



## Long-Term Part-Time Employees After Secure 2.0

### **WHAT DOES THE LTPT RULE CHANGE?**

Under the **Setting Every Community Up for Retirement Enhancement Act of 2019 (SECURE Act)**, the door was opened to allow Long-Term, Part-Time (LTPT) employees to save for retirement. Prior to the SECURE Act, qualified retirement plans could exclude part-time employees, but ONLY to the extent that they did not meet:

- a) the plan's defined eligibility requirements OR
- b) the IRS' statutory eligibility requirements (i.e., 1 Year of Service with at least 1,000 hours).

If a part-time employee met the statutory requirements, they were no longer permitted to be excluded from participation. The LTPT inclusion further expands on non-full time employees' ability to contribute by lowering the minimum threshold from 1,000 hours to 500 hours (in consecutive years).

### **WHAT IS A LONG-TERM, PART-TIME EMPLOYEE?**

An LTPT Employee is an employee who is credited with AT LEAST 500 hours in 3 CONSECUTIVE years. Continuous employment throughout the year is NOT a requirement. The employee must simply complete 500 hours in the measurement year in total, and it counts. If an employee is credited with LESS than 500 hours in a year BEFORE meeting the 3 consecutive 12-month periods, the clock would reset in determining whether they are considered an LTPT employee.

**SECURE 2.0 UPDATE - The above 3-year rule is reduced to 2-consecutive years for entrants beginning 01/01/2025.**

### **WHEN DOES THIS START?**

All 12-month service periods prior to January 1, 2021 are excluded for the LTPT rules. This effectively means the first possible plan year an employee can become LTPT for a calendar year plan is **January 1, 2024**.

### **DO THE OLD STATUTORY REQUIREMENTS STILL APPLY?**

Yes, if at any time, a part-time employee meets the 1,000-hour (Year of Service) requirement, they must still be made eligible for the plan on the next entry date as was the case in the past. Otherwise, they could become eligible if or when they meet the 3 or 2 consecutive years with 500 hours starting in 2024/2025.

If an employee enters the plan based on the rules BEFORE they would enter under the LTPT requirements, they are NOT an LTPT employee. They are a regular employee subject to the normal rules for contributions, testing, top heavy, etc. The only way an employee is an LTPT employee, is if they are forced to enter BEFORE the normal eligibility rules due to the LTPT rules.

### **WHAT IF MY PLAN ALLOWS PARTICIPATION IMMEDIATELY OR SHORTLY AFTER HIRE?**

If all employees become eligible under your normal plan rules BEFORE they are required to be made eligible under the LTPT rules, you will never have an LTPT employee in your plan. For example, if your plan permits employees to enter the plan as of the 1<sup>st</sup> of the quarter following 90 days of employment – all employees will enter the plan before the LTPT rules would apply. Rehires can sometimes be problematic, so you may want to consult with us on how to handle rehires in the future.

### **WHAT IF MY PLAN EXCLUDES CERTAIN EMPLOYEES?**

If your plan document currently has an excluded class that is NOT based on service, you may continue excluding those employees from the LTPT rules as well, regardless of their credited hours. The IRS proposed regulations released in November 2023 have confirmed this. However, they stressed the importance that no class exclusions can be a proxy for a service requirement. In other words, the exclusion cannot be a disguised service requirement. What does this mean? If



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your plan excludes Interns, and ALL Interns are part time employees, the IRS could deem this to be a disguised service requirement and they should be made eligible under the LTPT rules.

### **WHAT ABOUT EMPLOYEES UNDER AGE 21?**

Interestingly, no employee shall enter the plan as an LTPT employee prior to attaining age 21. This applies even if your plan does not have an Age requirement, or is something less than 21, i.e. 18. This was not initially realized by most in our industry and is important to note. An employee cannot enter the plan as an LTPT employee until after the year in which they turn age 21, and they must complete 500 hours in the year they turn age 21 for them to enter on the next entry date as an LTPT employee.

### **ARE THE LTPT EMPLOYEES REQUIRED TO RECEIVE MATCH AND/OR PROFIT SHARING CONTRIBUTIONS?**

No, LTPT employees are NOT required to receive employer contributions. They are only REQUIRED to be allowed to make 401(k) or Roth contributions (if applicable). You should continue to follow your plan's eligibility requirements for employer contributions.

### **WILL LTPT EMPLOYEES HARM THE PLAN IN ANY WAY?**

No, employees who are eligible solely by the reason of the LTPT rules can be excluded from coverage and non-discrimination testing regardless of whether or not they decide to participate. If their participation DOES help the results, they CAN be included in the testing. One topic for discussion is whether the eligible LTPT employees with a balance will count towards the threshold of becoming a large, audited plan. At this time there is no definitive answer but is something to keep in mind for plans approaching an audit requirement. We will provide further information once it is known.

### **WHAT SHOULD I DO NEXT?**

Keep track of your LTPT employees based on the rules above. They may need to be enrolled in 2024. If an employee who satisfies the LTPT rules is not employed as of their "entry date", but is later rehired, the employee should be made eligible to defer immediately upon their rehire. This is important for seasonal employees who return to work at a certain time of year each year.

### **HAS THE IRS ISSUED GUIDANCE SINCE SECURE ACT OF 2019?**

Yes. Unfortunately, not until November 24, 2023. The IRS issued additional guidance at the very last minute, leaving plan sponsors only about a month to prepare for these new rules that were first introduced nearly 4 years ago.

### **WHAT PERIODS OF TIME DO I MEASURE SERVICE FOR THE LTPT RULES?**

The first period of service that counts for the LTPT rules is the 12-month period that begins on the employee's date of hire (first date of service). The second period of service is typically going to be the 12-month plan year that begins DURING the initial LTPT period above.

**Example 1** – John Smith is 38 years old and is hired on 2/15/21. John's employer has a 401(k) plan that requires a Year of Service to participate (i.e. 1,000 hours in 12 months). The plan year ends each December 31<sup>st</sup>. John's hours for each measurement period are as follows:

Measurement Period	Hours	Commentary
02/15/2021 – 02/14/2022	550	Enters <b>01/01/2024</b> as LTPT, under 3-year rule
01/01/2022 – 12/31/2022	625	
01/01/2023 – 12/31/2023	600	



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**Example 2** - Suppose John's hours each year were as follows:

Measurement Period	Hours	Commentary
02/15/2021 – 02/14/2022	550	John would not enter the plan as an LTPT employee on 01/01/2024 since he has not completed 3- cons. 500 hours each. However, he will enter as an LTPT on 01/01/2025 due to the 2-year rule.
01/01/2022 – 12/31/2022	450	
01/01/2023 – 12/31/2023	600	
01/01/2024 – 12/31/2024	625	

**Examples 3 – 6:** Assume calendar year plan that requires 1,000 hours/12 months to participate. Employee is over age 21 prior to hire:

Measurement Period	Hours	Commentary
06/15/2020 – 06/14/2021	550	Date of Hire = 06/15/2020
01/01/2021 – 12/31/2021	660	
01/01/2022 – 12/31/2022	525	
01/01/2023 – 12/31/2023	550	Enters 01/01/2024 as LTPT
01/01/2024 – 12/31/2024	450	Remains LTPT
01/01/2025 – 12/31/2025	1,000	Regular Participant on 1/1/26; subject to former LTPT for vesting rules*

*\*Note once an employee completes the 3 or 2 year rule of 500 hours, they are an LTPT employee from that point forward. If they later satisfy the plan's normal eligibility requirements, they will be eligible for employer contributions and must be included in all testing. However, they will be considered a former LTPT employee for vesting purposes forever. This means they will only need to complete 500 hours each year for vesting purposes, even if the plan normally requires 1,000 hours.*

Measurement Period	Hours	Commentary
12/15/2023 – 12/14/2024	550	Date of Hire = 12/15/2023
01/01/2024 – 12/31/2024	660	Enters 01/01/2025 as LTPT, under 2-year rule that begins 1/01/2025

Measurement Period	Hours	Commentary
06/15/2021 – 06/14/2022	550	Date of Hire = 06/15/2021
01/01/2022 – 12/31/2022	660	
01/01/2023 – 12/31/2023	450	
01/01/2024 – 12/31/2024	450	Enters 01/01/2025 as LTPT, under 2-year rule that begins 1/01/2025

Measurement Period	Hours	Commentary
06/15/2021 – 06/14/2022	550	Date of Hire = 06/15/2021
01/01/2022 – 12/31/2022	450	Reset after only 1 year of 500 hours
01/01/2023 – 12/31/2023	525	
01/01/2024 – 12/31/2024	450	Reset after only 1 year of 500 hours
01/01/2025 – 12/31/2025	525	
01/01/2026 – 12/31/2026	600	Enters 01/01/2027 as LTPT, under 2-year rule that begins 1/01/2025



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## Example 7 – Employee birth date is 11/15/2005

Measurement Period	Hours	Commentary
06/15/2021 – 06/14/2022	550	Date of Hire = 06/15/2021
01/01/2022 – 12/31/2022	660	
01/01/2023 – 12/31/2023	450	
01/01/2024 – 12/31/2024	450	Does not enter yet, not age 21
01/01/2025 – 12/31/2025	575	Does not enter yet, not age 21
01/01/2026 – 12/31/2026	660	Enters <b>01/01/2027</b> as LTPT, after completing 2-consecutive 500 years AFTER attaining age 21.

## Example 8 – Employee birth date is 11/15/2002

Measurement Period	Hours	Commentary
06/15/2021 – 06/14/2022	550	Date of Hire = 06/15/2021
01/01/2022 – 12/31/2022	660	
01/01/2023 – 12/31/2023	660	Enters <b>01/01/2024</b> as LTPT, after completing 3-years AND attaining age 21

## Example 9 – Plan Year Ends 6/30 instead of 12/31. Assume over age 21.

Measurement Period	Hours	Commentary
06/15/2021 – 06/14/2022	550	Date of Hire = 06/15/2021
07/01/2021 – 06/30/2022	660	
07/01/2022 – 06/30/2023	550	Enters <b>07/01/2023</b> as LTPT, under 3-year rule

It was only recently discovered (after the IRS released proposed regulations in November 2023) that off-calendar plans could have had LTPT entrants in plan years that ended in 2023.