



Secure Act: Long-Term Part-Time Employees

Part of the Setting Every Community Up for Retirement Enhancement Act of 2019 (“Secure Act”) was to help Americans better prepare for retirement. As such, the Secure Act will require that longer term part-time employees have the ability to utilize their employer’s 401(k) plan. Beginning January 1, 2024, employers must provide their Long-Term Part-Time employees the opportunity to defer into their 401(k) Plan.

Who is a Long-Term Part-Time employee (“LTPT”)? Beginning January 1, 2024, Employees who have worked at least 500 hours in the previous three consecutive 12-month eligibility periods. Effective January 1, 2025, the definition shifts to employees who have worked at least 500 hours in any **two** consecutive 12-month eligibility periods beginning 2021.

How will this rule be applied? If your plan required more than 500 hours in an eligibility year for an employee to become a participant, effective January 1, 2024, any employee who worked at least 500 hours each of the 3 previous years (2021, 2022 and 2023) must be given the opportunity to make elective deferrals. Effective January 1, 2025 and thereafter, the employer will review hours for only 2 years of service from 2021 forward and if an employee works 500 or more hours in any two consecutive years, they must provide those employees the opportunity to defer into the 401(k) Plan.

Does the plan sponsor have to match LTPT employees’ contributions? No, the new rule mandates that LTPT employees only be given the opportunity to make employee deferrals. Plan sponsors are not obligated to match their contributions, although they can choose to do so.

How does vesting apply to LTPT employees? If a LTPT employee does have a benefit subject to a vesting schedule, current IRS guidance requires that all years in which the employee worked at least 500 hours be counted for vesting, beginning with the 2021 plan year for 401(k) plans and 2023 for ERISA 403(b) plans.

How can employers efficiently track this new requirement? Some recordkeepers offer support for tracking these 500-hour periods, but if not, plan sponsors should count hours on the date the employee’s employment begins if it is after the first day of the plan year beginning in 2021. If the employee does not complete the required hours of service during the initial 12-month period of employment, plan sponsors may then use the first day of the plan year for hours-counting purposes going forward.

Can we simply exclude LTPT employees from our Plan? LTPT employees cannot be excluded by the specific definition “long-term part-time employee” but may be able to be excluded from the plan for other reasons that do not relate to service for example: job title, location, or union employees that are part of a collective bargaining agreement are potentially acceptable exclusions.

What’s next? If you have any LTPT employees that become eligible to defer on January 1, 2024, extend them an enrollment invitation. No further action is required if they choose not to participate other than they will be required to receive any government required notices. It is very important that you receive a record that they elected NOT to defer.

Will we need to amend our plan for the LTPT rules? Yes, plan amendment will be needed but not required immediately. Document providers are currently analyzing the 90 provisions that Secure 2.0 included and will provide a tack on amendment. RKG will provide that amendment as soon as it becomes available, and it will need to be adopted by the end of the “remedial amendment period” ending on the last day of the first plan year beginning on after January 1, 2025. For calendar year plans, that would be December 31, 2025.

Who can help with questions? Your RKG Retirement Plan Consultant is available to assist you with questions and/or provide additional information.

Please refer to the table for a summary of the application of the new LTPT Employee Rules.

Employee Deferrals (pre-tax and Roth)	LTPT are eligible to make pre-tax and Roth deferrals into the plan if they meet the three-year 500-hour requirement
Employer Match	LTPT employees can be excluded from employer match
Safe Harbor (non-elective and match)	LTPT employees can be excluded from safe harbor non-elective and safe harbor match
Vesting	<ul style="list-style-type: none"> • LTPT employees who have met the three-year 500-hours will be credited for vesting for those three years and years prior to 2021 if they worked at least 500 hours • If an employee receives employer contributions special vesting rules apply, and the employee will be credited with vesting if they meet the 500-hour requirement
Testing	LTPT employees can be excluded from the Average Deferral Percentage (ADP) and Average Contribution Percentage (ACP) testing
Top Heavy	LTPT employees can be excluded from top-heavy and are not required to receive a top-heavy minimum
Audit	LTPT employees are included in the count for audit purposes