Morgan Stanley

Washington Update

A Summary of Key Legislative and Regulatory Developments Affecting Retirement Savings

FEBRUARY 2025

The 119th Congress Convenes

On January 3rd, the 119th Congress gaveled into session and shortly thereafter, as one of its first orders of business, met in joint session on January 6th to certify the electoral college vote. This paved the way for the inauguration, on January 20th, of Donald J. Trump as the 47th President of the United States. Thus began a two-year Congress during which Executive and Legislative Branch control will be centered in a single political party.

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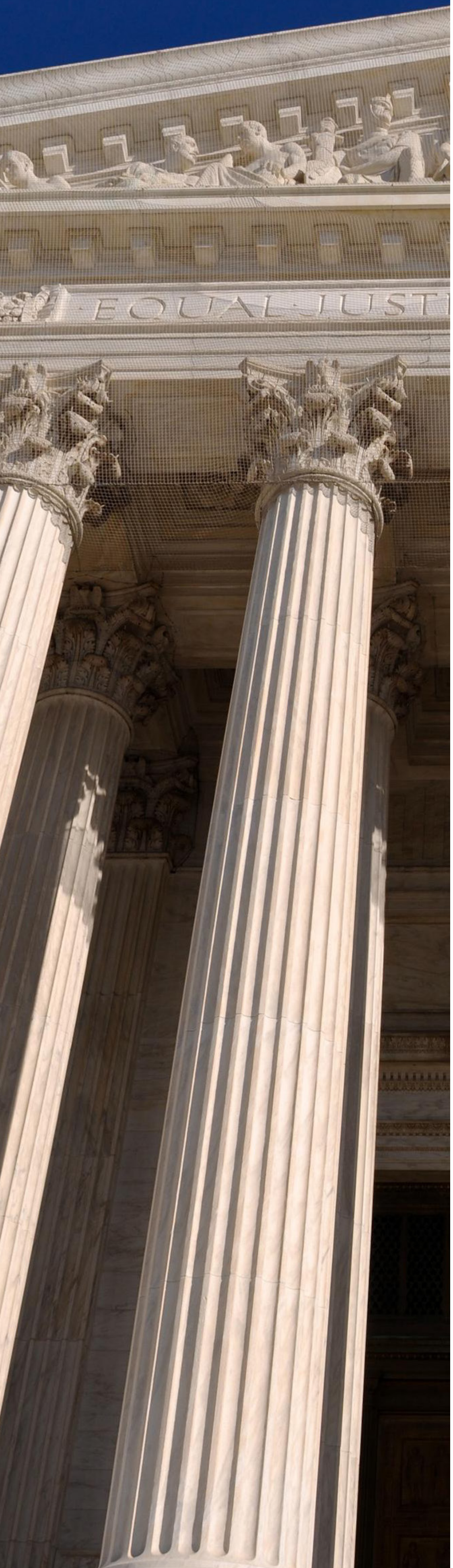

Typically, when a new Congress begins, it spends much of the first month focused on organization, as it seeks to not only select the Members who will lead each Chamber, and each Committee during the coming two years, but also to fill-in committee and subcommittee rosters with new Members.[1] Of course, following a Presidential election, especially when there is a change in power, the first month of the new Congress can also be occupied with preparation for the incoming Administration, especially when political control aligns.

For an incoming President, an initial priority is to begin filling key positions within the Executive Branch (confirmable positions). This in turn requires the Senate to spend considerable time in examining, and voting on, the President's nominees. While the vetting process typically begins before the Inauguration, moving nominees through the Senate can be time-consuming, procedurally, occupying much of the Senate's near-term post-inauguration calendar. By late February, however, the confirmation process should be sufficiently far along that the Senate can turn its attention to its legislative priorities.

Of course, with political control in Washington vested solely with the Republican party this session, pursuing the President's political agenda should be aided thereby, at least in theory. Yet, what sounds good in theory rarely rises to the level of reality in Washington, and this Congress likely displays that variance continually. The bottom line is the Republican majorities in the 119th Congress are so narrow that legislative victories, for the most part, will be fleeting.

For instance, in the Senate, the Republican majority is 53-47, and while that allows for control of committee agendas and floor proceedings, it is not near the 60-vote threshold necessary to overcome procedural hurdles imposed by the Senate filibuster rules. With exception for budget reconciliation legislation that is protected from the filibuster rules and can move to passage via majority vote (but is limited in legislative reach), getting to a final vote on most bills will be difficult this coming year in the absence of bi-partisan support.

In the House, the current Republican majority is 218–215, with two vacancies (in otherwise Republican districts). This narrow majority will soon be reduced to 217-215 in the coming weeks as an additional Republican Member is expected to resign for a position in the Trump Administration.[2] While all indications are that the Republican majority will return to a 220-215 ratio once these vacancies are filled, for the time being the House Republican majority will be via a single vote.

Legislation

The Broad Agenda for the First Session

While Congress will spend considerable time and political capital this year seeking to legislatively implement the Trump Administration's policy initiatives, including tax legislation described herein, there are other pressing issues, with fast approaching deadlines, that will take early precedence.

For instance, on January 2, 2025, the statutory suspension of the debt ceiling expired, thus reinstating the limit at the amount of debt (subject to the limit) as existed on that date. Shortly thereafter Treasury Secretary Yellen informed Congress that, in the absence of borrowing authority, the agency would begin to implement "extraordinary measures" to ensure that the nation did not default on its obligations.[3] While Treasury's ability to resort to extraordinary measures should last through this spring, at some point its ability to use such measures will be exhausted, necessitating a Congressional response to avoid default.

Having Congress address the debt ceiling is never easy, and this will become evident this year even with unified control in Washington. However, facing the prospect of default if Congress fails to act will inevitably lead to a legislative solution, with the question really centered on timing and, ultimately, the political fallout that may result therefrom.

In addition, and prior to the debt ceiling debate, Congress will also soon face the expiration, on March 14, of the Continuing Resolution ("CR") that currently funds federal programs and operations (in the absence of completion of the appropriations process by the prior Congress).[4] To avoid a government shutdown upon expiration of the CR, Congress will again be forced to act legislatively. While a government shutdown of some duration is possible while negotiations over government funding levels proceeds, in the end legislation will be enacted into law that will fund federal programs and operations through the end of the current fiscal year (ending on September 30, 2025). It is simply too early in the process to know in what form such funding will occur (CR or completion of all 12 unfinished appropriations legislation individually or as part of an omnibus spending bill).

Tax and Retirement Policy in the 119th Congress

On December 31, 2025, many of the tax-law changes enacted via the 2017 Tax Cuts and Jobs Act ("TCJA") will expire.[5] Most of the law's expiring provisions affect individual taxpayers, and it is expected that Congress will spend much of this year seeking a path forward to extend, or make permanent, these provisions. Additionally, a number of tax proposals championed by President Trump during the campaign are also likely to become a part of the tax debate in the coming months.

Of course, the focus on the TCJA this year means that Congress spends little time separately addressing retirement policy. While Members will continue to introduce retirement-focused legislation, such bills will receive little attention until conclusion of the debate over the fate of the TCJA – which likely lasts for the duration of the first session.[6]

Below we provide a brief synopsis of some of the key provisions included within the TCJA that are set to expire at year end 2025, and contrast current law with how the provision will change upon expiration.[7] This is just a sampling of the many provisions enacted as a part of TCJA that are set to expire, or change significantly:

Marginal Tax Rates

- Under TCJA, the marginal rates are 10%, 12%, 22%, 24%, 32%, 35%, and 37%
- Upon expiration, the marginal rates revert to their pre-TCJA levels of 10%, 15%, 25%, 28%, 33%, 35%, and 39.6%

Estate and Gift Tax

- Under TCJA, the estate/gift tax exemption amount increased to $10 million per individual (indexed) – and as of 1/1/2025 the exemption amount is $13.99 million per individual
- Upon expiration, the estate/gift tax exemption amount reverts to $5 million per individual (indexed)
- The annual gift tax exclusion, which is $19k per individual in 2025 (indexed) is not affected by the expiration of the TCJA

State and Local Deduction (SALT)

- Under TCJA, taxpayers that itemize deductions can only deduct up to $10,000 in state and local income, sales (in lieu of income), and property taxes
- Upon expiration, the cap on such deductions will no longer apply

Legislation (cont.)

Alternative Minimum Tax

- Under TCJA, both the AMT exemption amount and the phaseout thresholds applicable thereto, are substantially increased (indexed)
- Upon expiration, both the AMT exemption amount and the corresponding exemption phaseout will return to pre-TCJA levels (indexed)

Deduction for Pass-Through Business Income (199-A Deduction)

- Under TCJA, a deduction equal to 20% of qualified business income is allowed for pass-through business income (otherwise taxed at ordinary individual income tax rates), with limitations
- Upon expiration, the 20% qualified business income deduction will no longer be available to pass through businesses

Charitable Contribution Deduction

- Under TCJA, the AGI limit for cash donations to public charities increased to 60%
- Upon expiration, the AGI limit for cash donations to public charities will revert to 50%

Standard Deduction

- Under TCJA, the standard deduction (for non-itemizers) was $12,000 (single) and $24,000 (joint) (indexed)
- Upon expiration, the standard deduction reverts to pre-TCJA levels of $6,500 (single) and $13,000 (joint) (indexed)

Personal Exemptions

- Under TCJA, the personal exemption amount was temporarily suspended
- Upon expiration, the deduction for personal exemptions returns (in 2017 the exemption amount was $4,050)

Child Tax Credit

- Under TCJA, the credit is up to $2,000 per qualifying child, with up to $1,400 of that amount refundable at certain income levels
- Upon expiration, the credit reverts to $1,000 per child (refundable at certain income levels)

Itemized Deduction for Miscellaneous Expenses Subject to the 2% Floor

- Under TCJA, all miscellaneous itemized deductions that are subject to the 2% floor are suspended (e.g., includes investment fees/expenses; IRA trustee fees if separately billed/paid)
- Upon expiration, taxpayers that itemize will be able to deduct miscellaneous expenses to the extent such expenses collectively exceed 2% of AGI

Mortgage Interest Deduction

- Under TCJA, taxpayers who itemize may deduct interest on only the first $750k (joint filers) of mortgage debt for loans incurred after Dec. 31, 2017 and before Jan. 1, 2026
- Under TCJA, the deduction for interest on home equity indebtedness is suspended through 2025
- Upon expiration, the $750k limitation will increase to $1 million, and interest on the first $100k of home equity debt will also be deductible (regardless of use)

Overall Limitation on Itemized Deductions

- Under TCJA, the overall limitation on itemized deductions (“the Pease” limitation) is suspended
- Upon expiration, the Pease limitation returns and for taxpayers with AGI above certain thresholds, the total amount of itemized deductions are reduced by 3% of the amount by which AGI exceeds such thresholds

In addition to calling for permanence for the TCJA’s expiring provisions, the President also championed his own set of tax-law changes during the campaign that focus on individual taxpayers.[8] As these are likely to receive consideration this year, we present a brief look at these proposals below:

- Restoration of a full deduction for SALT;
- Exempt social security benefits from federal income tax;
- Exempt tip income for hospitality workers from federal income tax;
- Exempt overtime pay from federal income tax; and
- Create an itemized deduction for interest on auto loans.

To provide an idea of the possible revenue costs associated not only with the TCJA provisions, but those touted on during the Presidential campaign, below we highlight the proposals and unofficial revenue estimates associated therewith.[9]

Outlook

During calendar year 2025, Congress will focus inordinate attention on seeking a path forward to address expiration of TCJA's individual tax provisions on December 31, 2025. While it is highly probable that the Budget Reconciliation process is used to extend or make permanent these expiring provisions (mostly because it allows the avoidance of the Senate filibuster rules), the process nonetheless be difficult at best, and lengthy. And there is no guarantee of its success, even with unified control in Washington.

Adding to the difficulty in addressing TCJA's expiring provisions are the tax priorities of the incoming administration that were touted during the Presidential campaign. While cost concerns are paramount with extension of, or permanence for, TCJA's expiring provisions, injecting the Administration's tax proposals into the debate only exacerbates those concerns. This is especially true if these provisions are not offset, in whole or in part, by revenue increases or spending reductions elsewhere. Don't look for an early resolution of TCJA's pending expiration, as the debate is likely to stretch into or through the summer, with an outside chance that it becomes an end-of-year exercise.

As for retirement policy, it will likely have to await the conclusion of the coming tax debate before Members begin to seriously consider retirement policy initiatives. While delay is frustrating to some, moving retirement legislation via regular order may ultimately better serve retirement policy long-term as it avoids becoming become intertwined with the anticipated partisan consideration of TCJA.

Regulatory

The Regulatory Process and What It May Mean for Proposed and Certain Final Rules from the Prior Administration

When a new Administration comes into office, one of the first orders of business is usually for the President to place a freeze on the regulatory process to allow for a review of pending initiatives. Thus, on January 20, 2025, President Trump issued an Executive Order entitled "Regulatory Freeze - Pending Review" that ordered all executive departments and agencies to refrain from proposing or issuing any rule, in any manner (including sending to the Office of the Federal Register) until a department/agency head appointed or designated by the President could approve the rule. The Order further instructed agencies to consider postponing for 60 days (from January 20) the effective date for any rules that have been published in the Federal Register (or issued in any manner) but not yet effective – to allow for review and possible comment from the public.[10] Thus, for rules listed herein that remain under consideration from prior Administrations, a delay in their consideration and possibly a withdrawal of the rule, are possible over the coming months. Of course, it is also possible that a number of these rules are ultimately approved and finalized by the Trump Administration or, in the case of issued guidance, allowed to remain in effect. However, for the immediate future, it is likely that we will see little action on these rules pending their review.[11]

So, with the caveat that the proposed rules (and guidance) highlighted below will be subject to review, delay, and possible withdrawal by the Trump Administration, we nonetheless provide a brief synopsis of the proposals in the event they remain viable going forward:

DEPARTMENT OF LABOR

Field Assistance Bulletin No. 2025-01 – Missing Participants and Beneficiaries – Pension Plans' Transfer of Small Retirement Benefit Payments to State Unclaimed Property Funds

On January 14, 2025, DOL announced via Field Assistance Bulletin 2025-01 that, pending further guidance, it would not pursue violations of Section 404(a) of the Employee Retirement Income Security Act of 1974, as amended ("ERISA") in connection with a decision to transfer retirement benefit payments owed to a missing participant/beneficiary from an ongoing plan to a state unclaimed property fund, provided the present value of the participant/beneficiary's nonforfeitable accrued benefit is $1k or less. The Field Assistance Bulletin 2025-01 also sets forth conditions under which the plan fiduciary must adhere when engaging in such a transfer.

View the Field Assistance Bulletin.

Voluntary Fiduciary Correction Program

On January 15, 2025, DOL published in the Federal Register its amended and restated Voluntary Correction Program ("VFC Program") under Title I of ERISA. The amendments simplify and expand the VFC Program to make it "easier to use and more useful for employer and others" who wish to take advantage the relief it provides. Amendments to the VFC Program include:

- Adding a self-correction feature for delinquent transmittal of participant contributions and loan repayments to a plan under certain circumstances;
- Clarifying some existing transactions that are eligible for correction under the VFC Program;
- Expanding the scope of other transactions currently eligible for correction; and
- Simplifying certain administrative/ procedural requirements for participation in and correction of transactions under the VFC Program

Additionally, the amendments add a self-correction feature (per section 305(b)(2) and (3) of SECURE 2.0) for certain participant loan features self-corrected under the IRS's Employee Plans Compliance Resolution System ("EPCRS").[12]

Amendments to the VFC Program are effective on March 17, 2025.

View the Updated VCF Program.

Prohibited Transaction Exemption (PTE) 2002-51 To Permit Certain Transactions Identified in the Voluntary Fiduciary Correction Program

In conjunction with publication of the amended and restated VFC Program, on January 15, 2025, DOL also published final amendments to Prohibited

Regulatory (cont.)

Transaction Exemption ("PTE") 2002-51 – to conform the exemption to align with the changes to the VFC Program.

With regard to consistency with self-correction feature under the VFC Program, the final amendments would:

- Require those who take advantage of self-correction to pay into accounts of otherwise affected participants – the amount of the excise tax that would otherwise be imposed by IRC section 4975's prohibited transaction excise tax; and
- Require document retention for proof of payment of the amounts paid to the plan (either completed IRS Form 5330 – Return of Excise Taxes Related to Employee Benefit Plans, or other such written documentation).

With regard to other changes included in the final amendments to PTE 2002-51, they include:

- An elimination of the three-year limitation period for taking advantage of the VFC Program (for those who, on more than one occasion during prior 3 years, took advantage of the VFC Program) – to encourage greater use thereof; and
- Any required notice under PTE 2002-51 (of the self-correction) to interested persons must be provided, in addition to posting online, by other means such as regular mail or electronic mail.

The Amendments to PTE 2002-51 will be in effect on March 17, 2025.

View the Final Amendments to PTE 2002-51.

Abandoned Plan Regulations

On May 17, 2024, DOL published in the Federal Register Interim Final Rules, with a request for comments, which amends the agency's Abandoned Plan Program ("Program") regulations to expand the Program's coverage to individual account pension plans whose sponsors are in liquidation under chapter 7 of the U.S. Bankruptcy Code. Expansion of the Program regulations will allow chapter 7 bankruptcy trustees to use the Program's streamlined procedures to terminate and wind down such plans, and to expedite liquidation and distribution of plan assets. The interim final rules also include other technical amendments to the Program to improve its efficiency and operation.

The interim final rules became effective on July 16, 2024. Public comments on the interim final rules were due to DOL by the effective date. Additionally, on July 19, 2024, the DOL's EBSA launched an online system for submitting information and certain documentation required by the Program.

View the Interim Final Rules.

Prohibited Transaction Exemption 2006-06 for Services Provided in Connection With the Termination of Abandoned Individual Account Plans

On May 17, 2024, and in connection with the DOL's publication of Interim Final Rules to amend the Program (see above), the agency also published in the Federal Register a notice of an amendment to PTE 2006-06, to permit Chapter 7 bankruptcy trustees who elect to be a "qualified termination administrator" of an individual account pension plan (and eligible designees thereof) to rely upon the exemption to provide services to the plan in connection with the plan's termination and to pay itself fees for such services. The amendment to PTE 2006-06 became effective on July 16, 2024, aligning with the effective date of the Program's interim final rule (see above).

View the PTE 2006-06 Amendment.

Proposed Information Collection Request Submitted for Public Comment: Retirement Savings Lost and Found

On April 16, 2024, the DOL published in the Federal Register, a Notice seeking public comment on the agency's proposed collection of information from plan administrators of retirement plans subject to ERISA for the purpose of establishing the Retirement Savings Lost and Found online searchable database (as required under Section 303 of SECURE 2.0) to help connect missing participants and other individuals with retirement benefits earned over their working lives, for which they may have lost track.

On November 20th, the DOL published in the Federal Register a notice to plan administrators, recordkeepers and other service providers encouraging them to voluntarily submit data to populate the DOL's Retirement Lost and Found database.

The DOL launched its Retirement Savings Lost and Found database on December 27, ahead of the December 29, 2024 deadline imposed by SECURE 2.0.

Written comments in response to the Notice were due to the DOL by June 17, 2024.

View a copy of the Notice.

Regulatory (cont.)

Automatic Portability Transaction Regulations

On January 29, 2024, DOL published in the Federal Register a notice of proposed rulemaking that would implement the statutory PTE under Section 4975 of the Code, as added by SECURE 2.0, which provides for the receipt of fees and compensation by an automatic portability provider for services provided in connection with an automatic portability transaction. The proposed rule would incorporate SECURE 2.0's statutory conditions for relief into the PTE, while adding thereto additional conditions that the DOL believes are necessary to grant exemptive relief.

Comments on the proposal were due to DOL by March 29, 2024.

View a copy of the proposed rule.

Retirement Security Rule: Definition of an Investment Advice Fiduciary

On April 25, 2024, the DOL published in the Federal Register its final fiduciary rule regulatory package, which revises the definition of an investment advice fiduciary. Under the final rule, a person would be an investment advice fiduciary under ERISA:

- If the investment advice/recommendation is made to a retirement investor (a plan, plan fiduciary, plan participant or beneficiary, IRA, IRA owner or beneficiary, or IRA fiduciary);
- The advice/recommendation is provided "for a fee or other compensation, direct or indirect" (defined in the proposal);
- The person makes the recommendation in one of the following contexts:
  - The person either directly or indirectly has discretionary authority or control, whether or not per an agreement, arrangement or understanding, with respect to purchasing/selling securities or other investment property for the retirement investor;
  - The person either directly or indirectly makes investment recommendations on a regular basis as a part of his/her business and the recommendation is provided under circumstances indicating it is based on the particular needs/individual circumstances of the retirement investor and may be relied upon as a basis for investment decisions that are in the retirement investor's best interest or;
  - The person making the recommendation represents/acknowledges that they are acting as a fiduciary when making investment recommendations.

View the Final Rule.

Litigation Response

There have been several challenges in federal district court to the DOL's final rule defining an investment advice fiduciary as well as the amendments to certain existing PTEs. The location and status of the litigation appears below:

- On July 25, 2024, in the matter of *FACC et a. v. Department of Labor* (Case No. 6:24-cv-163-JDK), the U.S. District Court for the Eastern District of Texas stayed the effective date (September 23, 2024) of the DOL's new definition of fiduciary investment, as well as the amendments to several PTEs until further order of the Court.
- On July 26, 2024, in the matter of *American Council of Life Insurers v. Department of Labor* (Civil Action No. 4:24-cv-00482-O), the U.S. District Court for the Northern District of Texas stayed the effective date of the DOL's new definition of fiduciary investment, as well as amendments to PTE 2020-02, until further order of the Court.
- This means the final fiduciary rule regulatory package will no longer go into effect while the litigation progresses.
- On September 20, 2024, DOL filed notices in both of the proceedings referenced above indicating it would appeal the stays. On November 1, 2024, the parties to the litigation in both cases jointly moved to consolidate the appeals in the 5th Circuit Court of Appeals, which was granted on November 4, 2024. The parties also moved the court to extend the time for filing briefs in the matter to December 20, 2024 for the DOL, and to February 14, 2025 for the plaintiffs. The 5th Circuit granted the motion with regard to DOL's filing date, but denied the plaintiff's requested filing date as "premature." The DOL filed its brief defending the fiduciary rule regulatory package with the 5th Circuit Court of Appeals on December 20. On December 31, the 5th Circuit granted the plaintiff's request to extend the due date of their brief to February 14 (previously set for January 20).

Regulatory (cont.)

Amendment to Various Prohibited Transaction Exemptions

On April 25, 2024, and in conjunction with the publication of the new regulatory definition of an investment advice fiduciary (see above), the DOL published in the Federal Register amendments to various class exemptions that work in conjunction with ERISA's fiduciary provisions.

These affected class exemptions are as follows:

Amendment to Class Exemption PTE 2020-02

According to DOL, the amendment to PTE 2020-02 would seek to build upon the existing conditions included therein, by:

- Providing additional disclosures to ensure that retirement investors have sufficient information to make informed decisions about the costs of the investment advice transaction and services of the investment advice fiduciary and any material conflicts of interest;
- Requiring compliance with the Impartial Conduct Standards;
- Establishing, maintaining and enforcing policies and procedures to ensure compliance with the Impartial Conducts Standards;
- Requiring financial institutions to report any non-exempt prohibited transactions in connection with fiduciary investment advice (via IRS form 5330) and make corresponding corrections thereto; and
- Adding the failure to report and correct PTEs to the list of behaviors that could make a financial institution ineligible to rely on the exemption (for 10 years).

The Amendment was set to go into effect on September 23, 2024, and is applicable to transactions pursuant to investment advice provided on or thereafter. However, the challenges to the DOL's fiduciary rule regulatory package have stayed the effective date for the amendments to PTE 2020-02 until the ongoing litigation is resolved. For transactions occurring prior to such time, the prior version of PTE 2020-02 will remain available for parties currently relying on the exemption. The Amendment provides a one-year phase-in period beginning on the effective date, during which Financial Institutions and Investment Professionals may receive reasonable compensation during the phase-in period if in compliance with the Impartial Conduct Standards and in acknowledgment of fiduciary status.

View the Amendment to PTE 2020-02.

Litigation Response

See Matter of American Council of Life Insurers v. Department of Labor–noted herein.

Amendment to Prohibited Transaction Exemption 84-24

According to the DOL, the amendment to PTE 84-24 will limit the universe of investment advice fiduciaries eligible for exemptive relief thereunder to only those entities or persons defined as Independent Producers (persons/entities licensed to sell, solicit or negotiate insurance contracts of multiple unaffiliated insurance companies) and who are not insurance company employees or statutory employees under Section 3121 of the Code selling only non-securities annuities or other insurance products (not regulated by the SEC) to Retirement Investors.

To rely upon PTE 84-24, Independent Producers would have to sell annuities of two or more unrelated insurers. Such relief would be provided only for the fully disclosed eligible forms of compensation, defined as "Insurance Sales Commissions," received in connection with recommendations for non-security annuity or other insurance products.

Independent Producers that sell or recommend investment products other than non-security annuity contracts or other insurance products not regulated by the SEC (e.g., mutual funds, stocks, bonds and CDs) could not rely upon PTE 84-24 but rather must rely on PTE 2020-02 or another available exemption when receiving fees or other compensation connected with investment recommendations related to those products.

The Amendment was set to go into effect on September 23, 2024, and is applicable to transactions pursuant to investment advice provided on or after the effective date. However, the challenges to the DOL's fiduciary rule regulatory package have stayed the effective date for the amendments to PTE 84-24 until the ongoing litigation is resolved. For transactions pursuant to investment advice provided before such time, the prior version of PTE 84–24 will remain available for insurance agents and insurance companies that currently rely on the exemption. The Amendment provides a one-year phase-in period beginning on the effective date, during which an Independent Producer may receive certain

Regulatory (cont.)

compensation if in compliance with the Impartial Conduct Standards condition in Section VII(a) and the fiduciary acknowledgment condition under Section VII(b)(1).

View the Amendment to PTE 84-24.

Litigation Response

See matter of FACC et al v. Department of Labor–noted herein.

Amendments to Prohibited Transaction Exemptions 75-1, 77-4, 80-83, 83-1 and 86-128

According to the DOL, the amendments to these existing PTEs eliminate the ability of investment advice fiduciaries to obtain exemptive relief with respect to the covered transactions in each exemption (as well as make other administrative changes thereto). Instead, and to ensure a universal standard of care for the provision of investment advice, exemptive relief for investment advice fiduciaries with respect to such transactions would be provided going forward under one exemption–PTE 2020-02 (as amended).

View the Mass Amendment.

Request for Information–SECURE 2.0 Reporting and Disclosure

On August 11, 2023, DOL published in the Federal Register a Request for Information ("RFI") to solicit public feedback to develop a public record for provisions of SECURE 2.0 that impact the reporting and disclosure framework of ERISA. Among the broad issue areas in which DOL is seeking comments include specific questions focused on those provisions of SECURE 2.0 set forth below:

- Section 127–Emergency Savings Accounts Linked to Individual Account Plans.
- Section 318–Performance Benchmarks for Asset Allocation Funds.
- Section 320–Eliminating Unnecessary Plan Requirements Related to Unenrolled Participants.
- Section 334–Pooled Employer Plans.
- Section 338–Requirement to Provide Paper Statements in Certain Cases.
- Section 340–Defined Contribution Plan Fee Disclosure Improvements.
- Section 341–Consolidation of Defined Contribution Plan Notices.
- Section 342–Information Needed for Financial Options Risk Mitigation.
- Section 343–Defined Benefit Annual Funding Notices.

Notably, the RFI excludes the following provisions of SECURE 2.0 that also affect the reporting and disclosure framework of ERISA:

- Section 319–Review and Report to Congress Relating to Reporting/ Disclosure Requirements.
- Section 345–Annual Audits for Group of Plans.
- Section 305–Expansion of Employee Plans Compliance Resolution System (EPCRS).

Comments to the RFI were due to the DOL on October 10, 2023.

View a copy of the Request for Information.

RFI on Possible Agency Actions to Protect Life Savings and Pensions from Threats of Climate-Related Financial Risk

On February 14, 2022, the DOL published in the Federal Register an RFI to seek public input on possible actions the DOL can take under ERISA and the Federal Employees' Retirement System Act of 1986 (FERSA) to "protect the life savings and pension of U.S. workers and families from the threats of climate-related financial risk." The RFI was published to further the goals outlined in Executive Order 14030 on Climate-Related Financial Risk, signed by President Biden on May 20, 2021, and in the Report, released by the Biden Administration on October 15, 2021, entitled "A Roadmap to Build a Climate-Resilient Economy" ("Roadmap").

Comments in response to the RFI were due to DOL by May 16, 2022.

View a copy of the RFI.

View a copy of the Executive Order and the subsequent "Roadmap."

DEPARTMENT OF TREASURY

On October 3, 2024, the Treasury Department released the 2024-2025 Priority Guidance Plan, which contains 231 guidance projects that are priorities for the agency during the 12-month period from July 1, 2024, through June 20, 2025. Included in the Guidance Plan are retirement and/or other related benefit priorities, some of which are addressed elsewhere in this Update, and include the following (a sampling):

Regulatory (cont.)

- Regulations under Section 72(t) relating to the 10% additional tax on early distributions.
- Regulations relating to the timing of the use or allocation of forfeitures in qualified retirement plans (see below).
- Updating IRA regulations under Sections 219, 408, 408A and 4973 for statutory changes and additional issues (see below).
- Final Regulations relating to the SECURE Act and SECURE 2.0 modifications to 401(a)(9) and other issues under 401(a)(9) (see below).[13]
- Regulations updating electronic delivery rules (see below).
- Guidance on student loan payments and qualified retirement plans and 403(b) plans.
- Regulations relating to the SECURE Act and SECURE 2.0 modifications to certain rules governing 401(k) plans (see below).
- Guidance on missing participants, including guidance on uncashed checks.
- Guidance on contributions to and benefits from paid family and medical leave programs.
- Guidance on SECURE 2.0 changes relating to 529 college savings plans.

View the 2024-2025 Guidance Plan.

Beyond the regulatory guidance plan, and inclusive of several items contained therein, Treasury/IRS have published the following guidance and/or proposed rules, many of which implement provisions of both SECURE 2.0 and the earlier enacted SECURE Act:

Guidance Under Sections 414(aa) and 402(c)(12) of the Code With Respect to Inadvertent Benefit Overpayments

On November 4, 2024, the IRS Released Notice 2024-77, providing guidance, in the form of questions and answers, on sections 414(aa) and 402(c)(12) of the Code. Section 414(aa) addresses the requirements of sections 401(a) and 403 with respect to inadvertent benefit overpayments; while section 402(c)(12) addresses the treatment of certain inadvertent benefit overpayments as eligible rollover distributions. The notice is intended to assist taxpayers by providing interim guidance on the impact of these two sections on the EPCRS.

Comments on the guidance provided in the notice, and any other aspects of sections 414(aa) and 402(c)(12), were due to Treasury/IRS by December 16, 2024.

View a copy of the Notice.

Guidance Under Section 110 of SECURE 2.0 With Respect to Matching Contributions Made on Account of Qualified Student Loan Payments

On August 19, 2024, the IRS published Notice 2024-63, to provide guidance, in the form of questions and answers, regarding section 110 of SECURE 2.0, which allows employers to make matching contributions on account of employees' qualified student loan payments under 401(k) plans, 403(b) plans, SIMPLE IRA plans, and governmental 457(b) plans.

The Notice applies for plan years beginning after December 31, 2024.

Comments on Notice 2024-63 were due to the IRS by October 18, 2024.

View a copy of the Guidance.

IRS Notice 2024-22—Guidance on Anti-Abuse Rules Under Section 127 of the SECURE 2.0 Act of 2022–Initial Guidance

On January 12, 2024, the IRS released Notice 2024-22, providing initial guidance to employers setting up "pension-linked emergency savings accounts" ("PLESAs") for their employees. PLESAs were authorized by SECURE 2.0 as "short-term savings accounts established and maintained in connection with a defined contribution plan–and are treated as a type of designated Roth account."

Should an employer offer a PLESA as a part of a defined contribution plan, the plan may either offer to enroll eligible employees into the PLESA or automatically enroll such eligible participants via an automatic contribution arrangement.

A defined contribution plan that includes a PLESA must separately account for contributions to the PLESA (and any earnings thereon); maintain separate recordkeeping with respect to each PLESA; and allow withdrawals from the PLESA, in whole or in part, at least once per month. An employer that makes matching contributions to a plan that includes a PLESA option is

Regulatory (cont.)

generally required to make matching contributions to an employee's PLESA contributions at the same rate as with the plan. Such matching contributions would be deposited into the participant's plan account (not into the PLESA). The IRS guidance also highlights reasonable measures employers are permitted to take to discourage potential abuses of the PLESA matching contribution rules.

View a copy of Notice 2024-22.

Separately, on January 17, 2024, DOL issued a series of Frequently Asked Questions ("FAQs") to provide "general compliance information" under ERISA pertaining to PLESAs. The FAQs seek to address questions pertaining to: eligibility and participation in a plan's PLESA; contribution requirements for PLESAs; distributions and withdrawals from PLESAs; and administrative and investment requirements for PLESAs. DOL anticipates releasing additional guidance in the coming months.

View a copy of the FAQs.

IRS/DOL/PGBC—Joint RFI SECURE 2.0 Section 319 Effectiveness of Reporting and Disclosure Requirements

On January 23, 2024, the IRS, DOL and PBGC jointly published in the Federal Register a RFI to develop a public record to assist the agencies in addressing the requirement, outlined in section 319 of SECURE 2.0, that they review existing reporting and disclosure requirements for certain retirement plans under ERISA and the Code to assess their effectiveness, and thereafter to make recommendations to Congress regarding such requirements.

The RFI seeks public input via a series of questions regarding the effectiveness of required notices and disclosures to plan participants; and, separately, questions regarding the effectiveness of plan reporting requirements under the Code and ERISA.

Per section 319, the agencies must report their findings and recommendations to Congress by December 29, 2025.

Comments on the RFI were due to the agencies by May 22, 2024.

View a copy of the RFI.

IRS–Long-Term, Part-Time Employee Rules for Cash or Deferred Arrangements Under Section 401(k)

On November 27, 2023, the IRS published in the Federal Register a notice of proposed rulemaking to amend the rules applicable to cash or deferred arrangements under Section 401(k) plans to provide guidance regarding long-term, part-time employees. The proposed rules provide guidance on the special eligibility and vesting rules for longer-term part-time employees as originally enacted as a part of the SECURE Act, and as later modified by SECURE 2.0.

Comments were due to IRS by January 26, 2024, and a public hearing on the proposed regulation was held on March 15, 2024.

Note: The proposed regulations would apply to most plan years beginning on/after January 1, 2024; and may be relied upon prior to publication of the rule as final.

View a copy of the proposed rule.

Additional Guidance With Respect to Long-Term, Part-Time Employees, Including Guidance Regarding Application of Section 403(b)(12) to Long-Term, Part-Time Employees Under Section 403(b) Plans

On October 3, 2024, the Treasury Department/IRS released Notice 2024-73 to provide guidance on discrete issues related to the application of the nondiscrimination rules of section 403(b)(12) with respect to long-term, part-time employees in a 403(b) plan.

Comments on the contents of the Notice were due to the IRS by December 20, 2024. In addition, the IRS also stated separately therein that final regulations related to long-term, part-time employees in 401(k) plans will apply no earlier than to play years that begin on or after January 1, 2026.

View a copy of Notice 2024-73.

Request for Comments Regarding Implementation of Saver's Match Contributions

On September 5, 2024, the Treasury Department/IRS released Notice 2024-65, requesting comments on issues related to section 103 of SECURE 2.0 (pertaining to Saver's Match contributions to be paid by Treasury) and section 104 of SECURE 2.0 (pertaining to the requirement for Treasury to increase public awareness of the availability of the Saver's Match, and to provide a report to Congress on such anticipated promotion efforts).

Comments were due to Treasury/IRS by November 4, 2024.

View a copy of Notice 2024-65.

Regulatory (cont.)

IRS–Miscellaneous Changes Under SECURE 2.0

On December 20, 2023, the IRS released Notice 2024-2 to provide guidance, in question-and-answer format, with regard to a number of provisions in SECURE 2.0, including the following:

- Section 101–Expanding automatic enrollment.
- Section 102–Modification of credit for small employer pension plan startup costs.
- Section 112–Military spouse retirement plan eligibility credit for small employers.
- Section 113–Small immediate financial incentives for contributing to a plan.
- Section 117–Contribution limit for SIMPLE Plans.
- Section 326–Exception to additional tax on early distributions from qualified plans for individuals with a terminal illness.
- Section 332–Replacement of SIMPLE retirement accounts with safe harbor 401(k) plans during a year.
- Section 348–Cash balance plans.
- Section 350–Safe harbor for correction of employee elective deferral failures.
- Section 501–Provisions related to plan amendments.
- Section 601–SIMPLE and SEP Roth IRAs.
- Section 604–Optional treatment of employer contributions or nonelective contributions as Roth contributions.

According to the IRS, the Notice is not intended to provide comprehensive guidance as to specific provisions of SECURE 2.0, but rather to assist with the implementation of these provisions as the IRS continues its analysis of changes made under SECURE 2.0, with further guidance (including regulations) possible as appropriate.

Comments on the guidance were due to the IRS by February 20, 2024.

View a copy of the guidance.

IRS – IR 2025-09: Automatic Enrollment Requirements Under Section 414A

On January 14, 2025, the Treasury Department/IRS published in the Federal Register IR 2025-09, setting forth proposed regulations that would, among other things, generally require newly established 401(k) and 403(b) plans to automatically enroll eligible employees starting in the 2025 plan year, absent an exception (e.g., plans established before the December 29, 2022 enactment date for SECURE 2.0). The requirement to include an automatic enrollment feature would exclude:

- SIMPLE 401(k) plans, governmental plans, church plans, and new businesses in existence for less than three years.
- Small businesses with fewer than 10 employees (until such time as they employed greater than 10 employees).
- Plans established before the date of enactment of SECURE 2.0 (December 29, 2022)

Comments on the proposed regulations are due to DOL by March 17, 2025, with a public hearing set for April 8, 2025.

View the Automatic Enrollment Proposal.

IRS – IR 2025-07: Catch-up Contributions Proposed Regulations

On January 13, 2025, the Treasury Department/IRS published in the Federal Register IR 2025-07, setting forth proposed regulations relating to catch-up contributions to certain defined contribution plans. The proposed regulations would amend the regulations under Code section 414(v) to reflect changes to the catch-up contribution requirements for certain eligible participants pursuant to the following provisions of SECURE 2.0:

- Section 109 of SECURE 2.0, which allows additional catch-up contributions to a 401(k), 403(b), governmental 457(b), SARSEP, SIMPLE IRA and SIMPLE 401(k) plans for employees ages 60, 61, 62, or 63;
- Section 117, which increases the contribution limits for SIMPLE IRA and SIMPLE 401(k) plans sponsored by employers with 25 or fewer employees, to 110% of the limits that would otherwise apply to such plans (2024 limits), as adjusted for inflation; and
- Section 603, which provides that plan participants in 401(k), 403(b), and governmental 457(b) plans, with FICA wages in the prior year (from the employer sponsoring the retirement plan) of over $145k (indexed), can make age-based catch-up contributions on a Roth basis only (not on a pre-tax basis)

Comments on the proposed regulations are due to the IRS by March 14, 2025, with a public hearing thereafter set for April 7, 2025.

View the proposed regulation.

Regulatory (cont.)

IRS–Required Minimum Distributions (Final Rule)

On July 19, 2024, the IRS published in the Federal Register final regulations relating to required minimum distributions from 401(a) qualified plans; 403(b) annuity contracts; custodial accounts and retirement income accounts; individual retirement accounts and annuities; and certain eligible deferred compensation plans.

The final rules address the required minimum distribution requirements for 401(a) qualified plans and updated the regulations to reflect amendments to 401(a)(9) via enactment of the SECURE Act and via various sections included as part of SECURE 2.0.

Among the provisions of interest in the final rule are the following:

- Retention of the proposed rule's 10-year distribution requirement for "Required Minimum Distributions" of inherited assets.
- Eliminate RMDs for in-plan "designated Roth accounts" during the life of the employee.
- For annuity contracts, clarifies that the determination of status as an "eligible designated beneficiary" occurs as of the annuity starting date; not the date of the employee's death.
- For qualified longevity annuity contracts (QLACs)–eliminate the percentage-based limitation on premiums; increase the dollar limitation on QLAC premiums; allow for certain free-look provisions; and clarify when a divorce occurring after the QLAC is purchased but before annuity payments begin trigger payout changes.
- Clarifies the ability of plans to maintain different RMD rules for different types of eligible designated beneficiaries.

The effective date for the final rules was September 17, 2024, which were generally applicable for purposes of determining RMDs for calendar years beginning, on or after January 1, 2025.

On December 18, the IRS issued Announcement 2025-02, stating that certain portions of the proposed RMD regulations, once finalized, will apply no later than the 2026 distribution calendar year instead of on January 1, 2025, as originally scheduled. This one-year extension would not apply to all provisions in the proposed regulations nor to any provisions in the final regulations. The IRS added that, for periods before the applicability date of the delayed proposed amendments, "taxpayers must apply a reasonable, good-faith interpretation of the statutory provisions underlying the amendments."

View the Final Rule.

Required Minimum Distributions (Notice of Proposed Rulemaking)

On July 19, 2024, the IRS published in the Federal Register a Notice of Proposed Rulemaking to set forth proposed regulations to provide guidance relating to required minimum distributions from qualified plans; 403(b) annuity contracts; custodial accounts and retirement income accounts; individual requirement accounts and annuities; and eligible deferred compensation plans under section 457.

The proposed regulations herein would address various provisions that were reserved in the 2024 final regulations (see above), including the following:

- Determination of Applicable Age for Employees born in 1959.
- Purchase of an annuity contract with a portion of the employee's individual account–rules of operation for aggregation option.
- Distributions from Designated Roth Accounts.
- Corrective distributions giving rise to a reduction or waiver of the section 4974 excise tax.
- Spousal election under Section 327 of SECURE 2.0 (i.e., distribution options for a surviving spouse when a participant in the plan dies before the required beginning date).
- Divorce after purchase of a qualifying longevity annuity contract.
- Outright distribution to a trust beneficiary.

Comments on the proposed rule were due to the IRS by September 17, 2024.

View the proposed rule.

Use of Forfeitures in Qualified Retirement Plans

On February 27, 2023, the IRS published in the Federal Register proposed regulations to provide rules relating to the use of forfeitures in qualified retirement plans, including a deadline for the use of forfeitures in defined contribution plans (no later than 12 months after the close of the plan year in which the forfeiture was incurred). The proposed regulation also clarifies that forfeitures arising in any defined contribution plan may be used to (i) pay plan administrative expenses, (ii) reduce employer contributions under the plan (including the restoration of

Regulatory (cont.)

inadvertent benefit overpayments and conditionally forfeited participant accounts that may otherwise require employer contributions), or (iii) increase benefits in other participants' accounts. If finalized, the proposed regulations would apply for plan years beginning after January 1, 2024. However, taxpayers and plan administrators may rely on the proposed regulations prior to the applicability date.

Comments on the proposed rules were due to the IRS by May 30, 2023.

View a copy of the proposed rule.

IRS–Multiple Employer Plans

On March 28, 2022, the Department of the Treasury/IRS published in the Federal Register proposed regulations to provide relief from the application of the "unified plan rule" for Multiple Employer Plans in the event of a failure by one or more employers participating in the plan to satisfy the Code requirements applicable to such plans. The publication also withdraws an earlier proposed regulation published on July 3, 2019.

Comments on the proposed rule were due to the IRS by May 27, 2022.

View a copy of the proposed rule.

Treatment of Certain Nonfungible Tokens as Collectibles

On April 10, 2023, the Department of the Treasury/IRS released Notice 2023-27, announcing their intention to issue guidance related to the treatment of certain nonfungible tokens (NFTs) as collectibles under section 408(m) of the Code. Section 408(m) provides that the acquisition by an IRA of a collectible is treated as a distribution from the IRA equal to the cost to the IRA of the collectible. The Notice provides a description of the criteria that the IRS will utilize to make its determination whether an NFT constitutes a collectible.

The IRS sought comments generally on the treatment of NFTs as a section 408(m) collectible and factors that should be considered when making such a determination.

Comments on the Notice were due to the IRS by June 19, 2023.

View a copy of Notice 2023-27.

IRS–Use of an Electronic Medium to Make Participant Elections and Spousal Consents

On December 30, 2022, the IRS published in the Federal Register a proposed rule relating to the use of an electronic medium for participant elections and spousal consents–providing an alternative to in-person witnessing of spousal consents required to be witnessed by a notary public or plan representative. The proposed rule would clarify that certain special rules for the use of an electronic medium for participant elections also apply to spousal consents.

Comments on the proposed rule were due to the IRS by March 30, 2023, and a public hearing on the proposal was held on April 11, 2023.

Prior to the applicability date of the final rules, taxpayers may rely on the rules as they are set forth in the rulemaking notice.

View a copy of the proposed rule.

Certain New Exceptions to the 10% Additional Tax on Early Distributions Under Code Section 72(t)

On June 7, 2024, the IRS published Notice 2024-55 to provide guidance, primarily in question-and-answer format, on the application of the exception to the 10% additional tax under Code Section 72(t) for emergency personal expense distributions and domestic abuse victim distributions. These new exceptions were added to Section 72(t) of the Code via enactment of SECURE 2.0, effective as of January 1, 2024.

Comments on the published guidance were due to the IRS by October 7, 2024.

View a Copy of the Notice.

SECURITIES AND EXCHANGE COMMISSION

Conflicts of Interest Associated with the Use of Predictive Data Analytics by Broker-Dealers and Investment Advisers

On August 9, 2023, the SEC published in the Federal Register proposed rules under the Securities and Exchange Act of 1934 and the Investment Advisers Act of 1940 to "eliminate, or neutralize the effect of, certain conflicts of interest associated with broker-dealers' or investment advisers' interactions with investors through…the use of technologies that optimize for, predict, guide, forecast, or direct investment-related behaviors or outcomes." A recordkeeping requirement is also being proposed as a part of these

Regulatory (cont.)

conflicts' rules. The proposed rules seek to address the accelerating adoption and use by broker-dealers and investment advisers of "predictive data analytics" and similar technology to the extent that such use places a firm's interest ahead of an investor's.

Comments on the proposed rule were due to the SEC by October 10, 2023.

View a copy of the proposed rule.

Miscellaneous

Simply for reference, below we provide updated inflation-adjusted amounts, applicable for the calendar year 2025, that pertain to social security benefits, retirement benefits, health savings accounts and the estate and gift tax exclusion amounts:

Social Security Benefits for 2025:

- Social Security and Supplemental Security Income beneficiaries:
  - 2.5% Cost of Living Adjustment for 2025.
- Taxable Wage Base:
  - $176,100.
- Retirement Earnings Test Exempt Amounts:
  - Under full retirement age: $23,400/year or $1,950 per month.
    - $1 in benefits withheld for every $2 in earnings above the limit.
  - The year an individual reaches full retirement age: $62,160/year or $5,180 per month.
    - Applies only to earnings for months prior to attaining full retirement age.
    - $1 in benefits withheld for every $3 in earnings above the limit.
  - There is no earnings limit beginning the month an individual reaches full retirement age.

View a copy of the 2025 Social Security Fact Sheet.

Income Taxes and Social Security Benefits:

- Individual filers with combined income between $25,00 and 34,000–may pay income tax on up to 50% of benefits.
  - If more than $34,000–up to 85%.
- Joint filers with combined income between $32,000 and $44,000–may pay income tax on up to 50% of benefits.
  - More than $44,000–up to 85%.
- *Combined income = adjusted gross income plus nontaxable interest plus ½ of social security benefits.*

View a copy of the Social Security Income Tax Fact Sheet.

Retirement Plan Limits

For quick reference, selected 2025 plan limits are as follows:

- Elective deferral (contribution limit) for 401(k), 403(b), 457 plans: **$23,500.**
- Catch-up contribution limit for 401(k), 403(b), 457 plans: **$7,500.**
- Annual contribution to traditional and Roth IRAs: **$7,000.**
- Catch-up contribution limit for traditional and ROTH IRAs: **$1,000 (is not indexed).**
- SIMPLE employee deferrals: **$16,500.**
- SIMPLE catch-up limit: **$3,500.**
- Simplified Employee Pensions (SEPs) minimum compensation threshold: **$750.**
- SEP maximum compensation limit: **$350,000.**
- Annual contribution limit: **$70,000.**
- Annual total defined contribution plan contribution limit: **$70,000,** (with individuals age 50 and older further allowed an additional **$7,500** in catch-up contributions).
- Catch-up contribution limit for individuals age 60, 61, 62 and 63 participating in 401(k), 403(b) and governmental 457 plans: **$11,250.**
- Annual Compensation limit for calculating contributions (401(k), 403(b), profit-sharing plans, etc: **$350,000.**
- Limit on annual benefit provided through a defined benefit plan: **$280,000.**
- Employee Stock Ownership Plan ("ESOP") maximum account balance: **$1,415,000.**

View a copy of the Cost of Living Adjustments for 2025.

Health Savings Accounts (Inflation Adjusted Amounts for 2024 and 2025)

For employees to be eligible to participate in a Health Savings Account, they must be enrolled in a High Deductible Health Plan ("HDHP"). For 2025, the limits for both HDHPs and HSAs are provided below:

- HSA contribution limit—self only:
  - **2025: $4,300**
- HSA contribution limit—family:
  - **2025: $8,550**
- HSA catch-up contribution limit (age 55+):
  - **2025: $1,000**

Miscellaneous (cont.)

- The minimum HDHP deductible—self only:
  - **2025: $1,650**
- The minimum HDHP deductible—family:
  - **2025: $3,300**
- Annual out-of-pocket expenses are capped at—self only:
  - **2025: $8,300**
- Annual out-of-pocket expenses are capped at—family:
  - **2025: $16,600.**

View the HSA inflation-adjusted amounts for 2025.

Estate and Gift Tax Exclusion Amounts

For calendar year 2025, the estate and gift tax exemption amounts are:

- **$13,990,000** per individual.
- **$27,980,000** per couple.

The per recipient gift amounts (tax-free and without counting towards the taxpayer's lifetime gift/estate tax exemption amount) are:

- **$19,000** per recipient.
- **$38,000** per recipient for married couples.

View the tax inflation adjustments for 2025.

1 For the 119th Congress, 10 new Senators were sworn into office (9 on January 3 and 1 on January 14th,) and 63 new House Members were sworn into office. The Senate number doesn't count the two seats filled in late January to replace Sen. Vance (R-OH) (who became Vice President) and Sen. Rubio (R-FL)(who was confirmed as Secretary of State on January 20).

2 Rep. Elise Stefanik (R-NY) was nominated to be Ambassador to the United Nations, and the timing for the special election to fill her seat will be established upon her resignation, if confirmed.

3 View Secretary Yellen's letter.

4 The current CR is included as Division A, Further Continuing Appropriations Act, 2025, of H.R. 10545, the American Relief Plan, that was signed into law on December 21, 2024 (P.L. 118-158).

5 For a comprehensive look at the TCJA's expiring provisions, see the Congressional Research Service Publication "Reference Table: Expiring Provisions in the 'Tax Cuts and Jobs Act,'", Nov 13, 2024: View the CRS Report.

6 In fact, as of late January, only a single retirement bill had been introduced in the 119th Congress. On January 9, 2025, Rep. Bonnie Watson Coleman (D-NJ) introduced H.R. 329, legislation to expand the availability of penalty-free distributions from retirement plans to unemployed individuals.

7 Several business-focused provisions were changed via enactment of the TCJA that may also be under consideration in the coming debate. These include provisions pertaining to bonus depreciation, the deductibility of net interest expense, and the amortization of Research & Development expenses.

8 The President also campaigned on making changes to the tax laws affecting business taxpayers, including for example a 15% corporate rate for domestic manufacturing.

9 Tax Foundation estimates for TCJA and selected Trump campaign proposals.

10 View the Executive Order.

11 Beyond the Executive Order that pertains primarily to rules under consideration today, Congress also has available a legislative process for disallowing certain rules that were finalized in 2024. Under the Congressional Review Act ("CRA"), rules finalized in the waning days of an outgoing Administration (those finalized within 60 session days of adjournment (Senate) or 60 legislative days of adjournment (House), are allowed to be challenged, and possibly invalidated, by Congress. A look at retirement-focused rules finalized in 2024 indicates that the CRA lookback provision would be inapplicable as they were finalized outside of the 60 day window.

12 The SECURE 2.0 Act of 2022 ("SECURE 2.0").