

CCH® AnswerConnect

Virtual Coffee Talk

A discussion of the latest tax updates

SECURE 2.0 — Practical Considerations for 401(k) Plan Sponsors

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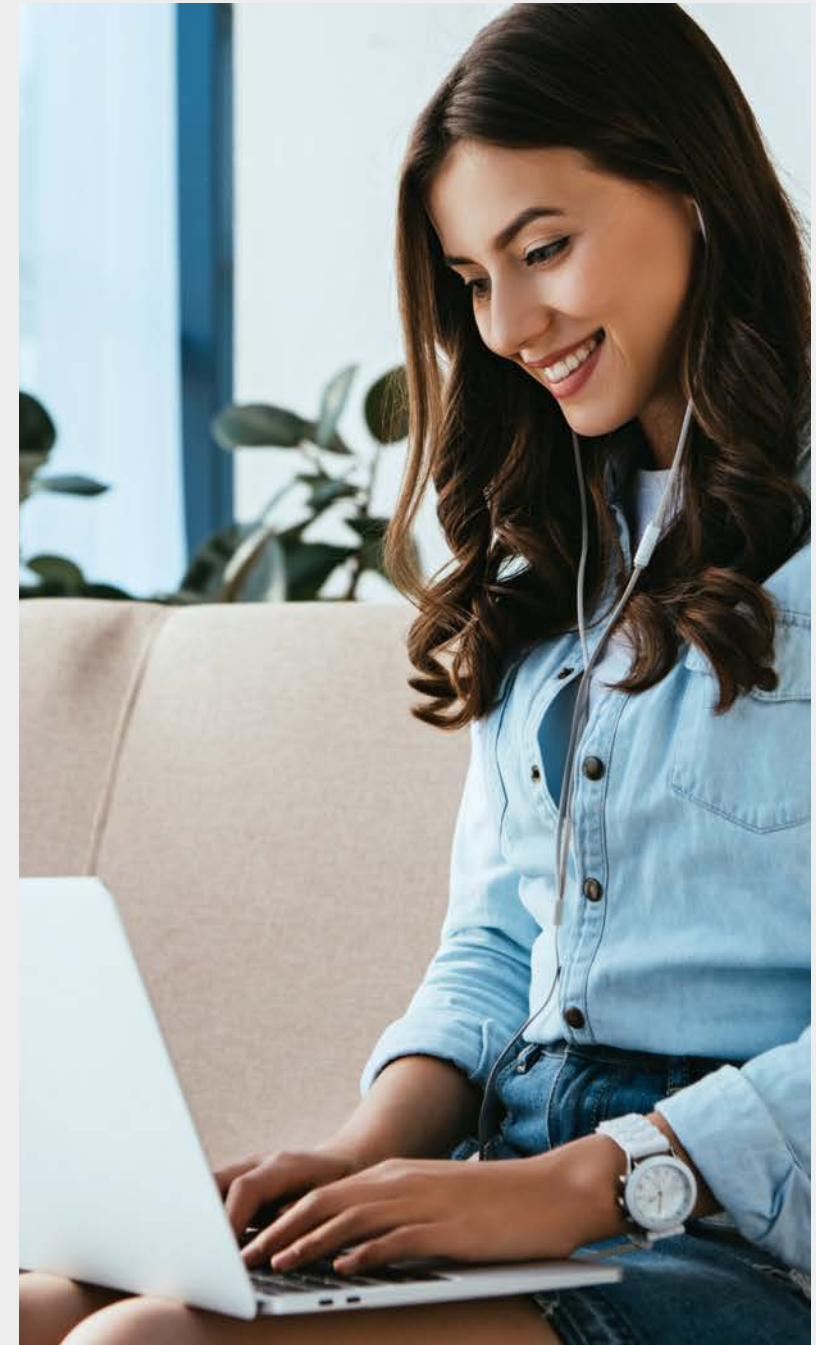
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Agenda

- Overview of SECURE 2.0
- Practical Impact
- Next Steps and Other Considerations
- Questions
- Additional Information in CCH[®] AnswerConnect[®]

Polling Question #1



Have you started implementing the updates required by SECURE 2.0?

- Yes, we are ahead of the game
- No, but we have started making a game plan to do so
- What is SECURE 2.0?

Overview of Secure 2.0



Overview of Secure 2.0

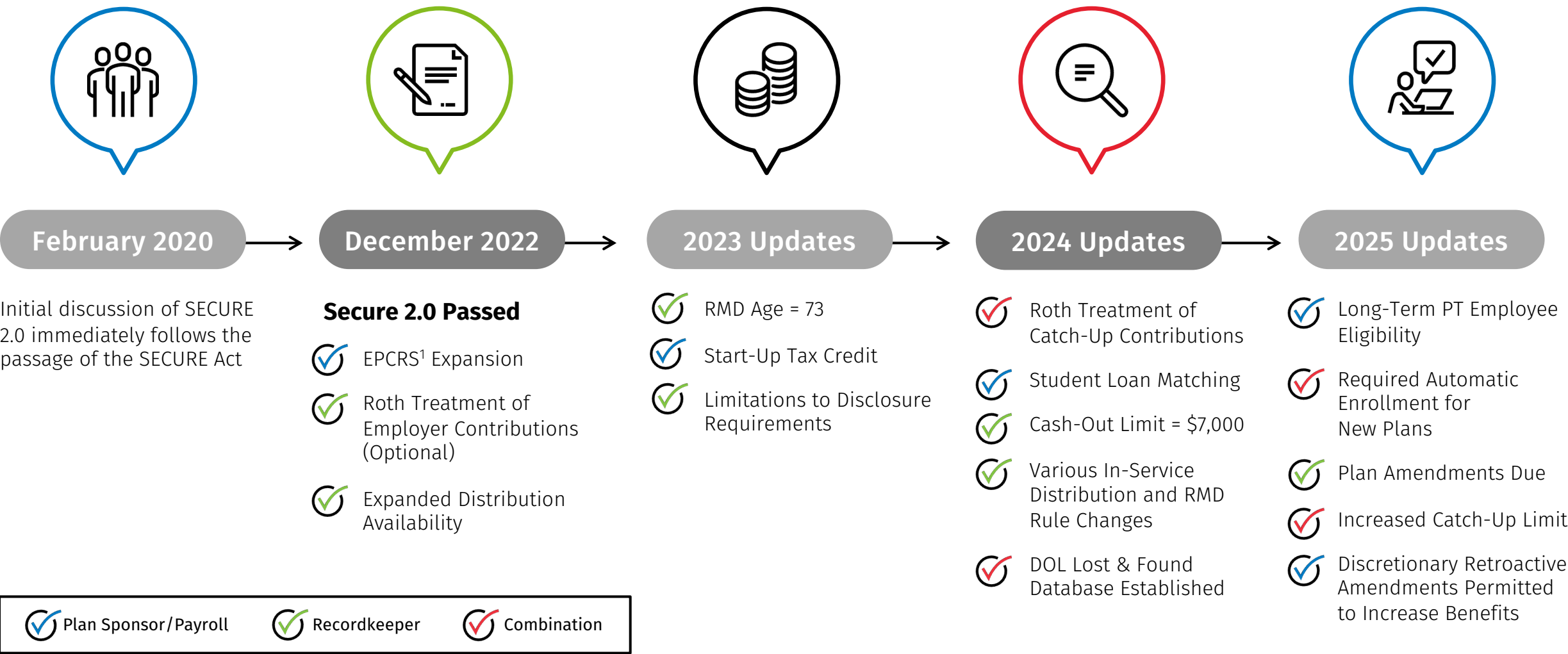
The Setting Every Community Up for Retirement Enhancement (SECURE) Act was passed in December 2019

As early as February 2020, Congress was already contemplating “SECURE 2.0” legislation, which was finally passed in December 2022

Both laws are intended to make it easier to save for retirement, with SECURE 2.0 building on the changes included in the SECURE Act

- Expanded availability to long-term part-time employees
- Required automatic enrollment in new plans
- Tax credit intended to offset 401(k) start-up costs for small business & some initial employer contribution costs

Secure 2.0 Timeline and Highlighted Changes



¹Employee Plans Compliance Resolution System (EPCRS) a portal for plan sponsors and administrators to correct errors in their retirement plan from the Internal Revenue Service (IRS).

Practical Impact



Practical Impact — Responsible Parties

Plan sponsors, recordkeepers, and other service providers will need to work together to implement SECURE 2.0's various changes.



Plan Sponsor

- The **plan sponsor** is responsible for overall plan compliance and day-to-day operations.
- Decisions related to **plan design** and **operational changes** will need to be made by the plan sponsor.
- Other groups within the company, such as **payroll** or **HRIS**, may have a significant role in plan administration



Recordkeeper

- The **recordkeeper** (or third-party administrator) is generally responsible for all participant assets/transactions.
- Many recordkeepers maintain the **plan document** and will be responsible for drafting **amendments**.
- Other changes, such as those related to **distributions or required notices**, will also impact recordkeepers.



Other Service Providers

- The **recordkeeper** (or third-party administrator) is generally responsible for all participant assets/transactions.
- Many recordkeepers maintain the **plan document** and will be responsible for drafting **amendments**.
- Other changes, such as those related to **distributions or required notices**, will also impact recordkeepers.

Significant Responsibility for Recordkeepers



A&M Insight

We are hearing from multiple recordkeepers that they believe implementing these changes will be a significant undertaking for recordkeepers, payroll providers, and plan sponsors, so it is imperative to get started early

Many provisions included in SECURE 2.0 will have little to no practical administrative impact for the majority of plan sponsors

Certain changes will primarily be handled by recordkeepers

- New distribution/withdrawal options
- Changes to RMD and in-service distribution provisions
- Cash-out limit changes
- Reporting & disclosure requirements
- Required amendments (ERISA counsel may also handle)

Recordkeepers are already preparing internally for all these changes

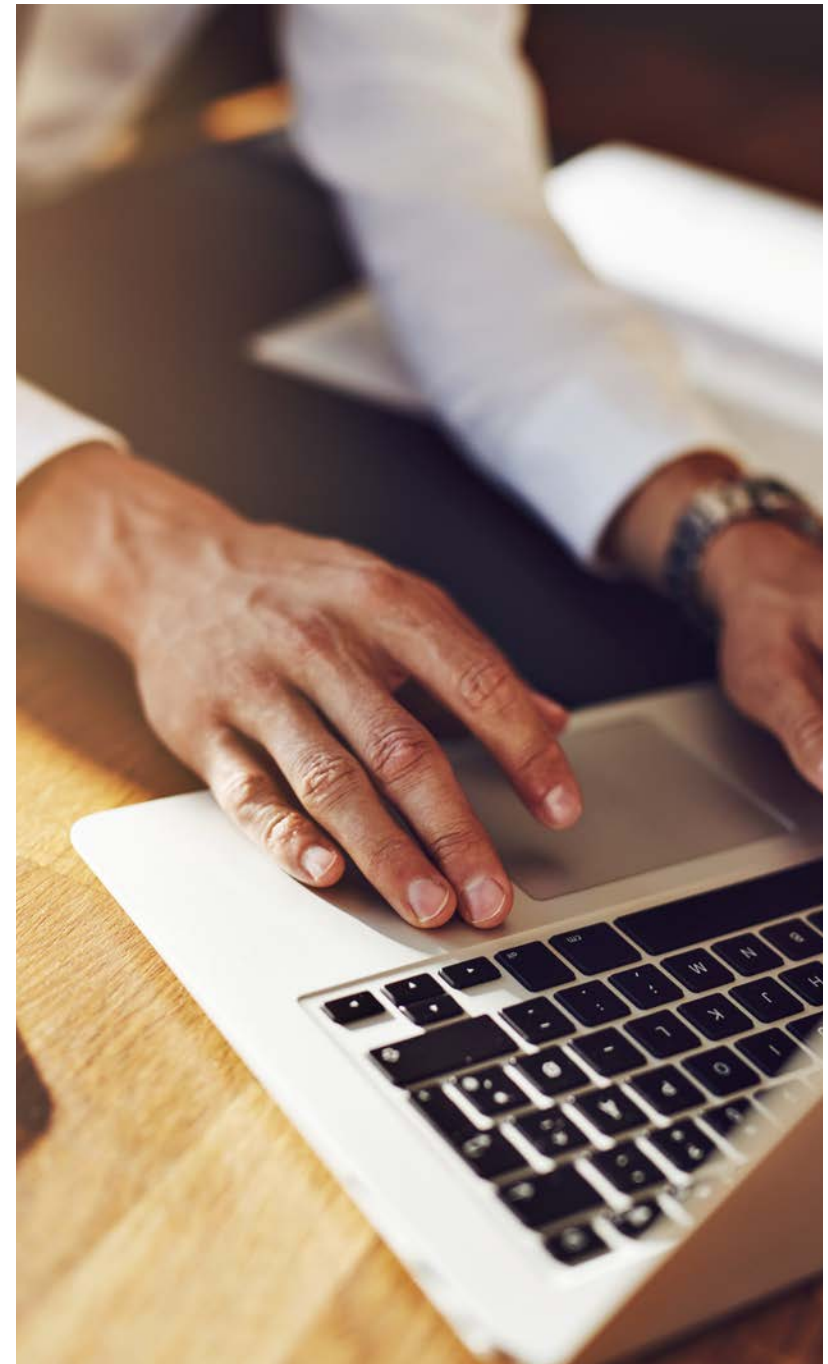
Sponsor Focus #1: Changes to Catch-Up Contributions

The legislation includes several types of changes

- Required Roth treatment of certain catch-up contributions
- Increases in catch-up limit for ages 60 – 63

Change intended to increase the ability of those close to retirement to save while increasing current tax revenue through the mandatory Roth treatment of certain contributions

Expected to require significant coordination between the plan sponsor, payroll provider, and recordkeeper to implement



Change and Impact — Catch-Up Contributions

Change



Roth Treatment of Certain CUC

- Effective 2024
- Required for employees with wages over \$145,000 (adjusted for inflation) in prior year



Increase in CUC Limit

- Employees from ages 60-63
- Effective 2025
- Greater of \$10,000 or 150% of “standard” limit

Impact

1

Significant increase in complexity of tracking

- To allow maximum CUC for all eligible employees, the plan must permit Roth contributions
- Updates to the payroll system to track
- Indicator required to identify employees impacted; must be updated each year
- How to communicate with impacted employees and ensure a smooth transition to mandatory Roth tracking?

2

Employees likely to be confused by the change

- “How much can I defer?” is no longer a straightforward question — see the example on the following slide
- Additional complexity to payroll tracking (but not implemented at the same time)

Catch-Up Contribution Complexity



Example — Maximum Amount of Catch-Up in 401(k) Plan (2023)

In 2023, an employee over 50 can make \$7,500 in catch-up contributions as long as the plan allows for a catch-up. These contributions can be characterized as pre-tax or Roth depending on plan provisions.



Example — Required Roth treatment for Certain Catch-Up Contributions (2024)

An employee who is 52 in 2024 and earned \$200,000 with the company in 2023 can contribute the 2024 regular catch-up limit, but the contributions **must be characterized as Roth**.

An employee who is 52 in 2024 and earned \$100,000 in 2023 can contribute up to the 2024 regular catch-up limit as **pre-tax or Roth** contributions.



Example – Required Roth treatment for Certain Catch-Up Contributions and Increased Amounts (2025)

An employee who is 61 in 2025 and earned \$200,000 with the company in 2024 can contribute the greater of **\$10,000 or 150% of the 2025 regular catch-up limit**, but the contributions **must be characterized as Roth**.

An employee who is 52 in 2025 and earned \$100,000 in 2024 can contribute up to **the 2025 regular catch-up limit** as **pre-tax or Roth** contributions.

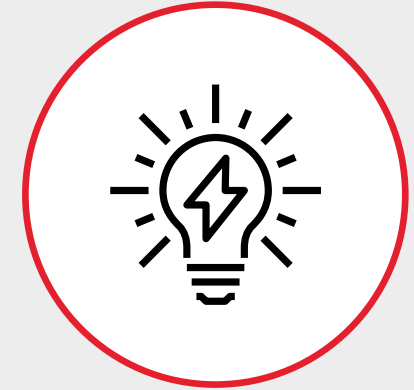


Sponsor Focus #2: Long-Term Part-Time Employee Eligibility

Eligibility for long-term part-time employees was initially introduced in SECURE Act and expanded by SECURE 2.0

- Phased in approach: SECURE Act generally required employees with 3 consecutive years of at least 500 hours per year to become eligible starting in 2024; SECURE 2.0 lowers this to 2 consecutive years of service at least 500 hours per year to be eligible starting in 2025
- Must inform employees they are eligible but not required to automatically enroll them or provide employer contributions

Impact to plan sponsors primarily related to data collection and administrative burden of enrolling these employees



A&M Insight

Plan sponsors should consider whether simply allowing all part-time employees to make deferrals would be easier to administer than tracking each part-time employee's eligibility under the above requirements

Polling Question #2



Do you plan to make changes to your eligibility conditions to avoid the SECURE 2.0 requirements related to long-term part-time employees?

- Yes
- No
- We already allow all employees to participate immediately (or very close to immediately)

Sponsor Focus #3:

Automatic Enrollment in New Plans

New plans must include auto-enroll starting with plan years beginning in 2025

- Existing plans and certain others (e.g., small or new business) are exempt from the requirement
- A minimum rate of 3% and auto-escalation required

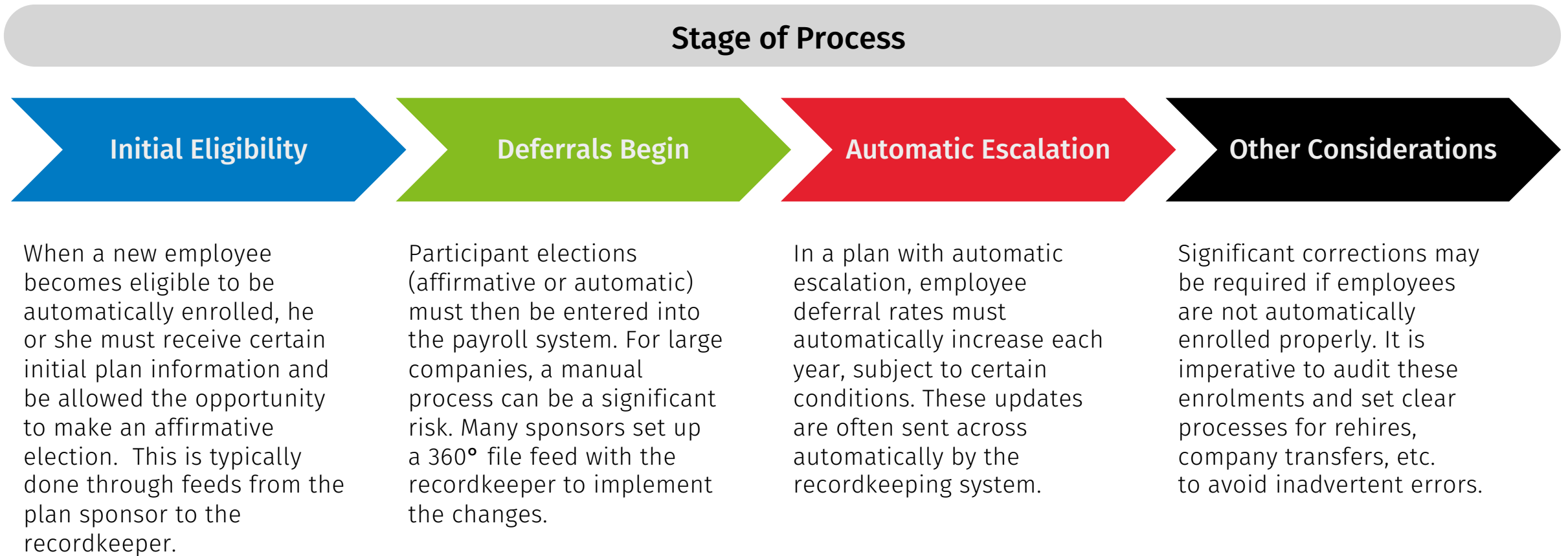
Change intended to expand retirement plan participation

Additional guidance will be needed for certain complex situations (e.g., M&A activity, successor plans, etc.)



Automatic Enrollment Considerations

Automatic enrollment is a significant undertaking involving multiple service providers. Higher rates of participation can simplify some processes but raise the stakes for operational errors.



Sponsor Focus #4:

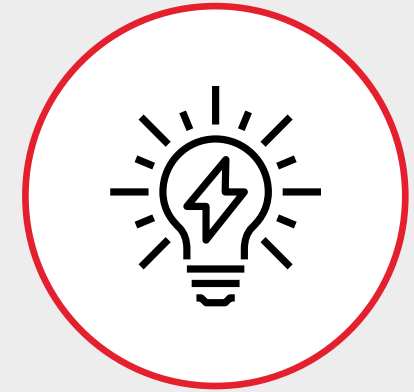
Employer Matching on Student Loans

Plans may provide a matching contribution on “qualified student loan payments” as if they were salary deferral contributions

- Effective in 2024
- Matched loan repayment opportunity reduced by regular salary deferrals made to the plan
- Must follow the same match formula applied to employee deferrals

Added complexity to match the funding process, annual testing, etc.

- Would such repayments be tracked/matched in payroll like deferrals?
- If calculated outside of payroll, what processes will be used to avoid calculation errors?
- What internal processes will be required to track student loan payment amounts so substantiation can be provided for annual audits, etc.?



A&M Insight

Historically, some plan sponsors considered implementing matching on student loan repayments based on Abbott Labs PLR, even though PLRs may not be relied on as precedent. Many plan sponsors who considered implementation chose not to proceed because of the increase in cost.

Sponsor Focus #5: Roth Treatment of Employer Contributions

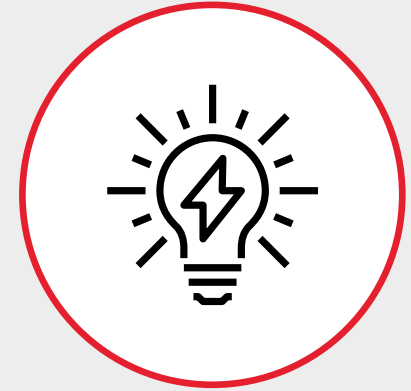
Plans may allow employees to elect to have employer contributions taxed as Roth contributions

- Effective upon adoption of SECURE 2.0
- Historically these contributions have been made as pre-tax contributions and then taxed upon distribution
- Requires that participants be immediately 100% vested in employer Roth contributions

FICA would apply to these contributions at the time of contribution

Change could increase complexity for both payroll and recordkeeper

- Are Roth amounts tracked separately in payroll system or RK system or both?
- What does the election process look like?
- Roth match calculations must be done carefully to prevent potential double-counting issues.



A&M Insight

Plan sponsors should give serious consideration to whether they should be early adopters due to the significant complexity involved in implementing the change and likelihood of future IRS updates.

Polling Question #3



Do you plan to allow employees to elect Roth treatment for employer contributions?

- Yes
- No
- We haven't even thought about it

Sponsor Focus #6:

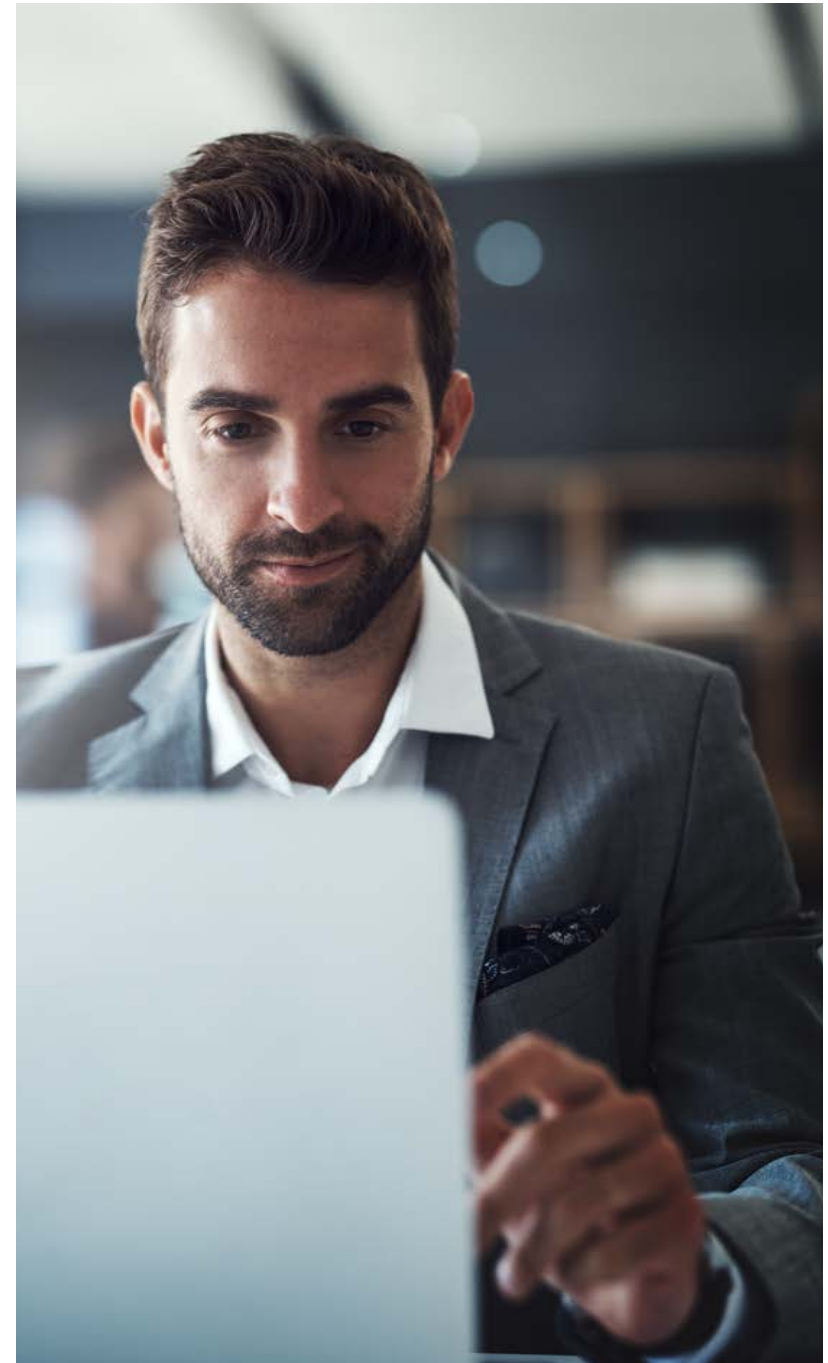
IRS Correction Program Expansion

SECURE 2.0 drastically expanded the ability for plan sponsors to self-correct operational errors through EPCRS

- Except as otherwise provided in guidance, generally, all inadvertent failures can now be self-corrected without submission to IRS
- Correction should still be completed in accordance with general principles and methodologies outlined in EPCRS
- IRS directed to issue updated guidance within the next 2 years

Also includes sponsor-friendly guidance for self-correction of loans

- Relief from 1099-R reporting requirement for corrected deemed distributions
- Inadvertent self-corrected loan failures are likely to be easier to correct through DOL's Voluntary Fiduciary Correction Program based on guidance included in legislation



Next Steps and Other Considerations



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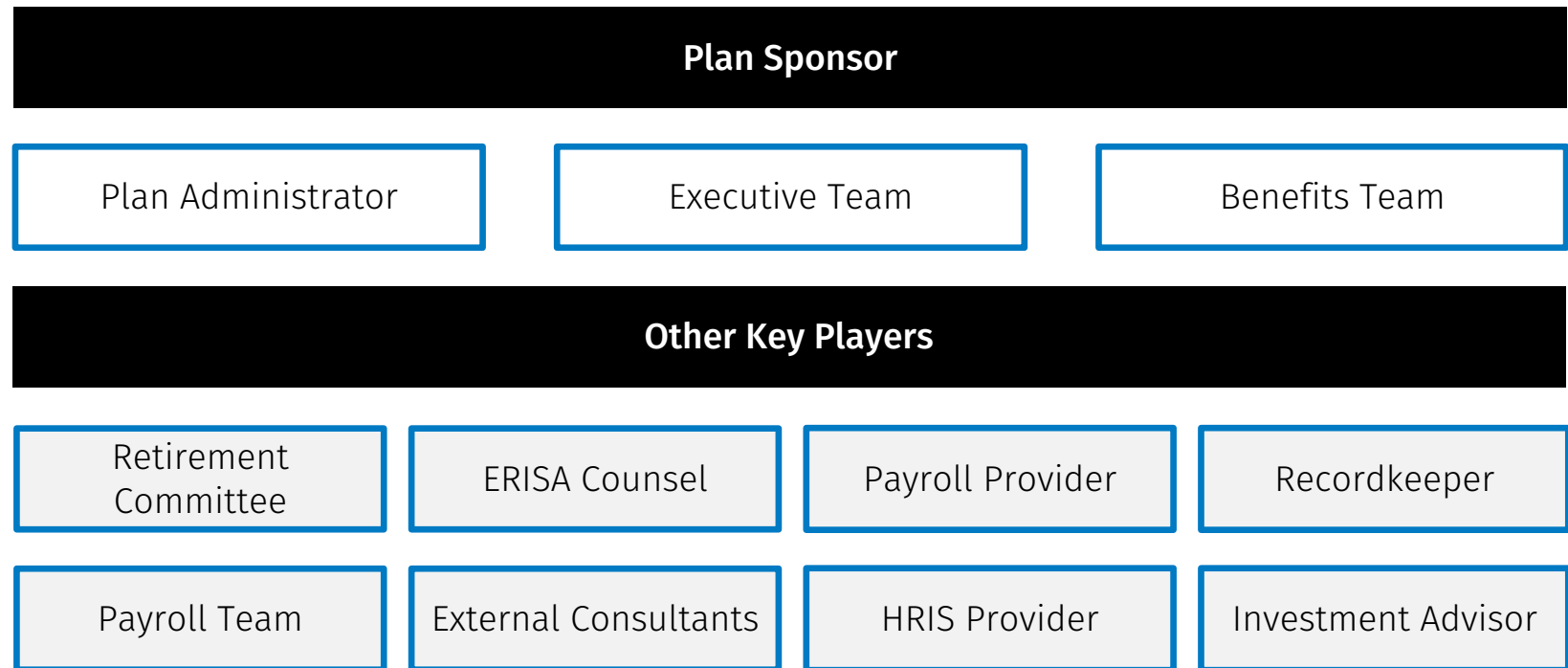
Several provisions will likely require further guidance or significant input from ERISA counsel

- Language update expected with respect to FICA issue for Roth treatment of employer contributions
- Determinations as to whether certain actions result in a “new” plan subject to the automatic enrollment
- Technical correction expected for catch-up correction provision language

Certain changes involving significant coordination between service providers may see pushback as the deadline approaches (e.g., Roth treatment of catch-up)

It Takes a Village (to Run a Plan)

- Plan sponsors will be responsible for or primarily impacted by certain SECURE 2.0 provisions
- Some of these changes will be made much easier by relying on outside experts or making sure that appropriate internal teams are involved early on
- External providers will be working with numerous plan sponsors to implement changes at the same time and likely have tips to make the process easier
- Employee communications will need to be coordinated among various groups



Strategic Approach to Changes



Maybe a good time to refresh or streamline other areas as various aspects of the recordkeeping and payroll systems will be changing

Work with your internal and external teams to ensure that SECURE 2.0 provisions are being considered when making any other updates

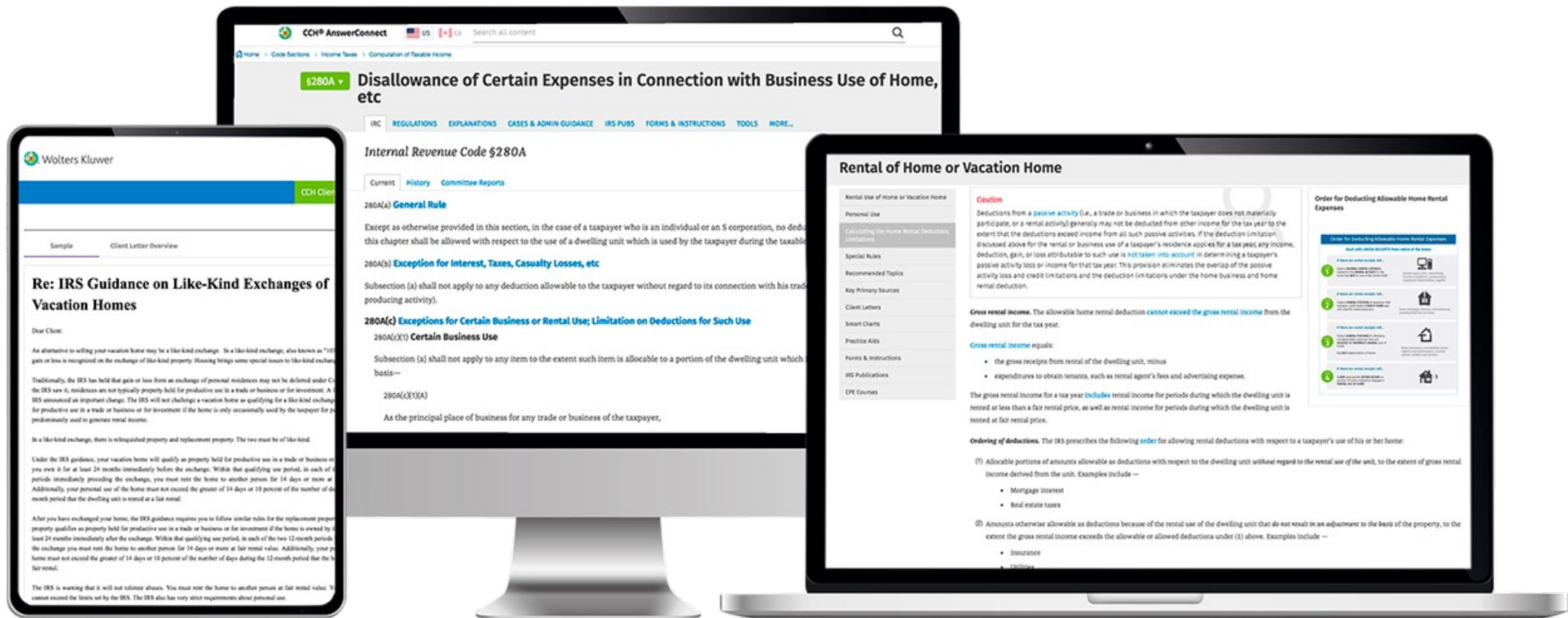
Know which changes are required versus optional as this greatly impacts the decision-making process

- This may impact the final direction of the project and prevent having to backtrack as changes become effective
- Recordkeepers and payroll providers are still trying to determine how certain changes will be implemented

Questions



CCH[®] AnswerConnect



Additional information in CCH[®] AnswerConnect



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Polling Question #4

Would you like a more in-depth demo or further details on the resources and tools available in CCH[®] AnswerConnect?

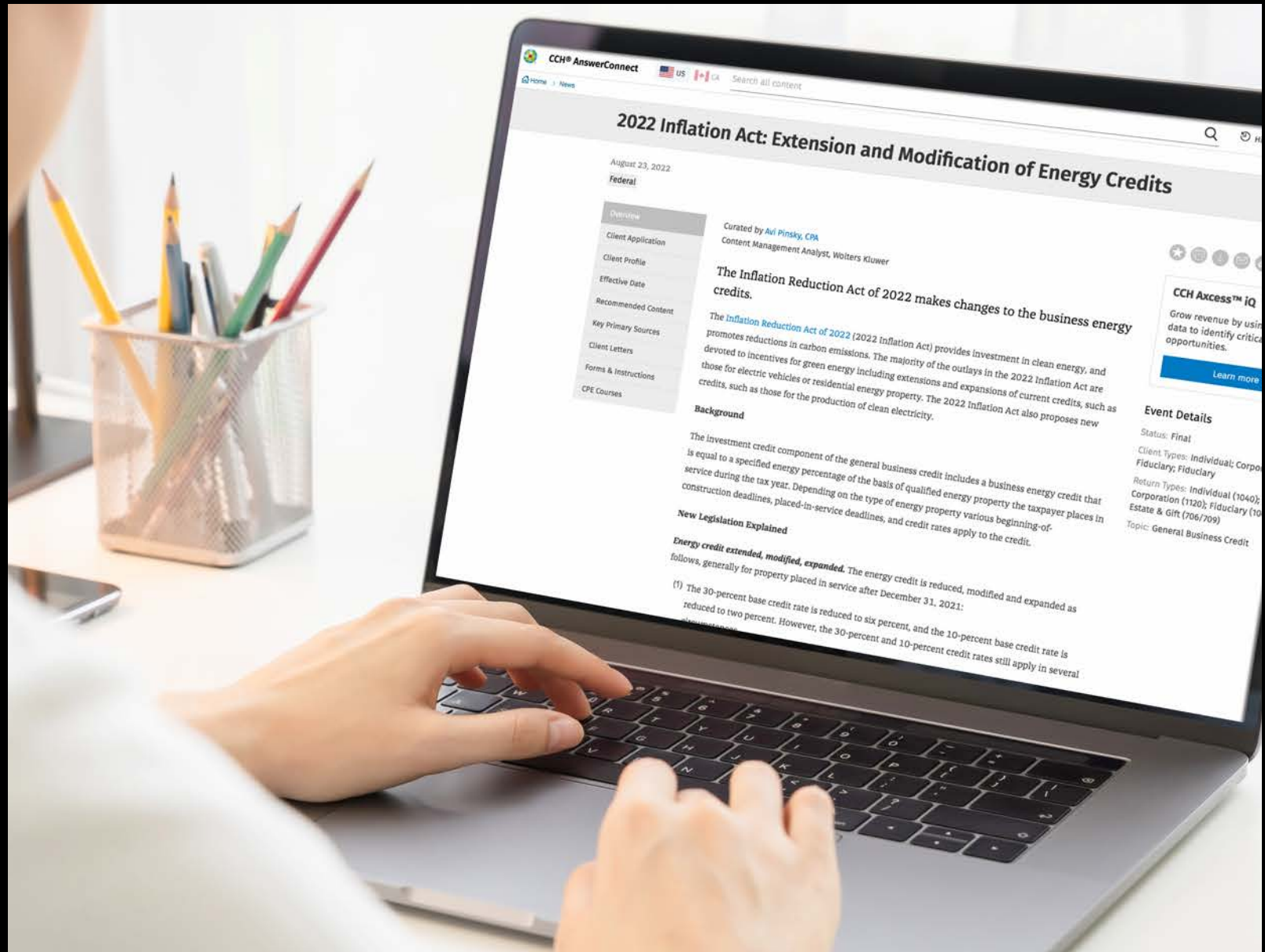


- Yes
- No

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Kevin M. Jacobs

Kevin M. Jacobs is a Managing Director with Alvarez & Marsal Taxand, LLC in Washington D.C. and the National Tax Office Practice Leader. He brings more than 15 years of experience in tax matters in both the public and the private sectors.

Prior to joining A&M, Mr. Jacobs was a Senior Technician Reviewer (TCJA) with the IRS Office of Associate Chief Counsel (Corporate) for more than six years, where he advised on tax issues such as corporate re-organizations and corporation-shareholder issues, earning and profits, recovery and allocation of stock basis, liquidations, redemptions, bankruptcies, spin-offs and consolidated returns.

Mr. Jacobs was the principal Associate Chief Counsel (Corporate) attorney on several regulatory projects including the proposed section 382(h) regulations on built-in gains and losses, the global intangible low-taxed income regulations, and debt-equity regulations. He provided substantial contributions to numerous other guidance projects, such as the limitation on interest deductions regulations, and assisted in overseeing the Corporate Division's response to TCJA, including the coordination with Treasury's Offices of Tax Legislative Counsel and International Tax Counsel.

Mr. Jacobs earned a bachelor's degree in accounting, a master's degree in accounting (with a concentration in taxation), a J.D. (*magna cum laude*) from the University of Florida and an LL.M. in taxation from New York University. He is admitted to practice before multiple courts and to the District of Columbia and Florida Bars. He is also a licensed Certified Public Accountant (CPA) in Florida and Colorado. Mr. Jacobs is a member of several organizations including the American Bar Association, the American Institute of Certified Public Accountants, the International Fiscal Association, and the New York State Bar Association.

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Patrick Blanchard

Patrick Blanchard is a Managing Director with Alvarez & Marsal Taxand in Denver, Colorado. He assists clients with a variety of issues related to qualified retirement plans.

Mr. Blanchard's experience includes performing nondiscrimination testing with a particular emphasis on complex controlled groups and unique testing conditions (e.g., subsequent to M&A activity); representing plan sponsors in Internal Revenue Service (IRS) and Department of Labor (DOL) examinations; assisting plan sponsors to identify and correct operational failures under the IRS and DOL correction programs; and assisting employers throughout the process of adopting or making significant changes to retirement programs.

Additionally, Mr. Blanchard assists clients with their non-qualified deferred compensation plans and other compensation programs to ensure compliance with all applicable statutes and guidance.

Prior to joining A&M, Mr. Blanchard was a Managing Director with Compensation & Benefit Solutions, a leading provider of compensation and benefit services based in Denver.

Mr. Blanchard earned a bachelor's degree in general business from Southwestern University, a law degree from the Case Western Reserve University School of Law, and an LLM in Taxation from the University of Denver. While attending the University of Denver, he represented low-income taxpayers before the IRS as a part of the Low Income Taxpayer Clinic. Mr. Blanchard is currently an adjunct professor of Qualified Pension & Profit Sharing Plans in the University of Denver's Graduate Tax Program and frequently speaks on qualified retirement plan compliance and administration.

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Matt Grunert advises clients on a broad range of compensation and employee benefits matters for public and closely-held companies, as well as private equity funds and portfolio companies. He has vast experience counseling clients with the design, implementation and on-going operation of Section 409A non-qualified deferred compensation plans and equity compensation arrangements, including stock options, restricted stock, phantom stock, Section 162(m) grandfathering issues and partnership profits interests. Matt also regularly counsels both companies and executives with the negotiation and drafting of executive compensation arrangements, including employment agreements, retention and severance agreements and change-in-control arrangements.

Matt is heavily involved in counseling clients on the executive compensation and employee benefits matters in corporate transactions such as mergers, acquisitions, divestitures, spin-offs and joint ventures, including allocation of benefits liabilities, 280G golden parachute matters and post-closing compensation and benefits administration. He also works with clients with credit and financing arrangements, as well as capital markets transactions, including representing issuers and underwriters in IPOs, follow-on equity offerings and debt offerings.

Matt advises clients with respect to the application of NYSE and NASDAQ listing rules and corporate and securities laws to compensation, including proxy and other public disclosures, Section 16 and various corporate governance matters. In addition, Matt works with clients on compensation matters relevant to proxy advisory firms such as ISS.

He also works with clients on the design, implementation, maintenance, merging and termination of defined contribution plans, defined benefit plans and health and welfare plans and has represented clients with respect thereto before various governmental agencies, including the Internal Revenue Service, the Department of Labor and the Pension Benefit Guaranty Corporation.



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Thank you for joining us today!

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