



*January 10<sup>th</sup>, 2019*

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## ***Setting Every Community Up For Retirement Enhancement (SECURE) Act***

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### **WHAT'S NEW**

On December 20th, President Donald Trump signed into law the SECURE Act. This is a significant piece of legislation that makes numerous changes for the retirement system. The goal is to make it easier for businesses to offer retirement plans and for individuals to save for retirement.

As with any change employers must understand and respond to those changes. Below are some highlights of changes that will impact your business, employees and personal retirement planning.

Years ago NEFI had the foresight to create a Multiple Employer Retirement Plan (MEP) plan for the benefit of its membership. With the passing of the SECURE Act, MEPs are even more attractive for businesses of all sizes to join and stay ahead of legislative changes, manage costs, and transfer fiduciary liability and administrative burden to a professional team. Allowing the NEFI businesses to focus on what is most important to their business, their employees and their customers.

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### **Included in this PDF are:**

1. List of notable changes and summary of those changes.
2. Additional resources to find more detailed information

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### **Small-Business Tax Incentives**

The following changes were added to incentivize employers to offer retirement plans, promote additional savings and enhance retiree financial security.

- **Increase the business tax credit for plan startup costs** to make setting up retirement plans more affordable for small businesses. The tax credit will increase from the current cap of \$500 up to \$5,000 for three years offering employers the opportunity to receive \$15,000 in tax credits to offset startup costs.
- **Encourage automatic enrollment** by providing a further \$500 tax credit for three years for plans that add auto-enrollment of new hires.
- **Extending the period of time for companies to adopt new plans** from Dec. 31 to the due date of the employer filing their return including any extensions. This provides more time and opportunity for business owners to manage their tax liability at both a personal and corporate level before making plan decisions.

## Plan Administration Changes

- **Elimination of the "one bad apple rule" in MEPs.** The "one bad apple rule" stated if one participating company in an MEP did not meet the plan requirements, the plan would fail for all other participants.
  - **Encourages adoption of MEPs.** The SECURE Act encourages small businesses to band together in an MEP effectively reducing the costs and administrative duties each employer would otherwise bear alone.
  - **Annual Audit and Form 5500 for plans within an MEP.** For plans with a common plan administrator, the administrator can file one Audit and Form 5500 for all plan participants. Reducing administrative costs.
  - **Simplifying rules and notice requirement** related to qualified non-elective contributions in Safe Harbor 401(k) plans.
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## Penalty Increases

While the SECURE Act offers employers many new benefits, it does also impose harsher penalties for employers who are non-compliant.

- **Failing to timely file Form 5500** can be assessed up to \$250 per day, not to exceed \$150,000 per plan year. Before the penalty was \$25 a day not to exceed \$15,000.
  - **Failing to file form 8955-SSA** can be assessed a daily penalty of \$10 per participant, not to exceed \$50,000. Up from a daily penalty of \$1 per day, per participant not to exceed \$5,000.
  - **Failing to provide income tax withholding notices** can be assessed up to \$100 for each failure, not to exceed \$50,000 for the calendar year, up from \$10 for each failure, not to exceed \$5,000.
  - The separate, annually adjusted Department of Labor penalty of up to \$2,194 per day for late filing form 5500 (for plan year 2019) was not changed by the SECURE Act.
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## Other Notable Changes

- **Part-time Employee Eligibility for employees** who worked more than 1,000 hours in one year, or 500 hours over 3 consecutive years. The Act provides that plan sponsors be required to allow employees to make contributions. Employer contributions will not be required until the employee has satisfied the plan's normal eligibility requirements.
  - **Delayed Required Distributions.** The Act allows retirees to delay taking required minimum distributions until age 72. This may have a significant impact on both employee and business owner retirement plan design.
  - **Lifetime Income Options Portability.** The Act now makes it easier for plan sponsors to offer annuity options within plans. Allowing employees to elect a lifetime income option. This may have a significant impact on employee and business owner retirement plan design.
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## Additional Resources:

- [House Ways & Means Committee - SECURE ACT](#)
- [National Association of Plan Advisors - Key SECURE Act Provisions](#)
- [National Law Review - SECURE Act](#)