SECURE 2.0

SECURE 2.0 Permits De Minimis Financial Incentives

For plan years beginning after December 29, 2022, employers that sponsor 401(k) or 403(b) plans may offer employees a “de minimis” financial incentive, such as a gift card, as long as the cost of the incentive is paid by the employer and not paid from plan assets.

In previous plan years the “contingent benefit rule” prohibited employers that sponsor 401(k) plans to offer any direct or indirect benefit, including financial incentives, to employees that would be conditionally available based on an employee’s decision to participate in the employer-sponsored retirement plan. While employers who sponsor 403(b) plans are not subject to the contingent benefit rule, they are similarly challenged with low participation rates and would like options to encourage more employees to make elective deferral contributions into their retirement plan.

De Minimis Financial Incentives Guidance

While this SECURE 2.0 provision does not define “de minimis,” Notice 2024-02 clarifies that a “de minimis” incentive cannot exceed $250 in value and can only be provided to employees that don’t already have an election to defer in place. This financial incentive may be provided in the form of installments that are contingent on the employee continuing to defer. The notice also states that the financial incentive is includable in an employee’s gross income and wages; and is subject to withholding and reporting requirements for employment tax purposes, unless the incentive satisfies another exception under the Internal Revenue Code. Notice 2024-02 also clarifies that, de minimis financial incentives may not be provided in the form of employer matching contributions. De minimis financial incentives are not subject to the rules that apply to plan contributions, including the qualification and deductibility rules under Internal Revenue Code Sections 401(a) and 404(a).