116TH CONGRESS
2D SESSION

S. 4297

To allow participants in certain retirement plans to delay their 2020 contributions to such plans to 2021 or 2022, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JULY 23, 2020

Mr. CRUZ (for himself, Mr. TILLIS, Mr. PERDUE, and Mrs. LOEFFLER) introduced the following bill; which was read twice and referred to the Committee on Finance

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A BILL

To allow participants in certain retirement plans to delay their 2020 contributions to such plans to 2021 or 2022, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Addressing Missed-savings Opportunities for Retirement due to an Epidemic Act" or the "AMORE Act".

SEC. 2. ALLOWANCE OF DELAY IN MAKING 2020 RETIREMENT CONTRIBUTIONS.

(a) IN GENERAL.—An eligible participant in one or more applicable retirement plans may make additional contributions to such plans for any taxable year beginning in 2021 or 2022 in an aggregate amount not exceeding the participant's unused 2020 contribution amount.

(b) TREATMENT OF CONTRIBUTIONS AND PLANS.—For purposes of the Internal Revenue Code of 1986—

(1) TREATMENT OF CONTRIBUTIONS.—In the case of any additional contribution to which subsection (a) applies—

(A) such contribution shall not, with respect to such taxable year—

(i) be subject to any otherwise applicable limitation contained in sections 401(a)(30), 402(h), 408, and 415(c), or

(ii) be taken into account in applying such limitations to other contributions or benefits under such plan or any other such plan, and

(B) except as provided in paragraph (2)(B), such plan shall not be treated as failing to meet the requirements of section 401(a)(4), 401(k)(3), 401(k)(11), 403(b)(12), 408(k), 410(b), or 416 by reason of the making (or the right to make) such contribution.

(2) TREATMENT OF APPLICABLE PLANS.—

(A) IN GENERAL.—An applicable employer plan shall not be treated as failing to meet any requirement of such Code, or failing to be operated in accordance with the terms of the plan, solely because the plan—

(i) permits an eligible participant to make additional contributions described in subsection (a) for any plan year, or

(ii) does not make any matching contribution (as defined in section 401(m)(4) of such Code) with respect to additional contributions described in subsection (a) for any plan year.

(B) NONDISCRIMINATION REQUIREMENT.—The rules of section 414(v)(4) of such Code shall apply for purposes of this section.

(c) DEFINITIONS.—For purposes of this section—

(1) APPLICABLE RETIREMENT PLAN.—The term ‘‘applicable retirement plan’’ means any plan—

(A) which is—

(i) a plan, arrangement, or contract to which an elective deferral (as defined in section 401(g)(3) of the Internal Revenue Code of 1986) may be made, or

(ii) an individual retirement plan (as defined in section 7701(a)(37) of such Code), and

(B) which allows additional contributions under this section to be made to such plan.

(2) ELIGIBLE PARTICIPANT.—The term ''eligible participant'' means, with respect to any taxable year beginning in 2021 or 2022, a participant in a plan—

(A) who has an unused 2020 contribution amount, and

(B) with respect to whom no other elective deferrals (or in the case of an individual retirement plan, no other contributions) may, without regard to this section, be made to the plan for such taxable year by reason of any applicable limitation described in subsection (b)(1)(A)(i) or any comparable limitation or restriction contained in the terms of the plan.

In determining whether a participant is an eligible participant, the administrator of an applicable retirement plan may rely on a participant's certification that the participant satisfies the requirements of this paragraph.

(3) UNUSED 2020 CONTRIBUTION AMOUNT.—

(A) IN GENERAL.—The term "unused 2020 contribution amount" means, with respect to any applicable participant, the excess (if any) for the participant's last taxable year beginning in 2020 of—

(i) in the case of—

(I) the applicable retirement plans described in paragraph (1)(A)(i) of such participant, the applicable limitations described in subsection (b)(1)(A)(i) on aggregate contributions to such plans for such taxable year, and

(II) the individual retirement plans of such participant, the applicable limitations described in subsection (b)(1)(A)(i) on aggregate contributions to such plans for such taxable year, over

(ii) the aggregate contributions to such applicable retirement plans or individual retirement plans, whichever is applicable, for such taxable year (other than rollover contributions not taken into account in applying such limitations under such Code).

(B) REDUCTIONS FOR PREVIOUSLY USED AMOUNTS.—The unused 2020 contribution amount for any taxable year beginning in 2021 or 2022 shall be reduced by the portion of such amount taken into account under this section for all preceding taxable years.

(C) SECRETARIAL ASSISTANCE.—The Secretary of the Treasury (or the Secretary's delegate) shall include, with returns of Federal individual income tax (or accompanying forms or instructions) for taxable years beginning in 2020 and 2021, forms or other materials which will assist participants in simply computing their unused 2020 contribution amount for each taxable year beginning in 2021 or 2022.

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—This section shall apply for years beginning after December 31, 2020.

(2) PROVISIONS RELATING TO PLAN OR CONTRACT AMENDMENTS.—

(A) IN GENERAL.—If this paragraph applies to any plan or contract amendment—

(i) such plan or contract shall not fail to be treated as being operated in accordance with the terms of the plan during the period described in subparagraph (B)(ii) solely because the plan operates in accordance with this section, and

(ii) except as provided by the Secretary of the Treasury (or the Secretary's delegate), such plan or contract shall not fail to meet the requirements of section 411(d)(6) of the Internal Revenue Code of 1986 and section 204(g) of the Employee Retirement Income Security Act of 1974 by reason of such amendment.

(B) AMENDMENTS TO WHICH PARAGRAPH APPLIES.—

(i) IN GENERAL.—This paragraph shall apply to any amendment to any plan or annuity contract which—

(I) is made pursuant to the provisions of this section, and

(II) is made on or before the last day of the first plan year beginning on or after January 1, 2022.

In the case of a governmental plan, subclause (II) shall be applied by substituting "2024" for "2022".

(ii) CONDITIONS.—This paragraph shall not apply to any amendment unless during the period beginning on the effective date of the amendment and ending on December 31, 2022, the plan or contract is operated as if such plan or contract amendment were in effect.

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