National Administration Inc.

Key Secure Act 401(k) Provisions

Provision	Description	Effective Dates
Eligibility for part time employees	Currently, plans can require a year of service for the deferral component of the plan which has the effect of keeping part-time employees who work fewer than 1,000 hours out of the plan. Going forward long term employees who work more than 500 hours in 3 consecutive years must also be provided the opportunity to defer into the plan, regardless of whether or not the employee has satisfied the plan's service requirement. Employees who are eligible to defer only because they've met the 3 year/500 hours do NOT need to be given employer contributions.	Plan years beginning after December 31, 2020. (Hours worked prior to December 31, 2020 do not need to be taken into account).
Increase in penalty for failure to file 5500s	The penalty for failing to file the IRS form 5500 will be modified to $250/day not to exceed $150,000.	Returns to be provided after 12/31/2019
Elimination of Annual Safe Harbor notice requirement	The Safe Harbor notice requirement for plans satisfying Safe Harbor by utilizing the non-elective route has been eliminated in most circumstances. The rules for Safe Harbor Plans utilizing the match route remain the same.	Plan years beginning after 12/31/2019

Extension of Safe Harbor amendment period	Previously, employers had to adopt Safe Harbor non-elective provisions no later than 30 days before the end of the plan year. Now, employers are being provided more flexibility to add Safe Harbor provisions retroactively. Employers may amend the plan up until the last day of the following plan year, provided a Safe Harbor non-elective contribution of **at least 4% is** provided.	Plan years beginning after 12/31/2019
Increase of tax credit limitation for plan startup costs	The cap for this credit has been raised from a possible $500 max to a possible $5,000 max. The credit still applies for up to 3 years.	Tax years beginning after 12/31/2019
MEPs and PEPs (Multiple Employer Plans & Pooled Employer Plans)	Previously the way to identify these was through Closed MEPs and Open MEPs. Closed MEPs had to have commonality between the adopting employers and Open MEPs did not. Closed MEPs are just called MEPs going forward. The Open MEP concept has been replaced by the PEP. There can be 1 5500 filed and there doesn't have to be commonality between the employers. A designated pool provider must be named Fiduciary and be responsible as the plan administrator. The one bad apple rule is eliminated with further guidance to come.	Plan years beginning after 12/31/2020

Employer automatic enrollment credit	This is a new tax credit of $500 per year to employers that implement automatic enrollment on a new startup plan or existing plan. This is in addition to the already existing credit on startup plans and is available for up to 3 years. (****One word of warning on automatic enrollment. As long as an efficient eligibility tracking system is in place and participants are indeed enrolled on time, automatic enrollment can work great. It is situations where participants are missed where it can be very detrimental. Any missed participant could be subject to lost deferrals, match and lost earnings from the time they should have been enrolled.)*	Tax years beginning after 12/31/2019
Prohibits making loans through credit cards	Previously you could make loan distributions through credit cards. That practice is no longer accepted.	Loans made after date of enactment
Penalty free withdrawals for individuals in case of birth or adoption	New rule that allows a waiver of additional income tax on distributions used for child birth or adoption expenses up to $5,000.	Distributions made after 12/31/2019
Increase in age for RMDs	Previous law was 70 1/2 age requirement where participants had to start taking RMDs. The age for this is now 72 because of longer life expectancy.	Distributions made after 12/31/2019, or those turning 70 1/2 after that date.

Modification of required distribution rules for designated beneficiaries	Distributions to individuals other than the surviving spouse of the employee, disabled or chronically ill indviduals, individuals who are not more than 10 years younger than the employee, or child of the employee who has not reached the age of majority are generally required to be distributed by the end of the 10th calendar year following the year of the employee's death.	Applies to distributions with respect to employees who die after 12/31/2019.
Plan implementation	The period of time for employers to adopt new plans has been extended beyond the end of the year. Employers now have until the due date of their tax return (including extensions), giving employers additional time to cover their employees with a profit sharing contribution. Note, only the profit sharing component of the plan can be implemented retroactively.	Plan adopted for tax years beginning after 12/31/2019