

Frequently Asked Questions for the SECURE Act of 2019, BAM Act of 2019 and CARES Act of 2020 Amendment Individual(k) Plans

Why am I receiving this amendment to my plan?

As you know, the law requires tax-qualified and tax-favored retirement plans to be operated based upon written documents that contain various required provisions. As a result, the Internal Revenue Service (IRS) requires employers to amend their plan documents to reflect any regulatory or legislative changes that impact the provisions of their plan document. Adopting these amendments in a timely manner is necessary to avoid a document compliance failure, jeopardizing the tax-qualified or tax-favored status of your plan.

The following legislative acts contain provisions that impact the terms of your plan document and your plan document must be amended to remain current with these changes.

- The Setting Every Community Up for Retirement Enhancement (SECURE) Act of 2019
- The Bipartisan American Miners (BAM) Act of 2019
- The Coronavirus Aid, Relief, and Economic Security (CARES) Act of 2020

Why aren't these provisions included in my plan's regular adoption agreement?

Legislation, regulations and other guidance that becomes effective after the Internal Revenue Service (IRS) determines the parameters of its plan document program for a particular restatement cycle is not permitted to be included in the plan document and must be added to the plan document using a separate amendment until a future restatement cycle.

What do I need to do?

Your document sponsor has adopted an amendment on your behalf that will update the provisions of your plan document to comply with the SECURE, BAM, and CARES Acts requirements. Place a copy of the amendment in your plan document file. The "SECURE/CARES/BAM Document Amendment Summary" provides you with a summary of the provisions that are set forth in the amendment for your reference.

What if, upon review of the amendment and the Amendment Summary, I discover I operated my plan differently than the specified Coronavirus Related Loan (CRL) provisions?

The amendment provides that if your plan's adoption agreement currently allows for loans, that a "qualified individual", as defined in the amendment, will be permitted to request a loan from the plan based upon the enhanced loan maximum amounts allowed under the CARES Act. However, if your plan permits participant loans but did not allow a qualified individual to request a loan based upon the enhanced loan maximum amounts allowed under the CARES Act, or if your plan does not permit loans but did allow a qualified individual to request a loan using the enhanced loan maximum amounts allowed under the CARES Act, an adoption agreement amendment will need to be signed to reflect how your plan was actually operated. If your plan fits either scenario, please contact our VIP Services Team.