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## SECURE 1.0 ACT

# Long-term, Part-time Employees Update for 401(k) Plan Sponsors

Webinar

December 5<sup>th</sup>, 2023

The long-term, part-time employee provision does not apply to all plans\*

# Overview SECURE 1.0 Act – 401(k) plan eligibility requirements



## Pre-SECURE 1.0 Act Eligibility Requirements

- a) Service – one year of service (1,000 hours of service in the 12-month eligibility computation period)
- b) Age 21 or older
- c) Entry date (daily, monthly, quarterly or semi-annual)
- d) Not be in an excluded class of employees



## SECURE 1.0 Act LTPT Employee Eligibility

For plan years beginning after Dec. 31, 2020, earlier of **1)** or **2)**

- 1) One year of service (1,000 hours of service during the 12-month eligibility service computation period), or
- 2) Three consecutive years of service where the employee completes at least 500, but not more than 1,000, hours of service a year in each 12-month eligibility service computation periods. Employee service for computation periods that began before 2021 is ignored

Must then satisfy **b)**, **c)**, and **d)**



## Eligible LTPT Employee

An employee who satisfies the service, age, entry date requirements and is not part of a permissible excluded class of employees may become eligible as a LTPT employee and make deferral contributions.

**Note:** Employees who are subject to a collective bargaining agreement or non-resident aliens with no US source income are excluded.

# Overview SECURE 1.0 Act - employee eligibility service crediting methods



## Hours of Service

### Actual:

1 hour = 1 hour of service

### Equivalency:

e.g., 1 hour each month = 190 hours of service



## Elapsed Time

### Periods of service:

Periods of service are counted instead of actual hours. e.g., 3 months

Employees that were previously excluded in a 401(k) plan that uses the elapsed time method for before the SECURE 1.0 Act to determine eligibility for some but not all employees may be subject to the LTPT rule based on the recent IRS proposed regulations.



## Combination Hours of Service and Elapsed Times<sup>1</sup>

### Two Different Service Requirements:

#### Full-time employees:

e.g., 3 months of service

#### Part-time employees:

e.g., 1,000 hours of service in a 12-month eligibility service computation period

<sup>1</sup>Some 401(k) plan documents currently exclude certain classes of employees based on hours of service. For example, they may exclude part-time, seasonal, temporary employees or other classes that are hours-based service employees. They are only eligible to participate if they work at least 1,000 hours of service in a 12-month eligibility service computation period. These employees may now be subject to the LTPT employee requirements.

# Overview SECURE 1.0 Act – key LTPT employee provisions



## Employer Contributions

A plan sponsor may include or exclude LTPT employees in any employer contributions.

The Fidelity solution will default to exclude LTPT employees from receiving any employer contributions unless directed otherwise.

Plan sponsors may need to consult with their payroll provider to determine if they need to exclude the LTPT employees from any employer contributions.



## Vesting

LTPT employees will receive vesting credit if they complete at least 500 hours of service in a vesting computation period, excluding service prior to 2021.

Vesting for an employee who entered the plans as LTPT employee will always be determined using the 500 hours of service requirement even if the employee later becomes a full-time employee.



## Testing

A plan sponsor may include or exclude LTPT employees from non-discrimination testing.

The Fidelity solution will default to exclude LTPT employees from non-discrimination testing, minimum coverage, and top-heavy testing.

# Key points of the IRS proposed regulations

Effective for plan years beginning on or after January 1, 2024

1

No good faith relief until the regulations are finalized

2

Plan amendment deadline is the last day of the plan year that begins in 2025 (2027 for governmental plans)

3

LTPT employee service is based on the 3 consecutive years of at least 500 hours of service each year

4

The regulations do not define seasonal, temporary, interns, etc.

5

An LTPT employee who becomes full-time in a later year will be a full-time employee on the first day of the following plan year

6

Terminated LTPT employees who are rehired are eligible to participate again as an LTPT employee



**Important:** A 401(k) plan may exclude certain employees based on a job classification if “the class is not a proxy for imposing an impermissible age or service requirement.” Plans that exclude one or more classes of employees may be impacted if under the facts and circumstances the class is a proxy for part-time employees. Please work with your legal counsel to determine if the excluded employees should be included as LTPT employees.

# Changes based on the SECURE 2.0 Act

Effective for plan year beginning after Dec. 31, 2024:

The three consecutive years requirement to two consecutive years. Employee service for any period that began before 2023 is ignored.

Extended LTPT employee requirements to 403(b) plans subject to ERISA

# Plan sponsor action may be required

## Determine If Plan Sponsor Action is Required:

- How does your plan determine 401(k) deferral eligibility?
- Does your plan have excluded employee populations subject to the LTPT provision?
- Does your plan use Fidelity's Hours Eligibility Tracking service?

### No Action Required

Plans using Immediate, Age, Elapsed Time methods to determine eligibility for entire plan population

(no excluded employee populations)

### Action Required

Plans determining eligibility by:

- hours eligibility method OR
- Immediate, Age, Elapsed Time methods **with** Excluded Employee Populations



Plan sponsors must review their plan design and employee population to determine if the employee population is subject to the LTPT employee requirements

# Action required based on plan design and employee population

Determine whether to include LTPT employees in employer contributions and/or non-discrimination testing

Consider the LTPT employee communication strategy

Track hours of service for the impacted employee population

Work with payroll or payroll provider to provide required data to Fidelity

Consider how to manage LTPT data internally





# Plan sponsor action for required data



## Plan sponsors **using** Fidelity's Hours-Based Eligibility Tracking service

Plan sponsors with plans that use hours of service to determine eligibility for some or all of their employees must provide Fidelity with the information to identify LTPT-eligible employees.

### **No Action Required**

If service hours for ALL employees is on file at Fidelity, plan year 2021 forward

### **Action Required**

*Provide data to Fidelity*

If service hours for some employee populations is not on file with Fidelity, plan year 2021 forward



## Plan sponsors **not using** Fidelity's Hours-Based Eligibility Tracking service

Plan sponsors determining eligibility for their LTPT employees should review their procedures and/or consult with their payroll/payroll provider to identify the impact of the new provision.

Plan sponsors must provide Fidelity with the required data to properly identify LTPT employees.

### **Action Required**

*Provide data to Fidelity*

Once an Employee satisfies LTPT criteria, along with any age criteria and/or entry window, provide data (LTPT Entry Date and Total Attained Vesting Years, if appropriate)



Please reach out to your Fidelity representative to discuss your plan's specific scenario

# How Fidelity will assist plan sponsors with LTPT eligible employees



Fidelity has updated our data transmission paths with new LTPT employee datapoints.



Fidelity has extended the participant enrollment experience to include LTPT eligible employees.



Plan Sponsor WebStation reporting will be available to assist with the eligibility process, audit support, and account corrections.



Fidelity continues to monitor regulatory guidance for updates to the LTPT employee requirements. We will update plan sponsors as new guidance is issued.

# New LTPT employee data requirements



## LTPT Entry Date

Identifies employees satisfying the 3 consecutive year/500 hour service requirement, along with any age requirement and/or entry window requirement.

Applies to plans **not using** Fidelity's Hours Eligibility Tracking service.

## LTPT Vesting Attained Years

Years value applies once an employee earns LTPT eligibility for plans using the hours vesting service – value represents total number of years employee satisfied 500 or more service hours

## LTPT Consecutive Years Attained & End Date

Years and End Date are an option for plans using Fidelity's Hours Eligibility service with an excluded employee population now subject to the LTPT rule

# Plan sponsor next steps

## Determine

the impact on your employee population.

Plan sponsors with larger employee populations may have different considerations (administrative costs of administering the LTPT employee requirements, cost of making the LTPT employees eligible to receive employer contributions, etc.) than those with smaller populations.

## Consult

with your legal counsel for assistance if you are uncertain if your plan document currently excludes a certain class of employees that may be subject to the LTPT employee requirements in the future.

## Review

Fidelity's resources to learn more about eligibility tracking, data scenarios, and plan sponsor considerations.

## Identify

the information that you must provide to Fidelity based on your plan's specific scenario.

## Inform

Fidelity if your plan will include LTPT eligible employees in employer contributions.



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