

# EMPLOYEE BENEFITS AND EXECUTIVE COMPENSATION INFORMATION MEMO

NOVEMBER 18, 2025

## Don't "(b)" Late: Deadline for 457(b) Non-Governmental Plan Amendments Fast Approaching

**No later than December 31, 2025**, non-governmental 457(b) deferred compensation plans must be amended for certain changes under the SECURE Act of 2019 and the SECURE 2.0 Act of 2022. More specifically, non-governmental 457(b) plans will have to be amended to account for:

- Extensions relating to commencement of required minimum distributions (RMDs): The SECURE Act of 2019 extended the date (known as the "required beginning date") by which retirement plan RMDs must begin to be distributed. The SECURE Act of 2019 increased the required beginning date from age 70½ to age 72 beginning in 2020 while SECURE 2.0 Act of 2022 raised the required beginning date again from age 72 to age 73 beginning in 2023, and yet again to age 75 beginning in 2033.
- Implementation of the 10-year RMD Rule: Upon a participant's death, his or her entire account balance must, generally, be completely distributed to any non-spouse beneficiaries (unless such non-spouse beneficiary is an "eligible designated beneficiary") within 10 years. However, "eligible designated beneficiaries" (e.g., surviving spouses, disabled or chronically ill individuals, minor children and beneficiaries no more than 10 years younger than the participant) may continue to receive RMDs via the more flexible "life expectancy rule".

Importantly, the December 31, 2025 deadline is unique to non-governmental 457(b) plans. Governmental 457(b) plans have until December 31, 2029, and most other plans (e.g., tax qualified plans such as 401(k) and 403(b) plans) have until December 31, 2026, to be amended for the above changes.

Also, if, in 2025, a 457(b) plan implemented an optional increase in its "mandatory cash out" provisions, increasing the limit on which a plan may force payments from participant accounts from \$5,000 to \$7,000, the plan must also be amended by the December 31 deadline.

### What Plan Sponsors Should Do Now

Because the deadline applies for both individually designed and prototype 457(b) plan documents, non-governmental plan sponsors should carefully review their 457(b) arrangements and work with their document providers or, as applicable their plan counsel, as soon as possible to ensure timely adoption of the required amendments.

If you have questions or plan amendments between now and the **December 31, 2025 deadline**, please contact **Devin Karas**, **John Godsoe** or any attorney in our **Employee Benefits and Executive Compensation Practice** with whom you are regularly in contact.

