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Ken Berry • Mar. 22, 2023

The 401(k) plan is one of the most popular qualified retirement plans around. However, in the past eligibility was generally restricted to an employer's full-time employees. Now the new law passed at the end of 2022—dubbed SECURE Act 2.0—will provide access to more part-time workers.

How does a 401(k) work? For starters, an employee can elect to defer part of their

types of employer contributions (e.g., matching on non-elective contributions), it may require the employee to have up to two years of service before being able receive contributions. In this event, however, the employee must be 100% vested in the employer contributions.

For these purposes, a "year of service" is a 12-month period in which an employee completes the number of hours of service specified in the plan. The plan can't require more than 1,000 hours of service.

How has the law changed? First, the initial SECURE Act opened the door a crack. Under this law passed in 2019, part-time employees who work at least 500 hours in three consecutive 12-month periods and have attained age 21 must be allowed to participate in 401(k) plans. The change went into effect in 2020.

Second, for plan years beginning after 2024, SECURE Act 2.0 provides that employees who perform at least 500 hours of service in only *two* consecutive 12-month periods must be eligible to participate for deferral. (Service provided before 2023 is disregarded.)

An employee who becomes eligible to participate under the part-time eligibility rule is credited with a year of vesting for each 12-month period where they complete 500 hours of service. Thus, more part-timers will be eligible under the latest rules.

Note: This provision for part-timers doesn't apply to employees covered by a collective bargaining agreement, nonresident aliens who have no earned income or certain students.

Although SECURE Act 2.0 doesn't kick in until 2025 for calendar-year plans, the initial SECURE Act rule still applies for plan years beginning after 2023. Therefore, part-time employees may become eligible under the original three-year rule for the