

SECURE ACT 2.0—Important 401(k) Legislation May Be on the Horizon

During the last week of October, House Ways and Means Committee Chairman Richard Neal (D MA) and Ranking Member Kevin Brady (R TX), introduced a bipartisan retirement bill, the Securing a Strong Retirement Act of 2020, also referred to as SECURE Act 2.0. While the legislation died with the last Congress, it is certain to be reintroduced in 2021. The bill has a number of provisions that are very positive for small businesses.

Paula Calimafde has been an extraordinary advocate for many of the provisions in this new legislation. Paula provided commentary in 401(k) Advisor article and talks about what is in the legislation and how it might benefit small businesses.

There are two provisions that relate to the original SECURE Act. You may recall that the SECURE Act provided for a new eligibility requirement for 401(k) plans for employees who completed 3 consecutive years of service with at least 500 hours of service. Under this provision these long-term, part-time employees were able to participate in the 401(k) portion of the plan but were not entitled to any employer contributions. Secure Act 2.0 reduces the 3-year period of service to 2 years. Qualifying longevity annuity contracts (QLAC's) which in effect allow participants to manage their longevity risk are made more attractive by Secure Act 2.0, reducing limits placed on them by IRS by repealing the 25 percent limit and increasing the dollar limit from \$135,000 to \$200,000. This is welcome news since purchasing a QLAC with a portion of the account balance allows a participant that purchased the QLAC to be paid out as an annuity starting at a later date such as 75 or 80 which will continue until death. This section would also make it easier to purchase QLACs with spousal rights. Here is a quick rundown of some other interesting provisions:

- *Employers would be permitted to make matching contributions under a 401(k), 403(b) or SIMPLE IRA with respect to "qualified student loan payments."*
- *The legislation would create a national online lost and found for Americans' retirement accounts by using data that employers are already required to report to Treasury. This is something that would be welcomed by many small businesses.*
- *A provision would allow employers to give small financial incentives—like giving out gift cards in small amounts—in order to induce plan participants to make 401(k) contributions.*
- *The legislation would increase the credit for small employer retirement plan startup costs.*

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Paula Calimafde is chair of the firm's **Retirement Plans, Employee Benefits and Government Relations** practice groups and is also a senior member of the **Estate Planning, Tax and Nonprofit** groups.