



Am I Now Required to Include Part-Time Employees in my 401(k) Plan?

Facts

As the owner of a beachside hotel, I sponsor a calendar year 401(k) plan for my employees. In the summer we hire many part-time employees to assist with the uptick in guests and activities. Our plan has always required employees to reach age 21 and complete a year of service before becoming eligible. Traditionally, this has meant that these part-time employees have never entered the plan.

Question

I've been seeing articles and hearing comments that Congress passed a new law that will require me to include all of these part-time employees in my plan going forward. Is that true?

Answer

Although this might seem like the perfect time to do your best Chicken Little impression, we will instead quote the late, great Douglas Adams and say, "**Don't Panic!**" Yes, you are correct that there is a new law that requires you to cover certain part-time employees, the earliest date any of them could join the plan under this new rule is January 1, 2024. That doesn't mean we can ignore it for that long, but at least some of the most immediate causes for concern (think contribution budgets, impacts on testing, etc.) are not so immediate.

Let's take a look at some of the details to see what it'll mean to you.

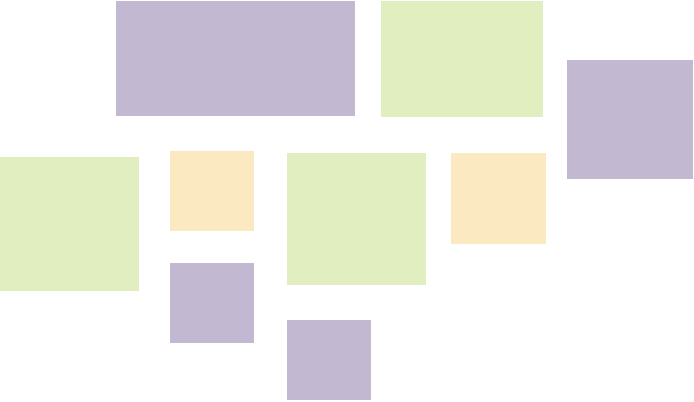
Times, They Are a Changin'

The new law is called the [SECURE Act](#), and it does include a series of provisions that seek to expand access to workplace retirement plans to so-called long-term, part-time employees. It does this by making the most restrictive eligibility requirements less restrictive, starting for plan years that begin after December 31, 2020. Here's what those requirements boil down to:

- Attainment of age 21, and
- 3 consecutive 12-month periods working at least 500 hours of service in each of those periods (approximately 10 hours per week all year or 40 hours per week for about 3 months).

After long-term, part-time employees satisfy these criteria, you must allow them to enter the plan for 401(k) deferral purposes with entry on a semi-annual basis. Note that this provision does not apply to employees who are part of a collective bargaining situation.

With the threat of the sky falling a bit less imminent, here's a little more good news. Since the provision is not effective until plan years that begin in 2020 or later, the first opportunity for long-term, part-time employees to enter a plan under this new requirement is January 1, 2024. That's right; employees would need to work at least 500 hours in 2021, 2022, and 2023 in order to enter the plan January 1, 2024.



Let's see if we can make you feel even better! Once these employees enter the plan, they are only eligible to make 401(k) deferrals and not for any employer contributions unless or until they satisfy the "regular" eligibility requirements contained in your specific plan document (i.e. attainment of age 21 and completion of one year of service).

Another note sure to turn that frown upside down is that these employees are also not included in your annual nondiscrimination testing. That means even though they are allowed to make deferrals, you can disregard them for you the ADP Test, and you are not required to make any top-heavy minimum contributions for them (again, until they meet the plan's regular eligibility requirements).

The Bottom Line

While these employees will now have an opportunity to save under the plan, their eligibility will not impact any testing or employer contribution requirements.

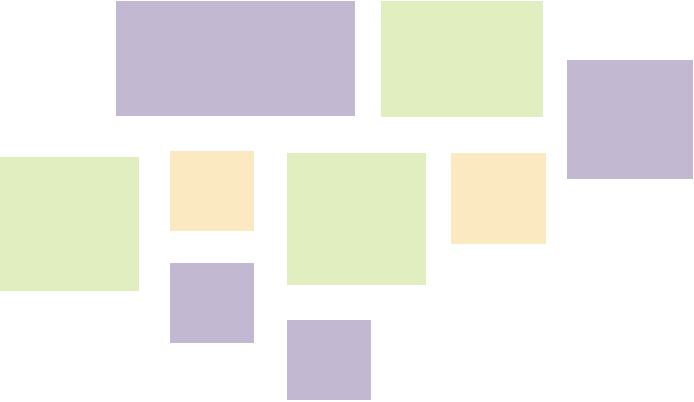
People Get Ready

Hopefully, hearing some of the nitty gritty details provides a bit of respite for you and any other plan sponsors who read this. That said, we want to help ensure everyone is ready when 2024 does roll around. The primary to-do list item, at this point, is to ensure you have a mechanism in place to track and record the hours that all your part-time employees work throughout the year, beginning January 1, 2021 (for calendar year plans). This way, when we get to 2024, it'll be easy to know which of those part-timers you must allow to defer into your plan. A little strategic note-taking now will help avoid the hassle of rebuilding records in the future. It is also not a bad idea to use these next few years to consider whether this change has any impact on what prompted you to hire long-term, part-time employees in the first place. Perhaps your business needs are such that this is still the way to go, but it is worth at least asking the question.

Stay Tuned for More, Coming...Well, We're Not Sure When

Are there related questions still outstanding at this point? Absolutely! We are full of them!

- Will this impact [automatic enrollment?](#)
- How will [Missed Deferral Opportunities \(MDO\)](#) be handled for this group?
- Do these employees get vesting credit that will be carried forward to company contributions they receive if they meet the plan's full eligibility requirements?
- Can companies that already offer relaxed eligibility now ignore part-timers for top-heavy purposes?



As we all wait for guidance and clarification from the IRS on these and other issues, know that your [DWC team](#) will continue to monitor, review, interpret, and share information as it becomes available. If you have any questions in the meantime though, don't hesitate to reach out to us!

Related Resources

- [SECURE Act Resources](#)
- [DWC 401\(k\) Q&A Topic Archive: Plan Eligibility](#)
- [Retirement Plan Eligibility](#)
- [Employees vs. Independent Contractors](#)



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