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SECURE 2.0 & More - Client Memo September, 2023

On December 29, 2022, the SECURE 2.0 Act of 2022 was signed into law by President Biden. This law represents the most significant piece of retirement plan legislation in over 20 years. The law contains almost 100 provisions, some of which are optional (in terms of adopting), and others which will have no operative impact on most of our client's Plans. One provision, discussed in an earlier memo, is noted below and has been extended to 2026.....

Roth tax treatment of 401(k) catch-up contributions by certain individuals. Effective (now) in 2026, individuals who earned \$ 145,000 or more in the previous year **must** treat (age 50) catch-up contributions as Roth versus Pre-Tax. This provision will require regulatory guidance from IRS, and the effective date was extended from 2024 (as included in the original legislation) to 2026 to give Employers, Payroll Providers, 401(k) Recordkeepers and TPA's time to develop and implement protocols needed to correctly apply this new requirement.

The **Roth requirement** for certain catch-up contributions will require Plans that do not currently have a Roth (employee) contribution option to add that feature. The new option for elective Roth tax treatment of certain Employer contributions (by employees) will necessitate the same, and we will work with our clients who do not yet have Roth provisions to add to their 401(k) Plans as needed.

2022 Forms 8955-SSA processing error by IRS. Form 8955-SSA is a filing made with IRS on an as-needed basis to report certain Retirement Plan balances and benefit distributions to the Social Security Administration. These forms are typically prepared and filed by service providers annually using the IRS FIRE – Filing Information Returns Electronically – system. Calendar year forms are due by July 31 of the next year (07/31/2023 for 2022 filings, unless extended). Many Employers began receiving penalty notices for late or incomplete 2022 form 8955-SSA filings in August. Those notices were produced in error by an IRS programming glitch which was identified by IRS, but not before many notices were sent to Employers. IRS has acknowledged their error, and has stated that no action is required from Employers who may have received penalty notices in error. Certainly contact us with questions to confirm any such information received for your Retirement Plan serviced by our offices.

We will continue to monitor and report on law and regulatory changes in future client communications. Call or email our offices with questions any time.

Our Eye is Always on Your Service!