

Employee Benefit Plans Alert

Pooled Employer Plans

The Setting Every Community Up for Retirement Enhancement Act of 2019 (the [SECURE Act](#)) amended the Employee Retirement Income Security Act (ERISA) and the Internal Revenue Code (IRC) to establish a new type of multiple employer plan (MEP) called a “pooled employer plan” (PEP) that must be administered by a person called a “pooled plan provider” (PPP). The SECURE Act allows pooled plan providers to start operating pooled employer plans beginning on January 1, 2021, but requires pooled plan providers to register with the Secretary of Labor and the Secretary of the Treasury before they begin operations.

According to the Department of Labor (DOL), the primary reason for the establishment of PEPs by the SECURE Act is to make saving for retirement more affordable and accessible to the ordinary American worker. Pooled employer plans will give employers, especially small unrelated employers, a way of offering their employees a workplace retirement savings option with reduced burdens and costs. A 2018 U.S. Bureau of Labor Statistics study indicated approximately 38 million private-sector employees in the United States do not have access to a retirement savings plan through their employers.

Registration Requirements for the PEP

Recently the DOL has announced proposed regulations that would implement registration requirements for a PPP under the IRC and ERISA. PEPs are individual account plans [including 401(k) plans, not available for 403(b) or defined benefit plans] established or maintained for the purpose of providing benefits to the employees of two or more employers that do not have a common interest other than having adopted the plan. Pooled plan providers offering PEPs must be designated as named fiduciaries who are responsible for all administrative duties (including nondiscrimination testing) that are reasonably necessary to ensure that their PEPs meet the applicable requirements of the IRC and ERISA. Pooled plan providers must register before they begin operations. Registration with the DOL would also satisfy the registration obligation under the IRC.

Instructions for Form PR (Registration for Pooled Plan Provider)

An [appendix to the proposed regulations](#) provides a draft of proposed new Form PR which would be used for all the new filings (initial, supplemental, and final). All Form PR filings would be made electronically through the electronic filing system currently used to file Form 5500 (EFAST2). Filings would be signed by the pooled plan provider under penalties of perjury. Multiple simultaneous changes could be disclosed on the same Form PR supplemental filing.

Contact Us

The Employee Benefit Services Group Audit Practice at PKF O'Connor Davies annually audits several multiple employer plans (MEP). Many of our professionals are members of the American Institute of CPAs Quality Center and the New York State Society of CPAs Employee Benefit Committee. We also provide a full spectrum of compliance, consulting, reporting and audit services for qualified and non-qualified retirement and welfare benefit plans. For more information, please email Tim Desmond at tdesmond@pkfod.com, Matthew Corona mcorona@pkfod.com, or Louis F. LiBrandi at librandi@pkfod.com to discuss any matters related to employee benefit plans.

About PKF O'Connor Davies

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