

## News

# Ashner Explores Part Time Eligibility Requirement Proposal

## ATTORNEYS &amp; PROFESSIONALS

**David Ashner**[dashner@groom.com](mailto:dashner@groom.com)

202-861-6330

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## SERVICES

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Groom of counsel [David Ashner](#) was featured in the *PLANADVISER* article, “Part-Time Retirement Eligibility Proposal Seeks to Clarify Complex Legislation,” and the *PLANSPONSOR* article, “IRS Proposes Part-Time Eligibility Rules per SECURE Legislation,” where he simplified the Internal Revenue Service’s (“IRS”) November 2023 rule proposal clarifying part-time eligibility requirements outlined in the SECURE Act and SECURE 2.0.

According to *PLANADVISER* and *PLANSPONSOR*, Ashner said that “per the text of the SECURE Act, this provision came into effect on January 1, 2021, which means that as of January 1, 2024, employees who have served 500 or more hours each year in the meantime must be enrolled in plans unless they are disqualified for another reason.”

The platforms reported that, according to Ashner, “If the employer does offer contributions ‘and there’s a vesting schedule, an LTPT employee gets a year of vesting if they work 500 hours in a 12-month period. They can’t be required to work 1,000 for vesting purposes.’”

*PLANADVISER* and *PLANSPONSOR* included that Ashner said that “DC plan eligibility conditions based on employer classifications are still valid under the proposal, provided they are not merely a proxy to exclude participants based on age or service. For example, a class exemption for intern employees or for a branch of a business based in a college town—which effectively removes part-time or young adult participants by proxy—may be challenged by the IRS.”

*PLANADVISER* and *PLANSPONSOR* further reported that “an eligibility condition may not have ‘the effect of imposing an age or service requirement,’” according to Ashner.

The platforms wrote that Ashner said that “the statutory requirement under the first SECURE Act is effective on January 1, 2024.” He added that “the proposed regulation is not technically effective; the regulation will need to be finalized after notice and comment before it can be made effective. But the proposed regulation reflects how the IRS is likely to interpret the statute (subject to any changes in the final rule), so plans should pay attention to the guidance.”

To read the *PLANADVISER* article, [click here](#); to read the *PLANSPONSOR* article, [click here](#).