YEAR-END PLAN AMENDMENTS: WHAT ADVISORS NEED TO KNOW BEFORE DECEMBER 31

The IRS recently clarified the deadline for adopting plan amendments implementing SECURE and SECURE 2.0 Acts. Although the bulletin generally gives plan sponsors additional time to adopt required amendments under the acts, the deadline remains December 31, 2026, for most private-sector retirement plans to adopt written amendments reflecting *discretionary* changes under the SECURE Act and SECURE 2.0, as well as any CARES Act provisions the plan adopted. Advisors who help plan sponsor clients stay ahead of this deadline will protect their clients from unnecessary compliance risk and demonstrate the kind of proactive guidance that strengthens long-term relationships.

IRS Clarification on the Amendment Deadline

On September 16, 2026, the IRS issued guidance clarifying how amendment deadlines work under the SECURE and SECURE 2.0 Acts. The guidance separates required amendments from discretionary amendments.

For required amendments, the deadline follows the annual Required Amendments List. Once a provision appears on the list, plan sponsors generally have until the end of the second calendar year after publication to adopt the amendment. If the IRS expects to issue guidance needed to draft a provision, the IRS indicates that the provision will not appear on the list until that guidance is issued and becomes applicable.

For discretionary amendments under these acts (new features a plan chooses to adopt, but which are not legally required), the deadline generally remains December 31, 2026 for most private-sector plans. Later deadlines apply to applicable collectively bargained plans (December 31, 2028) and governmental plans (generally December 31, 2029). Discretionary features themselves will not appear on a Required Amendments List, but later guidance governing adopted features may.

Although the guidance effectively extends the deadline to adopt required amendments under SECURE and SECURE 2.0, most of these provisions are already required to be operationally effective. Accordingly, formalizing those provisions in plan amendments is the most practical next step, if not already complete.

With those distinctions in mind, some of the key amendment categories are summarized below:

Discretionary provisions the sponsor chose to adopt. If the sponsor elected optional features, such as enhanced catch-up limits for ages 60-63, student loan matching, pension-linked emergency savings accounts, an increased involuntary cash-out threshold, Roth treatment of employer contributions, or other optional features, the adopted provisions generally must be documented by December 31, 2026.

CARES Act provisions. If the plan adopted coronavirus-related distributions, expanded loan limits, loan repayment suspensions, or the waiver of 2020 required minimum distributions, those time-limited provisions generally must be documented in the plan's written amendment by December 31, 2026, even though these provisions have expired.

Changes to required minimum distribution rules. The age at which participants generally must begin taking distributions from their retirement accounts has changed twice in recent years. It moved from 70½ to 72, and then from 72 to 73 (and eventually to 75). Other changes include beneficiary distribution rules and the elimination of lifetime RMDs from designated Roth accounts. For changes covered by the 2025 Required Amendments List, the amendment deadline generally is December 31, 2027. Remaining RMD changes await a future list.

Mandatory Roth treatment of catch-up contributions for higher-earning participants. Beginning in 2026, participants in 401(k), 403(b), and governmental 457(b) plans whose prior-year FICA wages from the plan sponsor exceeded $150,000 (the 2026 threshold, indexed for future years) generally must make age-based catch-up contributions on a Roth (after-tax) basis. Plans that allow catch-up contributions must either offer a Roth option or eliminate catch-up contributions for affected participants, subject to applicable nondiscrimination rules. Per the IRS, this change is expected to appear on the 2027 Required Amendments List. As such, the amendment deadline for most 401(k) and 403(b) plans is expected to be December 31, 2029.

Eligibility for long-term, part-time employees. This provision is operationally effective for plan years beginning after December 31, 2024. The 401(k) eligibility threshold for elective deferrals by long-term, part-time employees was reduced from three consecutive years of 500 or more hours of service to two consecutive years. The two-year rule also applies to ERISA-covered 403(b) plans and must be reflected in the plan document. The formal amendment deadline for this change will be set by a future Required Amendments List after final regulations are issued and become applicable.

Mandatory automatic enrollment for new plans. New 401(k) and 403(b) plans established on or after December 29, 2022 are generally required, for plan years beginning after 2024, to include an automatic enrollment feature with an initial default deferral rate of at least 3% (but not more than 10%), escalating by 1% annually to at least 10%, with a 15% maximum. Exceptions include SIMPLE 401(k), governmental and church plans, and certain small or new employers. If a plan was required to include this feature, the plan document must reflect it. The formal amendment deadline for this change will be set by a future Required Amendments List after final regulations are issued and become applicable.

Accordingly, December 31, 2026 is primarily a deadline for discretionary and CARES Act amendments. Required amendments on the 2024 Required Amendments List also generally remain due then. Regardless of when the formal deadlines land for required amendments, these provisions are already governing plan operations. The most prudent approach is to treat year-end 2026 as the working deadline for all amendments, required and discretionary alike, where amendment language is available. The IRS indicated that the upcoming 2026 Required Amendments List will include additional clarification consistent with their recent bulletin.

What Advisors Can Do Now

Advisors are well-positioned to help plan sponsor clients navigate these deadlines. The single most important step is to encourage clients to engage with their third-party administrator, document provider, and legal counsel now, not in December. By raising this issue proactively and helping clients coordinate with their service providers, advisors can prevent last-minute scrambles.

Upcoming deadlines:

October 15. For calendar-year plans, deadline to adopt and implement a corrective amendment to correct a Code Section 410(b) coverage failure or a Code Section 401(a)(4) nondiscrimination failure for the 2025 plan year.

October 15. Extended deadline for filing 2025 Form 5500 for calendar-year plans that received an extension.

December 2. General deadline to distribute applicable safe harbor, QDIA, QACA, and automatic enrollment annual notices to participants for the 2027 calendar plan year.

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