



IRS Releases Updates on Long-Term Part-Time Employees

Here are some of the key takeaways of the proposed regulation.

Any special rules associated with LTPT employees apply only if an employee is participating in the plan solely because of the LTPT rules.

LTPT employees are covered by the following special rules:

- They may be disregarded for purposes of complying with annual deferral percentage (ADP) or annual contribution percentage (ACP) nondiscrimination testing.
- They are not required to receive any minimum top-heavy contributions.
- They may be disregarded for purposes of coverage testing. However, they must be credited with a year of vesting service for the period with which they are credited at least 500 service hours.

An employee who is participating in the plan for any other reason is not an LTPT employee under the rules.

LTPT employees must be made eligible to make elective deferrals only. Employer contributions are not required, not even if they are safe harbor contributions. Top-heavy exemption would be lost if the plan currently uses more liberal requirements to make elective deferrals to the plan than what is required under the LTPT rules (e.g., immediate eligibility or elapsed-time method), yet does not require safe harbor employer contributions for such employees.

401(k) plan sponsors that provide a safe harbor contribution will need to evaluate their safe harbor notice to ensure it is consistent with the new LTPT rules and is provided to any newly eligible employees by January 1, 2024, for calendar-year plans.

401(k) plan sponsors will still be able to exclude job classifications from the right to make elective deferrals so long as the classification would not have the effect of imposing another age- or service-



related requirement. This is the same as current rules. Thus, plan sponsors could exclude employees who work in a certain division but could not exclude part-time employees who would otherwise satisfy statutory service requirements, including the new LTPT requirements.

All LTPT employees will earn vesting service using the 500-hour rule, even if they do not receive any employer contributions as an LTPT employee. Additionally, if an LTPT employee later earns 1,000 hours of service, or otherwise begins participating for reasons other than LTPT status, the employee must continue to earn years of vesting service under the 500-hour rule.

Plan sponsors that do not currently allow LTPT employees the option to defer to their 401(k) plans may wish to do so in the future to avoid the extensive hours-counting requirements under the SECURE Act and SECURE 2.0, as well as the administratively complex vesting requirement for anyone who is, or ever was, an LTPT employee. Sponsors should consider any potential impact to nondiscrimination and top-heavy testing, additional employer contributions, etc.

There is no mention of 403(b) plans in the proposed regulations. However, LTPT rules for 403(b) plans are not effective until January 2025, so the IRS still has some time to issue regulations in that regard.

The proposed regulations are complex. Plan sponsors should review their plan design and current processes to determine if any changes are necessary in plan operation or communication.

Plan sponsors who have questions about this or other SECURE 2.0 provisions should reach out to their financial advisor or visit CAPTRUST's dedicated [SECURE Act 2.0](#) web page. The IRS proposed regulation is available [here](#).

Should you have immediate questions or want additional information, please contact your CAPTRUST financial advisor at 1.800.216.0645.

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