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**GRIST**

# Meager 2021 RA List doesn't extend SECURE or CARES Act deadlines

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The sole item on IRS's 2021 Required Amendments (RA) List ([Notice 2021-64](#)) relates to restoring suspended benefits for multiemployer plans receiving special financial assistance (SFA) under the American Rescue Plan Act (ARPA) ([Pub. L. No. 117-2](#)). Accordingly, most individually designed qualified and 403(b) retirement plans won't face a Dec. 31, 2023, amendment deadline for statutory or regulatory changes unless these plans include specific provisions for certain automatic periodic updates. Notably absent from the 2021 RA List is any extension of the statutory deadline for amendments relating to the Setting Every Community Up for Retirement Enhancement (SECURE) Act ([Div. O of Pub. L. No. 116-4](#)), the Bipartisan American Miners (Miners) Act ([Division M of Pub. L. No. 116-94](#)), and the Coronavirus Aid, Relief and Economic Security (CARES) Act ([Pub. L. No. 116-136](#)). The deadline for those amendments remains the end of the 2022 plan year.

## Special financial assistance under ARPA

A multiemployer plan that receives SFA must reinstate any suspended benefits and provide make-up payments to affected participants and beneficiaries. Plans receiving SFA in 2021 will need to be amended to reflect the benefit reinstatements and make-up payments by Dec. 31, 2023. The amendment must be effective as of the month the SFA is paid to the plan and specify whether the make-up payment will be paid as a lump sum or in monthly installments over five years. IRS [Notice 2021-38](#) clarifies that the amendment is necessary even if the benefit suspension was implemented only operationally, without a formal amendment.

## Other changes not specifically referenced

Each RA List automatically includes certain periodic updates, such as changes in cost-of-living adjustments, spot segment rates used to determine the 417(e) applicable interest rate and 417(e)(3) applicable mortality tables for the year in which the changes are effective. IRS anticipates that few plans will need amendments for these updates, which plans typically incorporate by reference to an Internal Revenue Code section or index. Plans that don't incorporate these updates by reference must be amended by the end of 2023 for changes taking effect in 2021.

## No extension for SECURE, CARES or Miners amendments

The SECURE, CARES and Miners acts generally require employers to amend their plans by the end of the plan year starting in 2022 (later deadlines apply to governmental and certain collectively bargained plans). IRS didn't include these changes on the 2021 RA List, which would have extended the deadline to Dec. 31, 2023. Unless IRS issues other guidance, plan sponsors can reasonably assume the statutory deadline for these amendments will apply — Dec. 31, 2022, for calendar-year plans not subject to a later deadline.

However, IRS still hasn't issued regulations on any of the significant changes made by the SECURE Act — which include nondiscrimination testing relief for closed defined benefit plans, new 401(k) plan eligibility requirements for long-time part-time workers, relaxed rules for safe harbor nonelective contributions, and an increase in the age that triggers required minimum distributions from 70-1/2 to 72. Even if IRS can propose and finalize all of these regulations in 2022, employers will have a very short window to implement the new rules and amend their plans accordingly by the plan year-end deadline. Unless IRS provides an extension, employers will likely need to adopt good-faith amendments by the end of the 2022 plan year, and then amend their plans again by a later deadline, if necessary to comply with the regulations.

## Related resources

### Non-Mercer resources

- [Notice 2021-64](#) (IRS, Nov. 30, 2021)
- [Notice 2021-38](#) (IRS, July 9, 2021)
- [Pub. L. No. 117-2](#), the American Rescue Plan Act (Congress, March 11, 2021)
- [Div. M of Pub. L. No. 116-94](#), the Bipartisan American Miners Act (Congress, Dec. 20, 2019)
- [Div. O of Pub. L. No. 116-94](#), the SECURE Act (Congress, Dec. 20, 2019)

### Mercer Law & Policy resource

- [Multiemployer plans get guidance on special financial assistance](#) (Aug. 3, 2021)

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