PLAN SPONSOR
Digest

Issue 3, 2023

Your Challenge, Our Solutions™

Tax credits for retirement plan startup and automatic enrollment costs

Are you considering setting up a retirement plan or adding automatic enrollment to an existing plan, but are hesitant to do so because of costs and annual administration expenses? If so, you need to know that you may be eligible to claim a tax credit for part of the ordinary and necessary costs of starting and maintaining an employer sponsored plan (including SEPs, SIMPLEs, profit-sharing and 401(k) plans).

The Setting Every Community Up for Retirement Enhancement (SECURE) Act of 2019 and the SECURE 2.0 Act of 2022 provide valuable types of retirement plan tax credits for small business owners:

SECURE 2.0 Act increased the small employer pension plan startup credit

Effective for plan years beginning after December 31, 2022, the nonrefundable tax credit is an amount equal to 100% of the qualified startup costs for the year for employers with up to 50 employees. The credit amount is the greater of \$500, or the lesser of \$250 for each non-Highly Compensated Employee (NHCE) who are eligible to participate in the plan, or \$5,000. This credit is available for up to three years. Except

Continued on page 2

Investment and insurance products are not insured by the FDIC or any other federal government agency, are not deposits or other obligations of, or guaranteed by, a bank or any bank affiliate, and are subject to investment risks, including possible loss of the principal amount invested.

Continued from page 1

in the case of defined benefit plans, an additional credit is provided. The amount of the additional credit generally will be a percentage of the amount contributed by the employer on behalf of employees, up to a per-employee cap of $1,000. This full additional credit is limited to employers with 50 or fewer employees and phased out for employers with between 51 and 100 employees.

Applicable percentage	Year
100%	1st, 2nd
75%	3rd
50%	4th
25%	5th
There is no credit available after the 5th year.	

- SECURE 2.0 Act allows for the small employer pension plan startup credit to be available for three years for employers joining a Multiple Employer Plan (including a Pooled Employer Plan), regardless of how long the MEP has been in existence. This is effective retroactively for taxable years beginning after December 31, 2019.

Small employer automatic enrollment credit

This credit is $500 per year for up to three years beginning with the first taxable year for which the employer includes an Eligible Automatic Contribution Agreement (EACA) in an existing or new qualified plan.

An employer with a plan that includes only an Automatic Contribution Arrangement (ACA) does not qualify for the credit; the plan must be amended from an ACA to an EACA to take advantage of the credit. The credit also applies to a Qualified Automatic Contribution Arrangement (QACA) that meets the EACA requirements.

To be eligible, an employer:

- Must sponsor a plan which has at least one employee eligible to participate who is not considered a highly-compensated employee (an individual who is at least a 5% owner or anyone who earned more than $150,000 in 2023).
- Must have had no more than 100 employees during the preceding year who received at least $5,000 of compensation.
- Must not have maintained a plan where substantially the same employees benefitted during the three tax years immediately before the first year for which the credit is claimed.

Your company retirement plan

These credits are a great benefit to getting your company retirement plan started. We recognize the importance of selecting and designing an appropriate retirement plan for you and your employees. If you have any questions on this or other retirement-related topics, please contact your financial professional.

Understanding ERISA fiduciary roles and responsibilities

The Employee Retirement Income Security Act (ERISA) requires each retirement plan to designate at least one fiduciary by name as having control over the plan's operations. The primary responsibility of the fiduciary is to run the plan solely in the interest of participants and beneficiaries and for the exclusive purpose of providing benefits and paying plan expenses.

The named fiduciary is often the employer sponsoring the plan. For many companies, named fiduciaries hire additional fiduciaries to assist in operating the plan. Even in those cases, the named fiduciary cannot eliminate their fiduciary liability regarding investment decisions. The named fiduciary is always responsible for the prudent selection, monitoring and evaluation of other service providers to the plan.

What makes a person a fiduciary?

A person is a fiduciary to the plan to the extent they perform any of the following:

- Exercise any discretionary authority or discretionary control respecting management of such plan or exercise any authority or control respecting management or disposition of its assets.
- Render investment advice for a fee or other compensation—direct or indirect—with respect to any moneys or other property of the plan, or has the authority or responsibility to do so.
- Have any discretionary authority or discretionary responsibility in the administration of such plan.

Continued on page 3

Continued from page 2

- The extent of fiduciary status can vary from person to person, depending on the specific plan duties each person performs. For example, an individual responsible for investment selection or monitoring will be a fiduciary for the assets under their control but won't be a fiduciary when it comes to benefit claim decisions assuming that is not within their duties.

Types of investment fiduciaries

Two of the most common types of fiduciaries hired to help run plans are 3(21) investment advice fiduciary and 3(38) investment manager fiduciary. The different types of fiduciaries provide different levels of service.

3(21) investment advice fiduciary

- A 3(21) fiduciary is hired by the named fiduciary to help with investment option decisions and provides non-discretionary investment advice regarding a plan's lineup.
- The 3(21) fiduciary provides guidance on the available investments options but does not have any decision making authority.

3(38) investment manager fiduciary

- The 3(38) investment advice fiduciary is authorized to carry out investment decisions on behalf of the plan and assumes legal responsibility for the decisions they make.
- The 3(38) fiduciary chooses which investment options are used on the plan's lineup.

Hiring a fiduciary is an important decision in how you run your plan. Reach out to your financial professional to discuss what type of fiduciary may be suitable for your plan.

250 Nicollet Mall | Minneapolis, MN 55401

The content and any opinions expressed in this advertisement, prepared by Integrated Retirement, are those of the author and are not necessarily the same as those of RBC Clearing & Custody. RBC Clearing & Custody did not assist in the preparation of the material and makes no guarantee as to its accuracy or reliability of the sources used in its preparation. Please note that RBC Clearing & Custody does not act as administrator or recordkeeper for defined contribution plans. The material contained herein is for informational purposes only and does not constitute tax or legal advice. Plan sponsors and investors should consult with their own tax advisors or attorneys with regard to their personal tax and legal situations. All rights reserved.

RBC Clearing & Custody does not provide tax or legal advice. All decisions regarding the tax or legal implications of your investments should be made in connection with your independent tax or legal advisor. No information, including but not limited to written materials, provided by our firm should be construed as legal, accounting or tax advice.

RBC Clearing & Custody, a division of RBC Capital Markets, LLC, Member NYSE/FINRA/SIPC.

© 2023 RBC Capital Markets, LLC. All rights reserved.

23-20-01871_20181-CC (07/23)