Long-Term Part-Time Employees

The Setting Every Community Up for Retirement Enhancement ("SECURE") Act of 2019 requires that 401(k) plans permit employees who work for at least 500 hours of service in each 12-month period over **three** consecutive periods and attain age 21 by the close of the last of the 12-month period to defer. These employees are "Long-Term Part-Time Employees ("LTPTs"). Beginning in 2025 employees who work for at least 500 hours of service in each 12-month period over **two** consecutive years must be eligible to defer.

Please see below for some common questions, answered by our experts, regarding LTPT rules.

Which plans do the LTPT rules apply to?

The LTPT rules apply to 401(k) plans. Starting in 2025, ERISA 403(b) plans are subject to the LTPT rules.

The LTPT rules do not apply to employer contribution only plans, like profit-sharing and money purchase plans.

What is a Long-Term Part-Time Employee?

The LTPT rules only apply to employees who do not meet the plan's normal eligibility requirements.

To be an LTPT Employee for a 401(k) plan, the employee must meet all of the following requirements:

1. For Plan years before 2024, they must have at least **three** consecutive LTPT Years. Effective January 1, 2025, the employee must have at least **two** consecutive LTPT Years.
2. The employee is NOT a:
   - Union employee
   - Nonresident alien without US Source income, or
   - Employee otherwise excluded under the plan.
3. The employee has attained age 21 no later than the last day of the second (or third) LTPT Year.
4. The employee has not otherwise satisfied the plan's normal eligibility requirements.

What is a Long-Term Part-Time Year?

An LTPT Year is a 12-month period in which the employee has at least 500 Hours of Service ("HOS").

- Years beginning before January 1, 2021, are disregarded.

What are 12-month periods?

- The employee's first 12-month period begins on their date of hire
- Subsequent 12-month periods may be determined by either:
  - Anniversaries of the date of hire; or
  - Shifting to Plan Year (most common plan provision) - the second 12-month period would begin on the first day of the first plan year following the date of hire. If the plan bases subsequent 12-month periods based on the plan year, the first and second 12-month periods will overlap AND be treated as consecutive.

Please notify us if you intend to use anniversaries to determine LTPTs.

What if we don't track hours of service?
Your plan document establishes how you track service. The plan provision on non-actual hours tracking is called the "equivalency method". An equivalency method creates an alternative method for tracking service that converts itself to hours instead of actual hours.

Please contact us if you are not sure how your tracks hours of service or if you do not track hours of service and your plan does not have an equivalency method.

Do the LTPT rules apply to plans that use an elapsed time method for eligibility?

The elapsed time method does not have an hour requirement. Under the IRS published proposed rules, you can continue to use elapsed time method to determine an employee's eligibility to participate. Under unusual circumstances, an employee under a plan with elapsed time may become LTPTs.

For example, a plan requires the employee to complete 1 year (12 consecutive months) of elapsed time service. Sally works from January 10, 2024, to June 10, 2024, and accrues 500 hours of service. She then quits but is rehired on July 15, 2025, and accrues 600 hours in the 2025 calendar plan year. She has two consecutive LTPT Years, even though she does not yet satisfy the plan's normal eligibility requirements, and therefore is an LTPT Employee.

Please contact us if you have any employees that may have a similar circumstance as the example above.

How do the rules apply to plans that have a fiscal plan year?

For off-calendar year plans that use the shift to plan years, employees may have been eligible LTPTs in 2023.

For example: The plan year is 9/30 and shifts LTPT to plan year. John was hired 07/01/2021.

- The first LTPT Year: 7/1/2021 – 6/30/2022
- The second LTPT Year shifts: 10/01/2021 – 09/30/2022
- The third LTPT Year: 10/01/2022 – 09/30/2023.

If the employee did not meet the plan's normal eligibility requirements and worked 500 hours in each LTPT, they should enter 10/01/2023. Assuming the Participant had at least 500 HOS in each 12-month period above, John should have entered as an LTPT on 10/1/2023.

If the plan used anniversaries instead, the employee would enter 10/01/2024.

Please contact us if you have any employees that may meet the criteria outlined above.

When should I enroll an LTPT?

An LTPT Employee must be eligible to defer:

- On the first day of the first plan year following the date he or she becomes an LTPT Employee; or
- The date which is 6 months after the date those requirements are satisfied.

For a calendar year plan that uses the shifts to plan year method, the entry date will typically be January 1st. For a calendar year plan that uses anniversaries, the entry dates are January 1st and July 1st.

Alternatively, plans may align the LTPT entry date provisions with the normal eligibility requirements.

Our plan has automatic enrollment, do we have to automatically enroll LTPTs?

The IRS has not provided any guidance regarding automatic enrollment. We believe that a traditional automatic enrollment plan with LTPTs may choose to exclude LTPTs from automatic enrollment.

While we are waiting on more IRS guidance, we recommend that plans that have an Eligible Automatic Contribution Arrangement ("EACA") or were established in 2023 or later and are subject to mandatory automatic enrollment, automatically enroll LTPTs according to the plan provisions. Please note, the employee must meet the LTPT requirements and entry dates first.

Are we allowed to exclude classes of employees from deferrals?

You are allowed to exclude certain classes of employees. However, the exclusion cannot be a disguised age and service conditions. These rules only affect the deferral portion of the plan.

Part-time, seasonal, or temporary employees are not permissible exclusions for LTPT employees. However, you can exclude:

- Union employee
- Nonresident aliens without US Source income, or
- An exclusion that is not a proxy for service conditions

For example, a plan that provides "Division B" employees are not eligible to participate. On its face, that looks like a job classification, but in reality, all part-time employees are Division B Employees, and so it is a disguised service condition.

Are we allowed to exclude classes of employees from employer contributions?

Yes, you are allowed to apply the normal rules for nonelective, safe harbor, and matching contributions. The plan is still subject to the normal coverage testing requirements to ensure that the exclusions is not discriminatory.

What happens to employees who terminate and come back to work?

LTPTs are not required to work continuously for three LTPT Years. All that matters is that the employee works at least 500 hours in three consecutive LTPT Year. It does not matter that they were rehired multiple times during this period.

If an LTPT employee terminates employment, they must be allowed to defer immediately upon rehire.

What happens if an LTPT meets our plan's normal eligibility requirements?

An LTPT that satisfies the plan's normal eligibility requirements becomes a "Former LTPT."

What is the significance of a "Former LPTP" Employee?

The only significance to being a Former LTPT Employee is that Former LTPT Employees remain subject to the LTPT vesting rules.

Vesting for LTPT Employees and Former LTPT Employees

An LTPT Employee or a Former LTPT Employee is credited with a year of service for vesting for each vesting computation period (typically the plan year) beginning after December 31, 2020, in which the employee is credited with 500 HOS. This rule continues to apply after an LTPT Employee satisfies the normal eligibility requirements.

Are any disclosures required?

If the plan includes a safe harbor or automatic enrollment feature, you should provide the enclosed attachment to all active employees. This attachment should be included with the SPD provided to newly eligible LTPTs as well.

I don't want to track LTPTs, what are our options?

If you want to avoid LTPTs altogether, you should consider removing any hours of service requirement from your plan's eligibility requirements. This is an "elapsed time" method for crediting employee service. Under this method, only dates of employment matter.

Best Practices - LTPT Employees

Your recordkeeper can help you manage LTPTs employees. If possible, you should submit the following information to your recordkeeper:

- Report all new employees upon hire
- Submit per-pay period hours and compensation for all employees beginning with their first payroll your recordkeeper
- Report termination dates and final payroll information for terminated employees
- Report rehired employees' hours, compensation and contributions beginning with their first payroll upon rehire
- If applicable, update your recordkeeper's tracking system with an LTPT marker.

Ongoing Administration

- Track your employees' hours of work.
- If you do not track hours, use the equivalency method permitted in the plan document.
- Complete and certify your plan's annual census
- If you became our client after the 2021 plan year, please provide employees' hours for 2021 and 2022, if applicable, to help us better assist you with LTPTs.

We are here to help!

Thank you for allowing us to serve as your Plan's third-party administrator supporting your Company, Plan, and Participants. We appreciate your attention to this important part of your retirement plan and will work hard to assist you with maintaining your plan's compliance. Of course, our team is here to help.

For any questions regarding LTPTs, please contact us at ERISAservices@mybenefits.me.