BerryDunn

EMPOWER 2025

Annual Not-For-Profit Summit

Using Employee Benefits to Strengthen Workforce Stability and Enhance Financial Planning

BerryDunn

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Presenters

Kristin Courtemanche

CPA*

Senior Manager | Berry, Dunn, McNeil & Parker, LLC

Bill Enck

CPA*, CPC, APA

Principal | Berry, Dunn, McNeil & Parker, LLC

**Attest services are provided by BDMP Assurance, LLP, a licensed CPA firm.*

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 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

Old 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

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)

Securing a Strong Retirement Act of 2022

Age 50 or older catch-up contributions for “Highly Paid Participants”

Proposed Regulations issued

- Those earning more than $145,000 (indexed annually)
  - Based on FICA wages for the prior year
  - Self-employed individuals are excluded
- Participant can be “deemed’ to make the election
- Can be made at any point during the year
- Roth option must be offered to all participants
- MUST COORDINATE with payroll and plan recordkeeper

Securing a Strong Retirement Act of 2022

“Super Catch-up” contributions

- Optional provision
- Annual limit is 150% of the normal catch-up limit
- Proposed regulations issues
- Must confirm payroll can handle this provision
- Notify affected participants

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:

1. **Annual election**
   Amount available for reallocation cannot exceed a specified amount
   Cannot receive cash or other taxable benefit

2. **Irrevocable election during open enrollment of Year 1**

3. **Must have one year of service by December 31 of Year 1**

4. **Must be employed on January 1 of subsequent year (Year 2)**

5. **Contribution made by March 15 of year 2**

Polling question #2

Nonqualified deferred compensation for not-for-profits

"Eligible" 457(b) Plans

- Limited contributions
  - $23,500 for 2025
  - Limit is 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

Common errors with 457(b) and 457(f) plans

457(b) plan

- Failure to withhold FICA taxes on employer contributions
- Failure to timely notify participants to make elections upon retirement and/or termination to delay distributions or to change the form of distributions

457(f)

- Deferred compensation subject to 457(f) hidden in employment agreements
- Failure to include deferred compensation in taxable income upon vesting
- Failure to determine if deferred compensation creates issues with Internal Revenue Code Section 4960

State paid leave rules

Other states with paid leave mandates

Mandatory

CA CO CT DC DE

MA MD ME MN NJ

NY OR RI WA

Voluntary

AL AR FL KY NH

SC TN TX VA VT

State paid leave rules

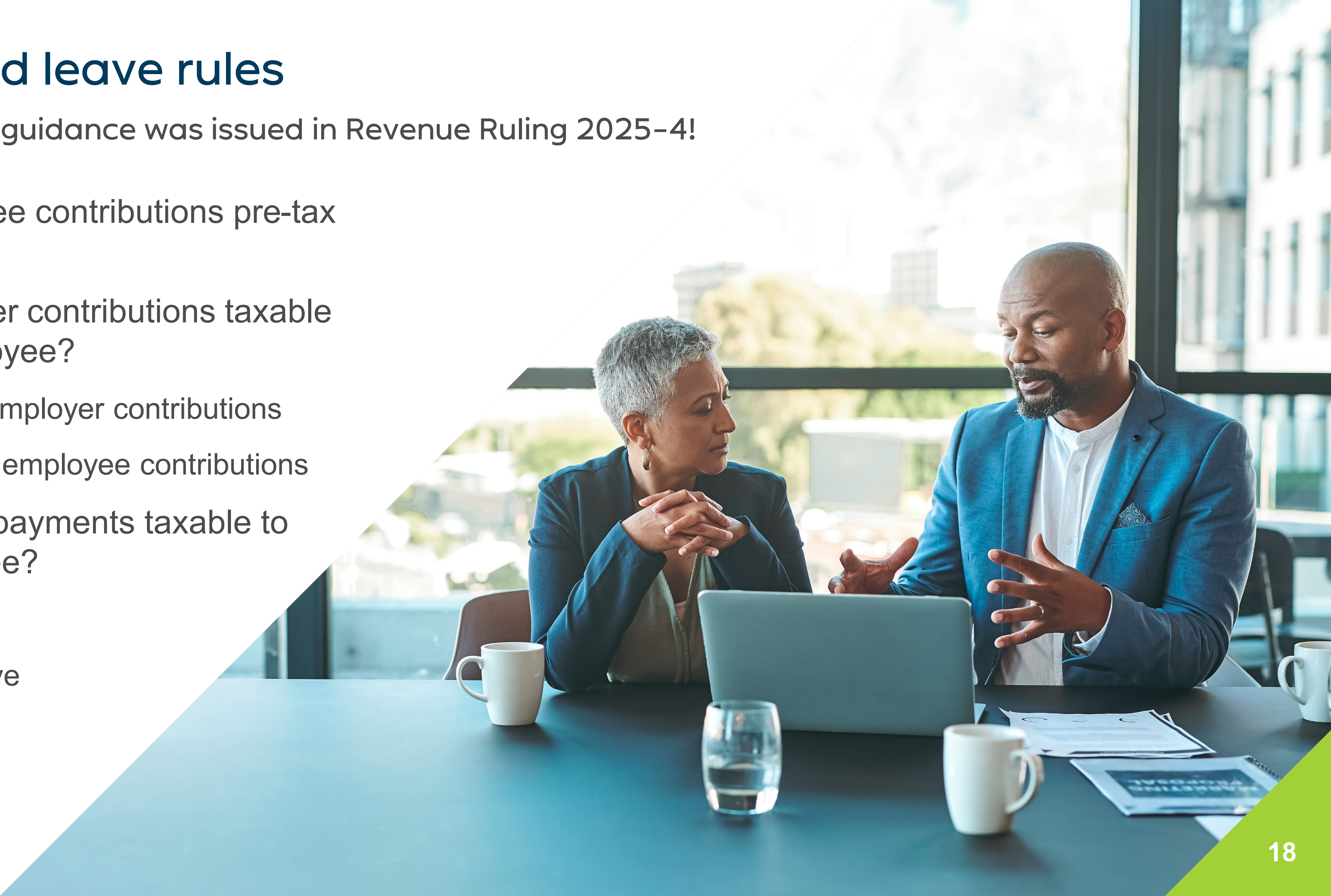
Maine's Paid Family and Medical Leave Law

- 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

Long awaited guidance was issued in Revenue Ruling 2025-4!

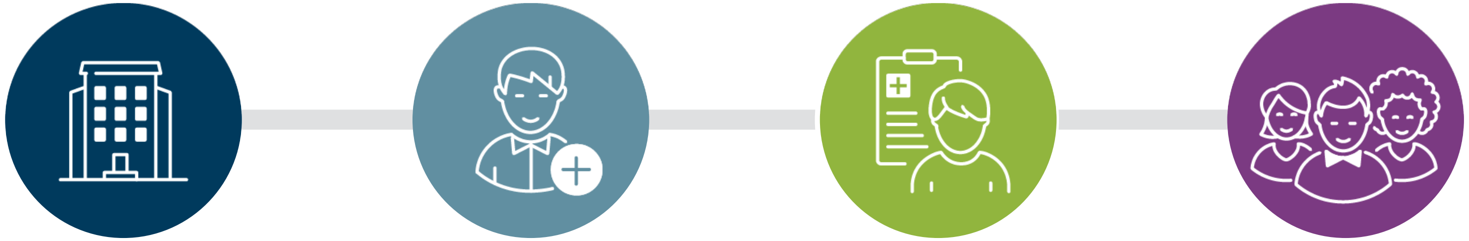
- Are employee contributions pre-tax or after-tax?
- Are employer contributions taxable to the employee?
  - Required employer contributions
  - Mandatory employee contributions
- Are benefit payments taxable to the employee?
  - Sick leave
  - Family leave



State paid leave rules

Unanswered questions in Revenue Ruling 2025-4

- Does not address federal tax treatment of contributions for private/self-insured plans
- How to handle private/self-insured plans?



Employer contributions

Employee contributions

Sick leave benefits

Family leave benefits

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
  - Make sure you have proper documentation
  - Can always appeal denials
- IRS may request amounts previously paid to be returned

Employee Retention Credit update

- Statute of Limitations
  - Three (3) years from filing, except 2021 Q3 & Q4
  - Three (3) years form filing Form 941-X
  - Two (2) years from payment
- Current bill in Congress
  - Six (6) year statute of limitations
  - Close claim applications as of January 31, 2024!

Questions?

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Kristin Courtemanche

Senior Manager | Berry, Dunn, McNeil & Parker, LLC

207.541.2224
kcourtemanche@berrydunn.com

Bill Enck

Principal | Berry, Dunn, McNeil & Parker, LLC

207.541.2300
benck@berrydunn.com