SECURE 2.0 ACT ALLOWS EMPLOYEES TO DESIGNATE EMPLOYER RETIREMENT PLAN CONTRIBUTIONS AS ROTH CONTRIBUTIONS

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In December 2022, Congress passed the SECURE 2.0 Act as a part of the Consolidated Appropriations Act, 2023. The original Setting Every Community Up for Retirement Enhancement (SECURE) Act, passed in December 2019, made certain modifications to rules governing retirement plans and accounts. The SECURE 2.0 Act included a number of additional provisions intended to enhance retirement benefits, including provisions that may be beneficial to nonprofit organizations and their employees.

An analysis of the extensive changes to retirement plan rules and requirements is beyond the scope of this article. For an excellent overview of provisions of the SECURE 2.0 Act affecting retirement plans, we recommend the information available on a webpage provided by GuideStone below.[1]

One significant change included in the SECURE 2.0 Act relates to the tax treatment of employer contributions to retirement plans.

Historically, employees have been permitted to make elective deferrals of compensation to their employment retirement plans (e.g., 401(k) or 403(b) plans) on a pre-tax basis (commonly referred to as "traditional" retirement plan contributions) or for employer plans that allow it, on an after-tax basis (commonly referred to as "Roth" retirement plan contributions). However, under historical tax law, nonelective or matching employer contributions were only permitted to be made by employers on a pre-tax basis (even if the employer contributions were matching contributions to an employee's Roth contribution).

Distributions from traditional funds of an employment retirement account are generally fully taxable to the employee, whereas distributions from Roth funds, including any appreciation in value, are generally not taxable to the employee.

The SECURE 2.0 Act contains a provision that permits employees to designate employer contributions (e.g., matching contributions) to defined contribution retirement plans (like 401(k) or 403(b) plans) as Roth (after-tax) contributions.

The employee may designate some or all of the employer matching and nonelective contributions as Roth contributions, but only to the extent the employee is fully vested in the contributions. Roth employer contributions are taxable to the employee at the time they are made (for income tax purposes), but such contributions are not subject to Social Security and Medicare tax. Additionally, employer Roth contributions and their related appreciation are generally not taxed to the employee upon distribution. This provision was effective for contributions made after the date the law was enacted (December 29, 2022).

Although the new law is currently in effect, practical implementation issues have prevented most employers from offering Roth employer contributions thus far.

Many plan administrators are still awaiting official guidance regarding how to implement the new law. It is unclear from the currently available guidance whether or to what extent retirement plan amendments may be required for an employer to make Roth employer contributions available to employees. Further, many payroll companies and retirement plan administrators do not yet have software systems capable of properly processing Roth employer contributions. Additionally, based on the currently available guidance, it is unclear what mechanism an employee would use to designate all or a portion of his/her share of an employer's contribution as a Roth contribution. We encourage nonprofit

[1] Source: https://www.guidestone.org/Updates/Secure-2-Act

organizations to consult with their plan administrators and employee benefits counsel regarding implementation.

There is also a brief video clip of the discussion of this topic at the 2023 BMWL National Nonprofit Conference available on our website.[2]

BMWL Can Help

As always, if you would like assistance addressing the information described in this alert, we would be glad to help! Please email our team at Info@NonprofitCPA.com.

[2] Source: https://nonprofitcpa.com/secure-2-0-act-allows-employees-to-designate-employer-retirement-plan-contributions-as-roth-contributions/

