Relief, and Economic Security Act (“CARES Act”) for qualified retirement plans, 403(b) plans and governmental 457(b) plans. However, the original guidance (Notice 2022-33) providing this relief did not apply to the CARES Act loan and withdrawal provisions or to similar loan and withdrawal provisions for individuals affected by natural disasters under the Consolidated Appropriations Act, 2021 (“CAA”).

The IRS has since released additional guidance (Notice 2022-45), which extends the deadline to adopt amendments reflecting these CARES and CAA provisions until December 31, 2025. Later deadlines apply with respect to certain governmental plans.

NOTE: The IRS has not specifically addressed the application of the SECURE Act amendment deadline to non-governmental tax-exempt 457(b) plans, and so an amendment to comply with the SECURE Act may be required by December 31, 2022 (if operating on a calendar-year basis), unless this deadline is extended in future guidance.[1]

Footnotes

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[1] Non-governmental, tax-exempt 457(b) plans are not affected by most SECURE Act provisions (and are not affected by the CARES Act or CAA). However, they are subject to the SECURE Act provision which increased the age at which required minimum distributions are triggered from 70½ to 72. They are also required to use the definition of compensation in Code section 415(c) (which is modified by the SECURE Act with respect to certain foster care payments).