Amendment Deadline Approaches for Code Section 457(b) Plans of Tax-Exempt Employers

Nov 04, 2025

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Code Section 457(b) plans sponsored by tax-exempt employers ("T-E 457(b) Plans") must be amended by **December 31, 2025** for certain provisions of the SECURE 2.0 Act.[1]

Background: 2022 Amendment for SECURE 1.0

In 2022, employers were required to amend T-E 457(b) Plans to reflect changes to the required minimum distribution (RMD) rules made by the SECURE Act of 2019, known as SECURE 1.0, including the increase in a participant's required beginning date (RBD) to age 72.

2025 Amendment for SECURE 2.0

An amendment is now required to bring T-E 457(b) Plans up to date for changes made by the SECURE 2.0 Act, including the following:

1. RMD Changes

SECURE 2.0 made additional changes to the RMD rules, including:

- A participant's RBD is changed to age 73 if the participant was born between January 1, 1951, and December 31, 1959, and to age 75 if the participant was born after December 31, 1959.
- The excise tax imposed on RMD failures is reduced from 50% to 25%. The excise tax is further reduced to 10% for RMD failures corrected within two years.
- Surviving spouses may elect to be treated as the deceased participant for purposes of RMDs.

2. Other Changes

Additionally, SECURE 2.0 included optional changes that a T-E 457(b) Plan may have already adopted in the plan's administration.

Any optional changes adopted administratively must be included in the 2025 amendment, such as:

- Increase in small account cash-out limit from $5,000 to $7,000; and
- Distributions for long-term care insurance contracts or qualified disaster recovery.

Please contact the author or any member of the firm's Employee Benefits and ERISA Practice Group if you have questions regarding the required amendment for T-E 457(b) Plans.

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[1] The amendment deadline for governmental 457(b) plans is the later of December 31, 2029, or the first day of the first plan year beginning more than 180 days after the date of notification that the plan does not meet the requirements of Code Section 457(b).

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