



NEWS YOU CAN USE

for Advisors and CPAs

December 2023

Welcome to the December Edition



THIRD PARTY PENSION
ADMINISTRATORS AND CONSULTANTS

Collaborating with Professionals for Financial Success
Retirement Success & Asset Protection

Thank you for your partnership with us, and if you have any retirement plan clients and/or prospects, that we can be of assistance with, we stand ready to help you.

Sincerely,
Nicholas Brown, Executive Officer
Millennium Pension Services, Inc.
626.921.4364
nick@mpssm.com

Reminder: Long-Term Part-Time Employee Requirement Arrives in January



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One final reminder as we head into year-end: the new long-term part-time employee coverage requirement is upon us. Beginning January 1, 2024, part-time employees who have worked at least 500 hours for three consecutive 12-month periods must be eligible to participate in at least the deferral feature of most 401(k) plans. Although we are still waiting for guidance on how to apply certain rules, this requirement has not been delayed, so plan sponsors need to proceed with enrolling these participants based on a good faith, reasonable interpretation of the rule.

Applicability: The rule generally applies to 401(k) plans as of January 1, 2024 (and to ERISA

403(b) plans as of January 1, 2025). The rule does *not* apply to other defined contribution plans, like 457 plans or SIMPLE IRA plans. It also does not apply to collectively bargained plans or plans not subject to Code Section 410 requirements (such as governmental plans).

The Gist of It: 401(k) plans can no longer have a service condition that prevents an employee from making salary deferrals if he or she has worked at least 500 hours for three consecutive years. Employees who do not meet the normal 1,000-hour year of service, but who do meet this new minimum service requirement, are called long-term part-time employees (LTPTEs). Any non-service conditions—such as excluding hourly employees, salaried employees, or highly-compensated employees—appear to still be permitted so long as they are not functioning as disguised service conditions. Exclusions of “part-time employees” and “seasonal employees” generally are service conditions and therefore *are* subject to the new rules.

Who is Impacted: Plans that do not have an hours-based service condition, such as plans that permit employees to defer immediately, or after 90 days, or that use the elapsed time method (rather than hours) to count service are not impacted by the rule. Plans that impose an hours-based service condition for any group of employees (which generally includes plans that exclude “part-time employees” and “seasonal employees”) will be impacted by the rule.

Two Options: Plan sponsors who are impacted by the new rule generally have two options.

First: Plan sponsors can keep their plan’s existing service conditions, with the caveat that anyone who meets the LTPTE definition will be allowed to make deferrals to the plan. On one hand, this limits the number of part-time workers who are eligible for the plan (which might reduce administration cost) and ensures nondiscrimination testing and top heavy minimum contributions are not impacted. On the other hand, though, this imposes an additional duty on the plan sponsor to carefully track hours of any employee that might become a LTPTE. Additionally, the implications of LTPTE status (such as how and when accelerated vesting of employer contributions must apply) are still very unclear, which could lead to unintended results. These complexities in accounting and tracking employees may increase the likelihood for operational issues.

Second: Plan sponsors can modify the plan’s existing service condition to ensure all employees are eligible to make salary deferrals before they meet the LTPTE definition. On one hand, this simplifies administration and avoids the LTPTE rules all together, and simplicity generally reduces the likelihood of plan errors. On the other hand, though, such a change may impact nondiscrimination testing for non-safe harbor plans, may increase company contributions for safe harbor plans, and may increase the number of plan accounts in both cases (which, in turn, may increase audit and administration costs).

However, regardless of which approach is taken, an impacted plan sponsor will potentially need to enroll new participants on January 1, 2024. Therefore, now is the time to join with your TPA partner and make sure clients are ready for the new LTPTE rules to take effect in January.

Reminders

Upcoming Deadlines for Retirement Plans

REMINDERS:

- **December 31, 2023 (a Sunday this year):** General deadline to distribute 2023 RMDs, correct a failed ADP or ACP test, and adopt any discretionary amendments to the plan.
- **Plan Limits for 2024:** The IRS has released limits for 2024. See [IRS Notice 2023-75](#).
- **How did Safe Harbor and QDIA season go?** Now’s a good time to evaluate how distribution of annual notices went this year and how the process can be improved for next year.



Whether it is a discussion around one of these retirement plan deadlines or a new retirement plan opportunity that you are working on for a prospect or client, *we are your local retirement plan design specialists, and we look forward to helping you achieve more sales success through partnership.*

Thank you for the opportunity to work with you and please feel free to call us for assistance, in meeting your retirement plan sales and servicing needs.

Brought to you courtesy of Millennium Pension Services, Inc.
By Kelsey Mayo, Partner, Lead Employee Benefits Attorney, Poyner Spruill