

Publications

IRS Adds New Category to the 2024 Required Amendments List

ATTORNEYS & PROFESSIONALS

Elizabeth Thomas Dold

edold@groom.com

202-861-5406

Kim Boberg

kboberg@groom.com

202-861-2606

Louis T. Mazawey

lmazawey@groom.com

202-861-6608

PUBLISHED

01/03/2025

SOURCE

Groom Publication

SERVICES

Employers & Sponsors

- Fiduciary & Plan Governance
- Retirement Programs

Retirement Services

- Plan Services & Providers

A number of years ago, the IRS created the “Required Amendments” (“RA”) List to help plan sponsors keep track of changes they need to make to their qualified plans and by what deadline. More recently, the IRS expanded the list to include amendments to 403(b) plans and interim amendments to pre-approved plans.

The basic principle of the RA list is to identify changes that plans must make and to set a deadline for doing so. In general, the amendment deadline was intended to allow at least two full years following the plan year in which the IRS issued comprehensive guidance on the provision in question. While this amendment framework seems sensible, the lengthy remedial amendment period included in SECURE 2.0 – extending to the end of the 2025 plan year – generally has not resulted in amendments in the “required” category. (In IRS Notice 2024-2, the deadline was extended to December 31, 2026, or later for collectively bargained or governmental plans).

As in recent years, there are no required amendments on the 2024 list released in Notice 2024-82 ([N-2024-82](#)), which would have a December 31, 2026 amendment adoption deadline. There are two “unusual” plan provisions that might require some plans to be amended, but they are extremely narrow. These two provisions are: (1) Code section 415 change under Section 119 of SECURE 2.0 for certain employees of rural electric cooperatives, and (2) reform of the family attribution rule under Section 315 of SECURE 2.0 for rules related to controlled groups and affiliated service groups.

To keep things interesting (sort of), the IRS has now added a new Part C to the RA list. The focus of this new part is on “optional amendments” a plan may have made that have been impacted by subsequent changes in the law or IRS guidance. The IRS gives section 604 of the SECURE 2.0 Act as an example. That section allows a plan to provide that, after 2022, employer or nonelective contributions under a plan may get Roth treatment. In IRS Notice 2024-2, the IRS provided guidance on this optional provision; accordingly, this provision is listed in Part C, and a plan may need to be amended to take that guidance into account by December 31, 2026.

We note that Notice 2024-82 includes 14 “optional provisions” in this new Part C category, which presumably are optional provisions that impact the plan document where IRS generally anticipates no additional guidance will be issued. (Notably, for a

number of these changes, the List of Required Modifications includes sample plan amendment language. [DC LRM](#), [CODA LRM 2023 FINAL \[01-2024 modified 02-2024\]](#), [403\(b\) LRM FINAL \[revised 04-2023 and 02-2024\]](#)). This list includes:

- CARES Act distribution relief, with guidance set forth in Notice 2020-50
- 2020 waiver of required minimum distributions, with guidance and model plan amendment set forth in Notice 2020-51, and transition relief for certain required minimum distributions set forth in Notice 2023-54 and 2024-35
- Qualified birth or adoption distributions (Section 113, SECURE 1.0), with guidance set forth in Notice 2020-68
- Age 59-1/2 in-service distribution for pension plans (Section 104, Miners Act), with guidance set forth in Notice 2020-68
- Safe harbor plan changes (Section 102 and 103, SECURE 1.0), with guidance set forth in Notice 2020-68
- Repayment of qualified birth or adoption distributions within 3 years (Section 311 of SECURE 2.0)
- Safe harbor plan clarifications under SECURE 1.0 (Section 401, SECURE 2.0)
- Small immediate financial incentives (Section 113 of SECURE 2.0), guidance provided in Notice 2024-2 (IRS footnote indicates that an incentive outside the plan is unlikely to be reflected in the plan document)
- SIMPLE 401(k) plan increased contribution limit for certain small employers (Section 117, SECURE 2.0), with guidance set forth in Notice 2024-2
- Mid-year replacement of SIMPLE IRA with SIMPLE 401(k) (Section 332 of SECURE 2.0), with guidance set forth in Notice 2024-2
- Relief for minimum interest crediting rate for market rate return plans (Section 348 of SECURE 2.0), with guidance set forth in Notice 2024-2
- Employer contributions as Roth contributions (Section 604, SECURE 2.0), with guidance set forth in Notice 2024-2
- Pension-linked emergency savings accounts (Section 127, SECURE 2.0), with guidance set forth in Notice 2024-22 (although we do anticipate additional IRS and DOL guidance on these accounts)
- Emergency personal expense distributions (Section 115, SECURE 2.0) and domestic abuse victim distributions (Section 314, SECURE 2.0), with guidance set forth in Notice 2024-55 (although we do anticipate proposed section 72(t) regulations).

The Notice also includes anti-cutback relief for the various amendments made pursuant to these law changes if the plan amendment is made on or before the plan amendment deadline established on this list. Hopefully, this (along with the [operational compliance list](#)) will help plan sponsors (and their service providers) keep track of the applicable amendment obligations, but time will tell.