

Employee Benefit Plans Alert

Small Retirement Plans: State IRA Programs, Tax Credits, and IRS Focus

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Small retirement plans are the subject of this article as we want to keep our readers updated on what's going on in the EBP field including:

- State and Local IRA Programs
- SECURE Act Tax Credits
- IRS Focus on Small Plans

State and Local IRA Programs

On their own, states are addressing the lack of retirement plan coverage for employees of small businesses. Several states have enacted laws creating Mandatory Auto-IRA programs for employers without existing plans. California, Illinois and Oregon have launched their programs, and Colorado, Connecticut, Maryland, New Jersey and Virginia are developing them.

Typical features of these plans include automatic enrollment of participants with a 5% default contribution rate, allowing workers to opt-out, and allowing workers to invest in age-appropriate target-date funds.

On May 12, 2021, New York City Mayor Bill DeBlasio signed into law the Retirement Security for All legislation. In New York City, this auto-IRA program will be for private sector businesses with five or more employees. A retirement savings board was created to oversee the program.

Some of the features of this NYC legislation are:

- Employees will be auto-enrolled at a 5% employee contribution (subject to the annual IRA limit), that they can increase, decrease, or opt-out of entirely.
- An employer contribution is not required. The employer will, however, be responsible for enrolling their qualifying employees in the program, processing the payroll contributions to the program, and sharing program information with the employees.

On May 11, 2021, the New York State General Assembly passed a motion to make the New York State auto-IRA program mandatory for private sector businesses with 10 or more employees. This program already exists as a voluntary option, but now the New York State Senate will vote to determine if it will become mandatory. Under this program, employees are auto-enrolled at a 3% employee contribution (subject to the annual IRA limit) that they can increase, decrease, or opt-out of entirely.

Tax Credits from SECURE Act Are Still Available for Small Plans

For small employers, tax credits for expenses related to starting a qualified retirement plan have increased under the SECURE Act in 2020 under the following conditions:

- Tax credit of \$250 times the number of eligible, non-highly compensated employees (less than \$130,000 for 2020 and 2021). The credit is available for three years and is up to a \$5,000 annual maximum limited to 50% of the plan's start-up costs.
- New and existing plans adding an auto-enrollment feature will receive an additional \$500 credit for three years.

- Modification of credits are also included in the Act, generally increasing the percentage or dollar amount that can be available for a small employer.

IRS Focus on Small Plans

We are aware of the IRS's 2021 examination focus regarding smaller plans (under 100 lives). We are in the process of representing several plans of all sizes for IRS examinations.

Smaller plans are not required to be audited and, therefore, the plan operations and plan documents and amendments are not reviewed.

Commonly, the plan's record keepers send out a completed Form 5500 for the plan administrator to sign/file. Employers, who do not have either the time or the expertise to perform any type of diligent review of the information provided to them, typically process the Form to the government.

Contact Us

We would like you to consider having our Employee Benefit Services Tax Practice prepare the Form 5500 and/or review the prepared Form 5500 with its supporting work papers. We can identify and correct any necessary items – if needed – and file the Form on behalf of the plan administrator. This can save an employer a significant amount of aggravation and costs if a subsequent IRS examination letter is received.

The Employee Benefit Services Group at PKF O'Connor Davies is available to assist employers with all aspects of employee benefit plan compliance. For more information, please email Timothy J. Desmond at tjdesmond@pkfod.com or Louis F. LiBrandi at lbrandi@pkfod.com.

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