

# The SECURE Act and Qualified Birth/Adoption Distributions:

*What You Need to Know*



The SECURE Act, signed into law December 20, 2019, provides penalty-free distributions for birth or adoption. We provide additional details on these provisions below.

## Qualified Birth and Adoption Distributions (QBADs) under the SECURE Act

An IRA owner or plan participant may withdraw up to \$5,000—for each birth or qualifying adoption event—without facing the 10% early distribution excise tax. This provision is effective for distributions made after December 31, 2019, and certain conditions and options apply.

- Such distributions must occur within 12 months of the birth or adoption.
- For adoptions, the adoptee must be under age 18 or an individual who is physically or mentally incapable of self-support.
- Amounts withdrawn under this provision may be repaid to an employer plan or IRA.
- Married participants may each receive a \$5,000 distribution for the same birth or adoption.

## Questions Pending Additional IRS Guidance

- What steps must be taken—and what documentation must be obtained—to substantiate that the distribution qualifies as a QBAD?
- How long does an individual have to repay the QBAD?
- Are there limits on distribution types (e.g., after-tax contributions) that may be repaid to a plan?

## Implementation Recommendations

- Until the IRS addresses the items listed above (and other questions), we recommend that plan sponsors do not permit QBADs as a distribution option under the plan.
- A distribution processed based only on the current understanding of the legislation may result in an ineligible distribution, exposing both the plan and the participant to potential corrective action.

## Next Steps

- We expect that the IRS will issue guidance—perhaps after soliciting public comment. At that time, we will work with our partners regarding notices, forms, procedures, and best practices.
- Plan amendments will follow at a later time and will be part of a larger SECURE Act amendment.
- Proceed with caution: Due to outstanding questions, any qualified birth or adoption distribution processed before we receive guidance may create potential exposure.

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