

## Extension of SECURE 2.0 Act Amendment Deadline for IRAs

Notice 2026-9

### **I. PURPOSE**

This notice provides guidance relating to amendments under section 501 of Division T of the Consolidated Appropriations Act, 2023, Pub. L. 117-328, 136 Stat. 4459 (2022), known as the SECURE 2.0 Act of 2022 (SECURE 2.0 Act) for an individual retirement arrangement (IRAs) under section 408(a), (b), or (h) of the Internal Revenue Code (the Code),<sup>1</sup> an employer's SEP arrangement under section 408(k), and an employer's SIMPLE IRA plan under section 408(p). This notice provides that the Department of the Treasury (Treasury Department) and the Internal Revenue Service (IRS) have extended the deadline to make certain amendments for IRAs, SEP arrangements, and SIMPLE IRA plans to December 31, 2027.

### **II. GENERAL OVERVIEW**

Section 501 of the SECURE 2.0 Act provides, in relevant part, that a retirement plan or annuity contract will be treated as being operated in accordance with the terms of the plan during a specified period by reason of a plan amendment made pursuant to any amendment made by the SECURE 2.0 Act or pursuant to any regulation issued by the Secretary of the Treasury under the SECURE 2.0 Act, provided that:

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<sup>1</sup> For purposes of this notice, the term "IRA" includes both an individual retirement account described in section 408(a) or (h) and an individual retirement annuity described in section 408(b).

(1) the amendment is adopted no later than the last day of the first plan year beginning on or after January 1, 2025, or such later date as the Secretary may prescribe (the section 501 date);

(2) the amendment applies retroactively to the effective date of the SECURE 2.0 Act provision or the regulations thereunder (or, in the case of an amendment not required by a provision of the SECURE 2.0 Act or the regulations thereunder, the effective date specified by the plan); and

(3) the plan or contract is operated as if the amendment were in effect during the period beginning on the effective date of the SECURE 2.0 Act provision or the regulations thereunder (or, in the case of an amendment not required by a provision of the SECURE 2.0 Act or the regulations thereunder, the effective date specified by the plan or contract) and ending on the section 501 date or, if earlier, the date the amendment is adopted.

Section 501(c) of the SECURE 2.0 Act modifies section 601(b)(1) of the Setting Every Community Up for Retirement Enhancement Act of 2019 (SECURE Act),<sup>2</sup> sections 2202(c)(2)(A) and 2203(c)(2)(B)(i) of the Coronavirus Aid, Relief, and Economic Security Act (CARES Act),<sup>3</sup> and section 302(d)(2)(A) of Title III of the Taxpayer Certainty and Disaster Tax Relief Act of 2020 (Relief Act)<sup>4</sup> to extend plan amendment deadlines with respect to these sections to coordinate with the plan amendment deadlines under section 501 of the SECURE 2.0 Act, as applicable.

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<sup>2</sup> Division O of the Further Consolidated Appropriations Act, 2020, Pub. L. 116-94, 133 Stat. 2534 (2019).

<sup>3</sup> Pub. L. 116-136, 134 Stat. 281 (2020).

<sup>4</sup> Division EE of the Consolidated Appropriations Act, 2021, Pub. L. 116-260, 134 Stat. 1182 (2020).

Notice 2024-2, 2024-2 IRB 316, Q&A J-1, provides, in relevant part, the deadlines by which a retirement plan must be amended to reflect the provisions of the SECURE Act, section 2202 or 2203 of the CARES Act, section 302 of the Relief Act, and the SECURE 2.0 Act (the Acts) and the regulations thereunder. Notice 2024-2, Q&A J-1, in relevant part, extended the deadline to amend the trust governing an IRA that is an individual retirement account under Code section 408(a) or the contract issued by an insurance company with respect to an IRA that is an individual retirement annuity under section 408(b) to December 31, 2026, or such later date as the Secretary prescribes in guidance.

In comments that have been submitted to the Treasury Department and the IRS, stakeholders stated that IRA custodians and providers require additional time, in the absence of model language from the Treasury Department and the IRS, to amend IRAs, SEP arrangements, and SIMPLE IRA plans for compliance with the Acts.

### **III. DISCUSSION**

Because the Treasury Department and the IRS are still developing model language that may be used by IRA trustees, custodians, and issuers to amend an IRA for compliance with the Acts, the deadline to amend for the applicable provisions of the Acts or any regulations thereunder is extended to December 31, 2027, or such later date as the Secretary prescribes in guidance for the following documents: (1) the written governing instrument for an IRA that is an individual retirement account under section 408(a) or (h) of the Code, (2) the contract issued by an insurance company with respect to an IRA that is an individual retirement annuity under section 408(b), (3) an employer's

SEP arrangement under section 408(k), or (4) an employer's SIMPLE IRA plan under section 408(p).

#### **IV. DRAFTING INFORMATION**

The principal author of this notice is the Office of Associate Chief Counsel (Employee Benefits, Exempt Organizations, and Employment Taxes). For further information regarding this notice, please contact (202) 317-4148 (not a toll-free number).