Navigating Employee Benefits

Presenters: Bill Enck | Kristin Courtemanche

BerryDunn

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Presenters

Bill Enck

Principal | CPA, CPC, APA

Kristin Courtemanche

Senior Manager | CPA

Learning objectives

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

- Provisions and effective dates for certain SECURE 2.0 provisions
- The general rules for 457(b) and 457(f) plans
- Paid-time off rules
- Hybrid employee considerations

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 Consolidated Appropriations Act, 2023 passed on December 29, 2022

Securing a Strong Retirement Act of 2022

Changes to cash-out limits – effective on or after January 1, 2024

Current rule

Account balance
less than $5,000

New rule

Account balance
less than $7,000

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 – guidance finally arrived
- 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 provisions 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

- <u>**Calendar**</u> 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 required to be made on a Roth basis for certain employees (1/1/2026)

Increases catch-up limit for those aged 60 – 63 to $10,000 (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 <u>consecutive</u> 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	Proposed rule
Three years/500 hours	Two years/500 hours Disregards pre-2021 service for eligibility and vesting

Polling question #2

Nonqualified deferred compensation for not-for-profits

"Eligible" 457(b) Plans

- Limited contributions
  - $23,000 for 2024
  - Limits are identical to 401(k)/403(b) salary deferrals
- Employee deferrals and/or employer contributions
- Generally, no risk of forfeiture

"Ineligible" 457(f) Plans

- Any plan that does not meet 457(b)
- No limits on contributions
- Must be subject to a risk of forfeiture
- Very flexible

Nonqualified deferred compensation for not-for-profits

457(f) substantial risk of forfeiture

- Conditioned on the future performance of substantial services or
- Upon occurrence of condition if possibility of forfeiture is substantial
- Examples
  - Specified date (e.g., normal retirement age)
  - Specified term (e.g., five years)
  - Covenant not to compete
  - Rolling risk of forfeiture

Nonqualified deferred compensation for not-for-profits

Accounting and tax treatment

Accounting – Employer

- Asset – amounts set aside, if any
  - May use a Rabbi Trust
- Liability – accrued benefits
- Expense
  - Employee deferrals: year made
  - Employer contributions: ratably over the vesting period

Taxes – Employee

- Employment taxes (e.g., FICA)
  - Upon vesting
- Income taxes
  - Upon payment for 457(b) plans
  - Upon vesting for 457(f) plans
- Benefit payments reported on Form W-2

Paid time off and/or sick leave

- No federally mandated paid time off or sick leave
- 17 states have implemented sick leave laws

Connecticut

Generally one hour for every 40 hours worked up to 40 hours

Maine

Generally one hour for every 40 hours worked up to 40 hours. Not limited to sick leave

Massachusetts

Generally one hour for every 30 hours worked up to 40 hours. Not limited to sick leave

Paid time off and/or sick leave

- 17 states have implemented sick leave laws (continued)

New York

Generally one hour for every 30 hours worked up to 40 hours (56 hours if 100 or more employees)

Rhode Island

Generally one hour for every 40 hours worked up to 40 hours

Vermont

Generally one hour for every 52 hours worked up to 40 hours

Paid time off considerations

- Maximum accruals
- Payouts at termination of employment
- Donate leave to other employees
  - Qualified leave donation
    - Medical emergency
    - Presidentially declared disaster
  - Nonqualified leave donation

Polling question #3

Paid time off plan: Allowing employee to cash in earned time

IRS guidelines

- Employees must make a written election before the end of December in the year prior to the year they will be earning and receiving the accrued earned time to be cashed out. This is an election to receive a cash payout of the earned time to be accrued in the following year.
- The election must be irrevocable.
- The payout can only happen once the employee has actually earned and accrued the earned time in the following year. Payouts are generally once or twice per year, but may happen more frequently.
- Generally requires that the earned time being paid out be substantially less than the accrued earned time owed to the employee.

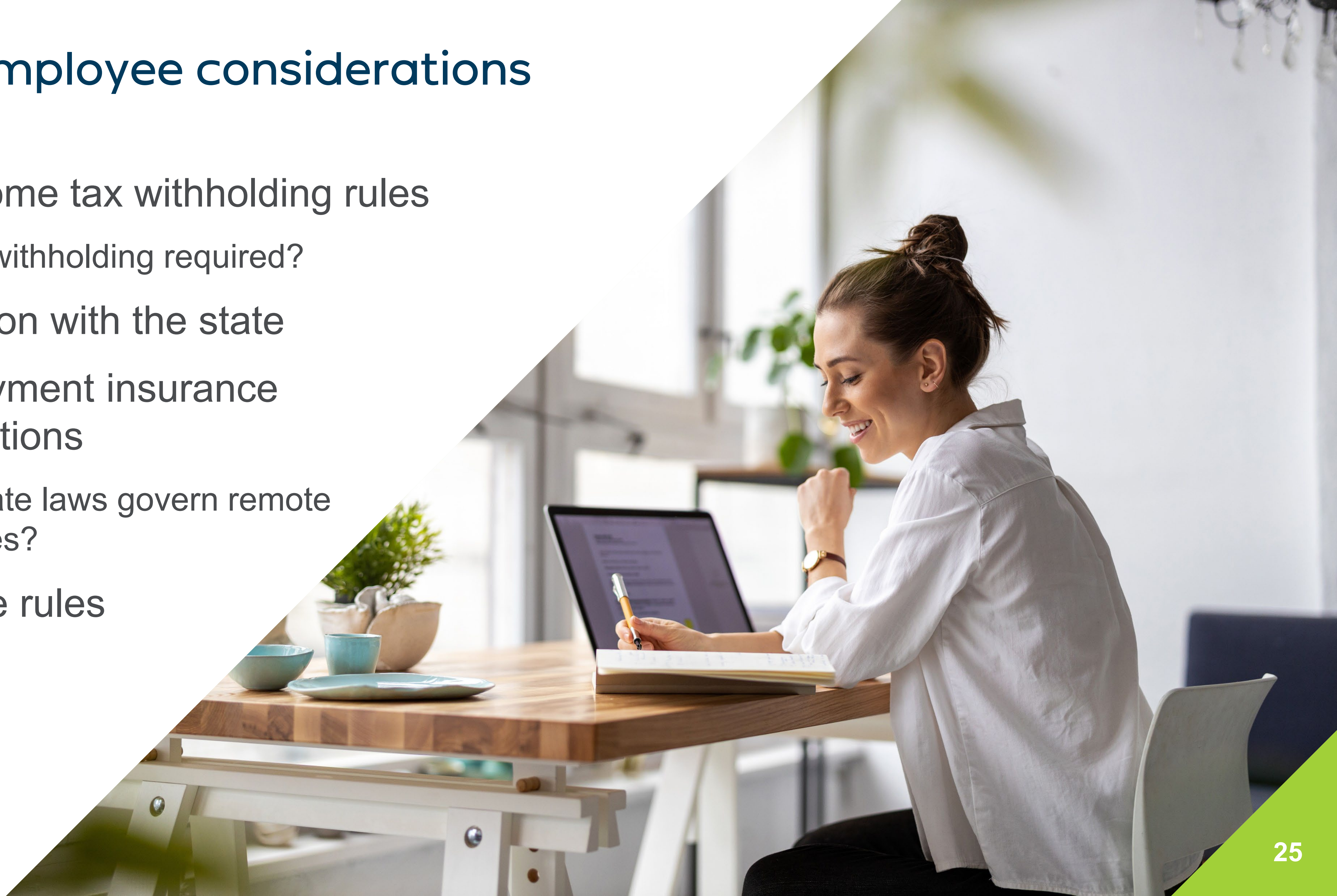
Paid time off plan: Allowing employee to cash in earned time

Options for employees with significant balances of unused leave?

- Allow employee elections based on IRS guidelines
- Adopt employer-initiated cash-outs
  - Based on accrued balance
  - Fixed number of hours per employee
  - Fluctuating number of hours per levels of accrued balance hours
  - Based on inability to take scheduled leave due to staffing challenges

Hybrid employee considerations

- State income tax withholding rules
  - When is withholding required?
- Registration with the state
- Unemployment insurance considerations
  - Which state laws govern remote employees?
- Sick leave rules



Questions?

Bill Enck
207.541.2300

Kristin Courtemanche
207.541.2224

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berrydunn.com

Break

Next session:

AI Insights for NFPs: Emerging Uses and Risks

Begins at

1:40 pm

Presenters:

Chris Mouradian

Tucker Cutter