BerryDunn

ELEVATE

Annual Commercial Summit | 2024

Employee Benefits & Credits Update: Adapting to Secure 2.0 and State Mandates

Presenters: Kristin Courtemanche | Bill Enck

BerryDunn

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Presenters

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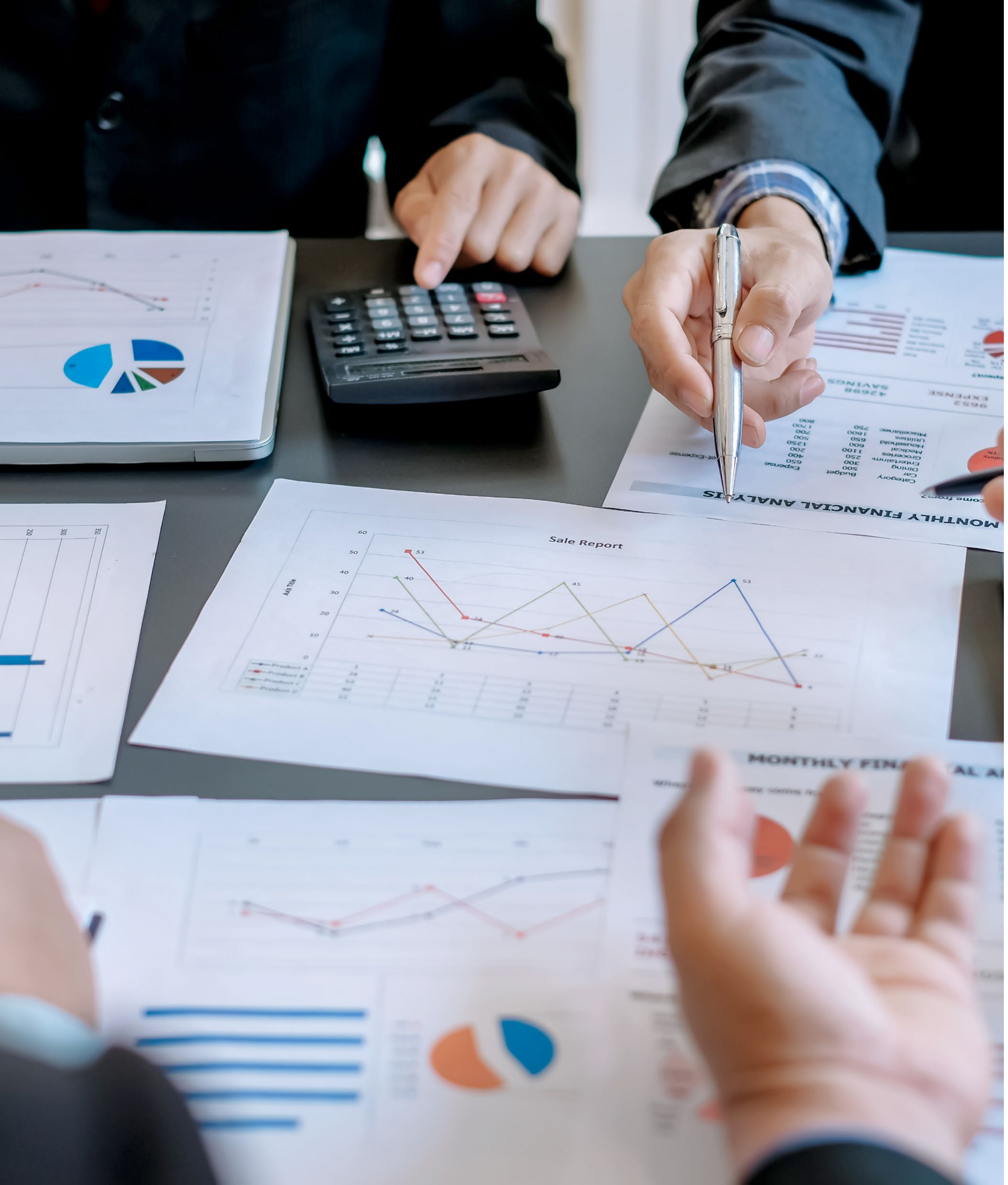
Attention CPE seekers!

To earn full CPE credit for this course, participants must be in attendance for 50 minutes and complete three polls.

Learning objectives

By the end of this presentation, you will have an understanding of:

- Effective dates for certain SECURE 2.0 provisions
- State retirement and paid leave laws
- Employee Retention Credit audit process



Securing a Strong Retirement Act of 2022

- Referred to as SECURE Act 2.0
  - Expands plan coverage and participation
- Makes further changes to retirement plan requirements
- Part of the 2023 Consolidated Appropriations Act passed on December 29, 2022

Securing a Strong Retirement Act of 2022

Other changes to 401(k) and 403(b) Plans – on or after January 1, 2024

Current rule

Employer matching contributions apply to employee salary deferrals to plan

New rule

Student loan repayments to qualify for employer matching contributions

Polling question #1

Securing a Strong Retirement Act of 2022

Other changes to 401(k) and 403(b) Plans – on or after December 29, 2022

Old rule

Employer contributions are pre-tax

New rule

Provide participants the option of receiving employer contributions on a Roth basis

Securing a Strong Retirement Act of 2022

Other provision effective in 2023

- “Rothification” of Employer Contributions
  - Delayed implementation by plan sponsors – were waiting for guidance
  - Election must be made before contributions are made (i.e., prospective)
    - Applies to contributions that are fully vested
  - Election is irrevocable
    - Allow changes at least once each plan year
  - Include in income in the year employer contributions are allocated
    - Not subject to income tax withholding or FICA/FUTA taxes
    - Taxed the same as in-plan Roth conversions (i.e., reported on a Form 1099-R)

Securing a Strong Retirement Act of 2022

Other provision effective in 2023

- Allows incentives for 401(k) and 403(b) elections
  - Previously prohibited
  - No more than $250 (de minimis) financial incentive
  - Examples
    - Gift cards
  - Can only be offered to those without a deferral election in plan at time of offering
    - Can be offered as installments
  - Generally considered taxable wages

Employee salary deferral plans [i.e., 401(k)/403(b)]

402(g) deferral limit

- **Calendar** year limit
- Includes "catch-up" deferrals
- Individual limit
- Can be made pre-tax or after-tax (Roth)

Catch-up deferrals

- Attained age 50 or older
- Includes special 15-year catch-up for 403(b) plans

Securing a Strong Retirement Act of 2022

Changes to 401(k) and 403(b) Plans

Current rule

Age 50 and older catch-up $7,500

New rule

- Contributions would be required to be made on a Roth basis for certain employees (1/1/2026)
- Increases catch-up limit for those aged 60 – 63 to $11,250 (after 12/31/24)

Setting Every Community Up for Retirement Enhancement (SECURE) Act

- Allow long-term part-time (LTPT) employees to participate
  - Effective January 1, 2021
  - Three consecutive years with at least 500 hours per year
  - Employee deferrals only
- Proposed regulations issued in late 2023
  - Attained age 21 by end of the last 12-month period
  - May continue to exclude classes of employees for this rule
  - Same entry dates apply

Securing a Strong Retirement Act of 2022 – Effective for 2025

Changes to long-term part-time employee participation

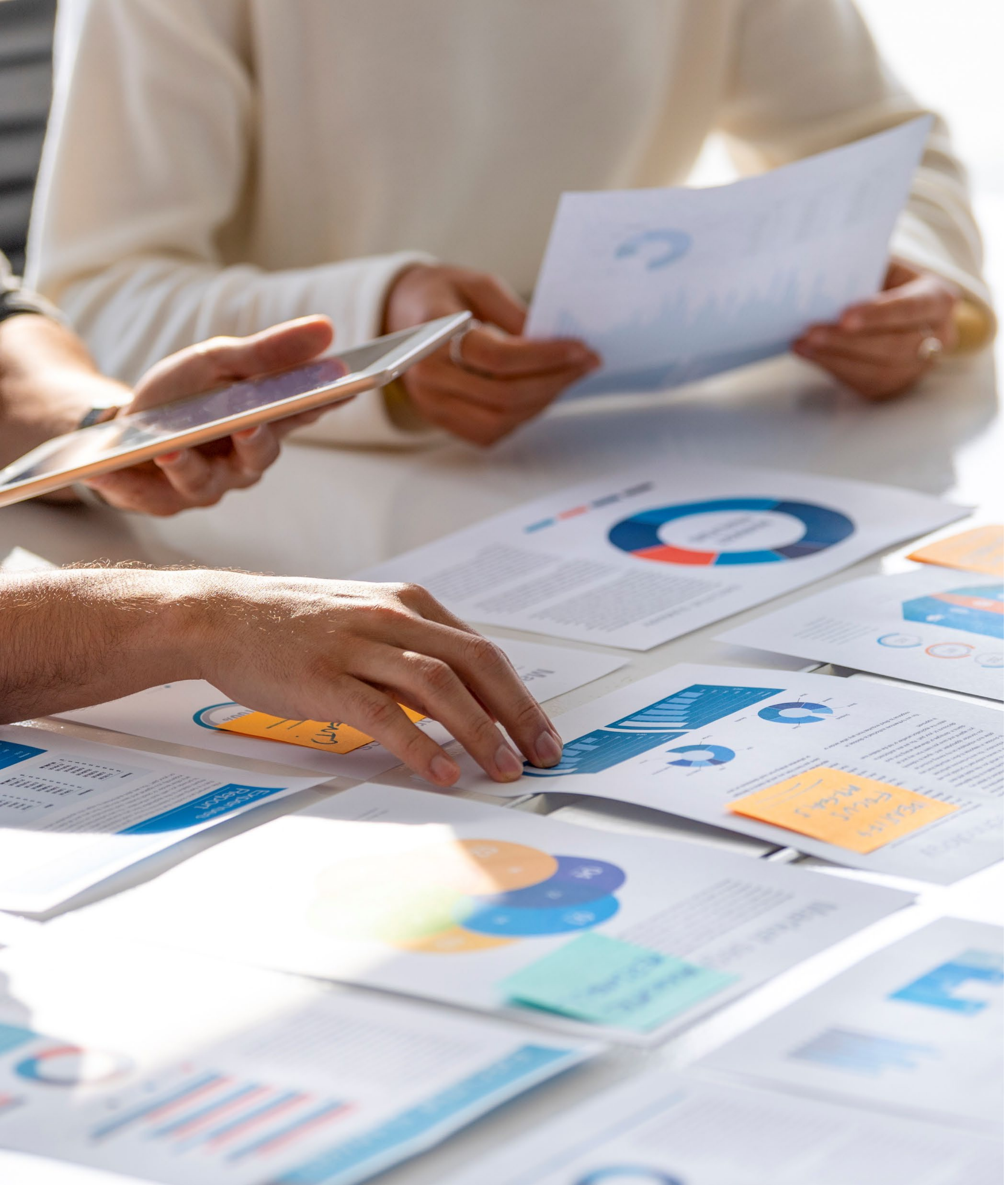
Current rule

Three years/500 hours

Proposed rule

- Two years/500 hours
- Disregards pre-2021 service for eligibility and vesting

Polling question #2



State retirement plan rules

Maine's Small Business Retirement Marketplace Act

- Requires employee contributions to state-run program
  - If employer does not offer a retirement plan
- Payroll deduction to Roth IRA
- All employees aged 18 or older
- 5% automatic enrollment contribution
- Delayed effective date – January 1, 2025

State retirement plan rules

What are some alternatives to enrolling in state plan

- Establish a 401(k) Plan
  - No employer contributions required – but encouraged
  - Tax credits available for start-up costs related to certain new plans
  - Tax credits available for contribution costs for certain new plans
- Establish a SIMPLE IRA
  - Employer contribution required
  - Tax credits available for contributions costs for certain new plans

State retirement plan rules

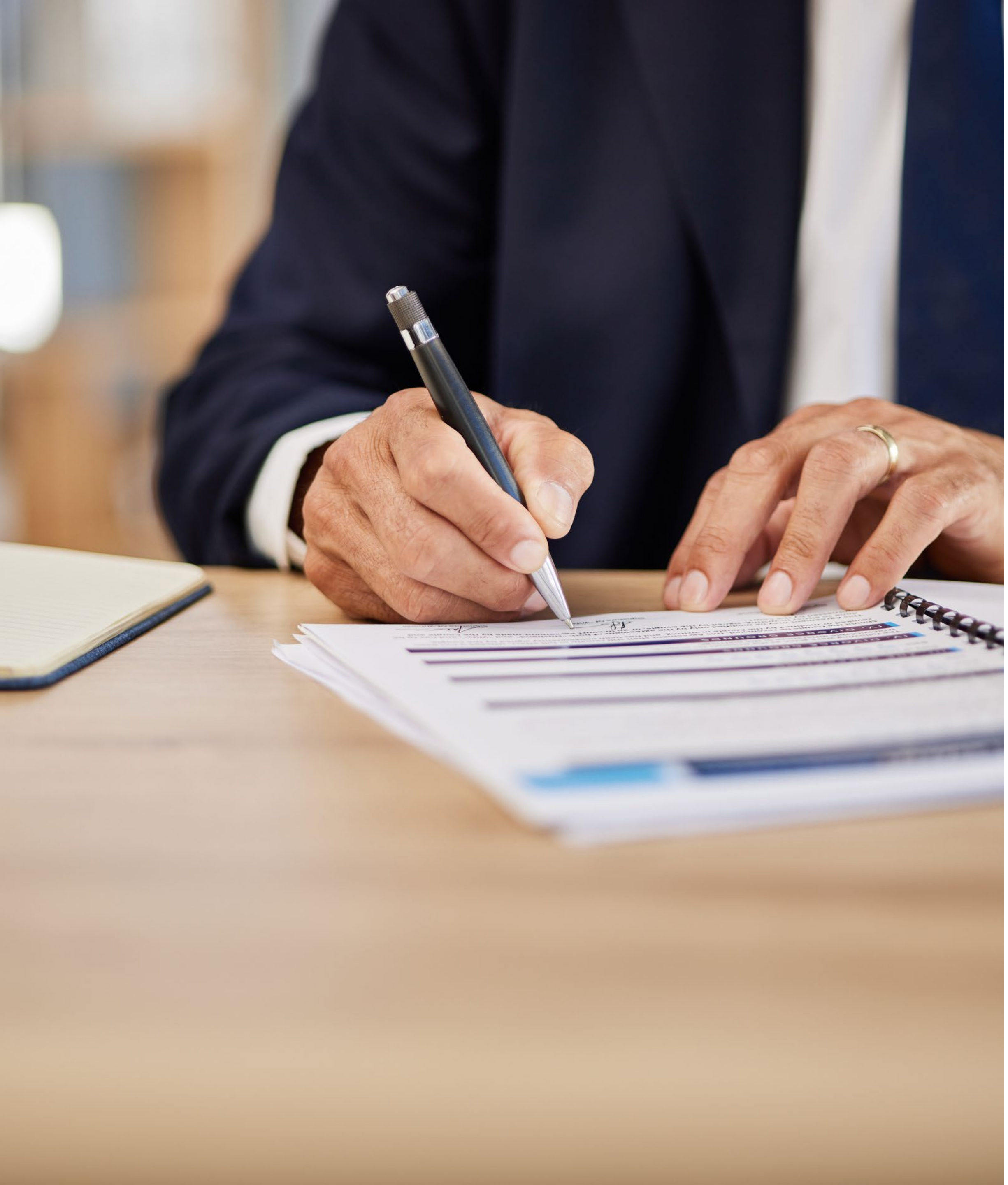
Other states with retirement plan mandates

Mandatory

California
Connecticut
Hawai'i
Maryland
New York
Virginia
Colorado
Delaware
Illinois
New Jersey
Oregon

Voluntary

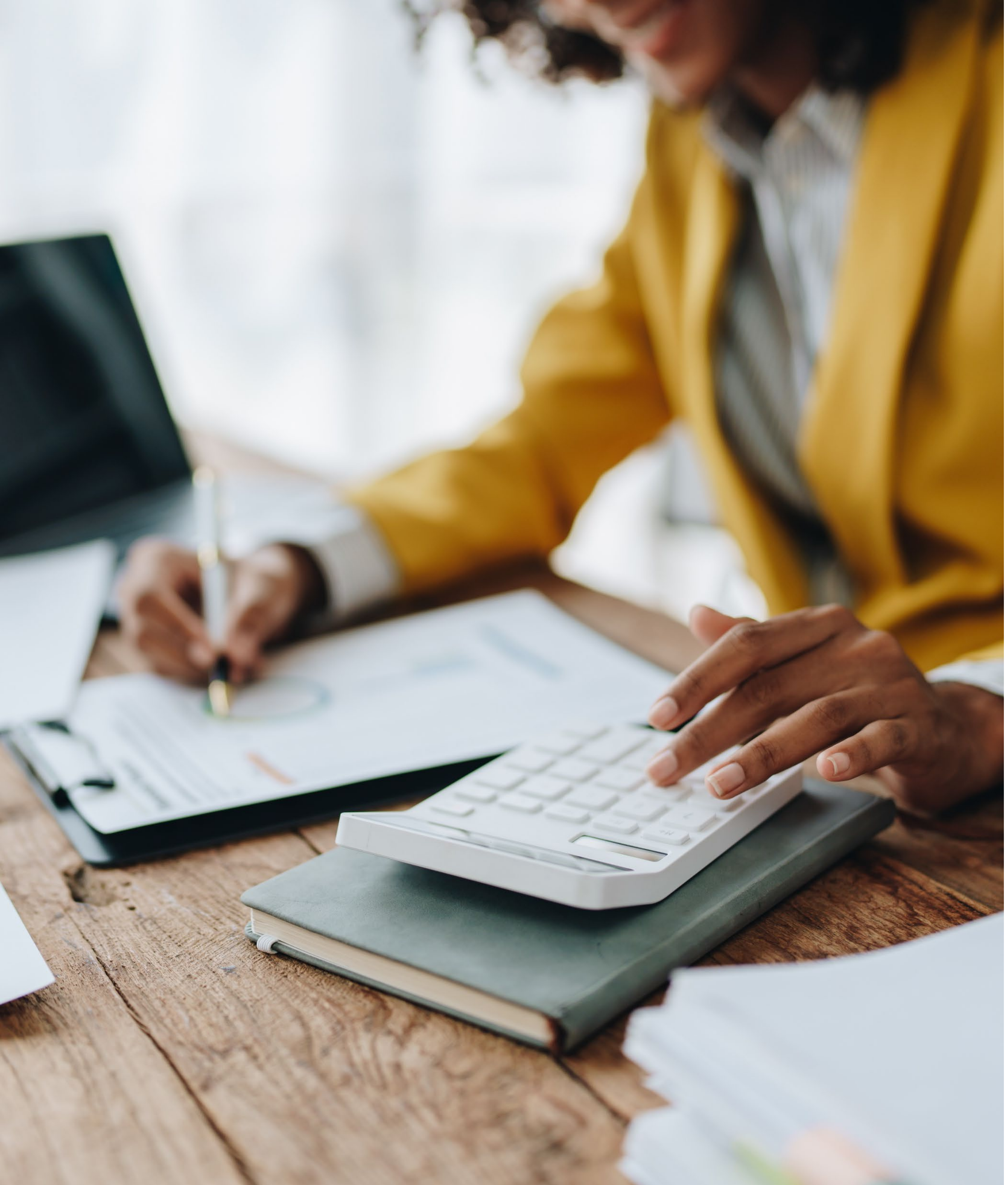
Massachusetts
New Mexico
Vermont
Washington



State paid leave rules

Maine's Paid Family and Medical Leave Law

- Requires contributions to state-run program
  - 1% of Social Security wages
  - Contribution may be split between employer and employee in certain cases
- Private plan exemptions
- Contributions effective – January 1, 2025
- Benefits effective – May 1, 2026



State paid leave rules

What are some open questions regarding state paid leave plans

- Are employee contributions pre-tax or after-tax?
- Are employer contributions taxable to the employee?
- Are benefit payments taxable to the employee?
- Guidance has been requested from the IRS

State paid leave rules

Other states with paid leave mandates

Mandatory

- California
- Connecticut
- Massachusetts
- Maryland
- New York
- Washington
- Colorado
- Delaware
- New Jersey
- Oregon
- Washington, D.C.
- Rhode Island
- Missouri

Voluntary

- New Hampshire
- New Mexico
- Vermont

Next type of benefit:

Employee option for employer contributions

- Private Letter Ruling 202434006
- Employees can allocate employer nonelective contributions among various benefits
  - Retirement Plan Contribution
  - Retiree Health Reimbursement Arrangement
  - Health Savings Account (HSA)
  - Student loan repayment under a Sec. 127 plan
  - (Set to expire on 12/31/25)

Next type of benefit:

Employee option for employer contributions

- How such a program would work:
  - Annual election
    - Amount available for reallocation cannot exceed a specified amount
    - Cannot receive cash or other taxable benefit
  - Irrevocable election during open enrollment of Year 1
  - Must have one year of service by December 31 of Year 1
  - Must be employed on January 1 of subsequent year (Year 2)
  - Contribution made by March 15 of year 2

Polling question #3

Employee Retention Credit update

- Processing has resumed
- Denial letters are being sent
  - Most are related to quarter ended September 30, 2021
- Audits are occurring
  - Detailed review of eligibility and credit calculation
- Voluntary return program
- Voluntary withdrawal program
- IRS may request amounts previously paid to be returned

Questions?

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Break

Next session:

Unlocking AI's Potential: Boost Efficiency and Maintain Competitiveness

Begins at

Presenters:

Chris Mouradian

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