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New Requirements for Long Term Part Time Employees *Summary as of December 14, 2023*

As part of both the SECURE 1.0 and 2.0 legislation, Congress addressed concern about the historical exclusion of long-term, part-time employees who work for employers without the benefit of retirement plan coverage.

Many 401(k) plans have historically followed the ERISA statutory provision that permits exclusion for employees who work less than 1,000 hours per year (generally 20 hours per week). You can continue using this criteria for *employer contribution* eligibility (Company Safe Harbor, Match and Profit Sharing, for example) but effective January 1, 2024, new eligibility rules for 401(k) enrollment will apply to what Congress has referred to as Long Term Part Time (LTPT) employees (defined below).

If your plan does NOT have a 1,000 hour requirement and part-time, seasonal and temporary employees are subject to the same eligibility rules as full-time employees, then the LTPT rules described below will NOT impact your plan.

The new eligibility rules for LTPT employees stipulate that employees who work 500 hours or more for three consecutive 12-month periods, must be eligible to participate in an employer's retirement plan for 401(k) purposes only. That means that they must be offered the opportunity to participate through payroll deduction. Employers will not be required to provide safe harbor, matching or non-elective contributions unless you elect to amend the plan to include them for that purpose.

These new rules are being implemented over a 2-year period:

- For 2024, the requirement for enrollment is 3 consecutive years of 500 hours or more. The measurement for this requirement begins in 2021.
- For 2025, the requirement is reduced to 2 consecutive years of 500 hours or more.
- 403(b) Plans are not subject to LTPT rules until January 1, 2025.

Action Items for Employers that have LTPT employees are noted below:

- Review your plan's eligibility rules to determine the best way to integrate these changes into your plan.
- You should start to review hours history for the last 3 years starting from 2021, for current employees who may be eligible for participation in your plan effective January 1, 2024. The first measurement period is from date of hire to 1st anniversary date; thereafter may shift to calendar year (or plan year if different). These employees should be identified and will need to be given the opportunity to enroll in the plan for 401(k) purposes. At this time, there is no requirement to include LTPT employees in the Automatic Enrollment process.
- If your plan currently excludes interns or other short-term employees, recent IRS guidance indicates that any exclusion that could be construed to be a work-around for

- the new rules could be challenged. Therefore, we suggest removing that type of exclusion from your plan and allowing them to be enrolled in 401(k).
- If your plan matches contributions on a per pay basis, and you do not want to extend matching contributions to newly eligible LTPT employees, you must identify those employees in your payroll system so employer contributions are not calculated for them.

Please contact your Pollard Administrator if you would like to do any of the following:

- If you would like to review your Plan's eligibility provisions or remove an exclusion for interns or other short-term employees.
- If you need help identifying LTPT employees who have three consecutive years with 500 hours.
- If you want to cover your LTPT employees for Employer contributions.
- If you want to simplify hours tracking and include all LTPT employees regardless of hours, or if you want to include them after only one year.

If you have questions on the new LTPT eligibility rules, please don't hesitate to reach out to your Pollard Administrator.