

## IRS “GRAB BAG” GUIDANCE

The IRS “grab bag” guidance released on December 20, 2023, covers several SECURE 2.0-related topics relevant to plan sponsors.

### EMPLOYER CONTRIBUTIONS AS ROTH

- Employers with a vesting schedule can offer this plan feature if the employee meets the vesting requirements prior to taking advantage of the provision.
- Employees must have ability to change election to/from Roth at least once each plan year.
- The employee is taxed on a Roth election on the date the contribution is allocated to their account.
- Roth employer contributions are subject to income tax but are not subject to employment taxes (e.g., FICA).
- Employer Roth contributions are reported as in-plan Roth conversions on Form 1099-R.



### AUTOMATIC ENROLLMENT AND AUTOMATIC ESCALATION

- Plans established before 12.29.22 are generally exempt from this requirement (grandfathered plans)
- A merger of two grandfathered plans does not result in a loss of grandfathered status
- If a non-grandfathered plan merges with a grandfathered plan, the grandfathered plan will generally lose its grandfathered status



### DE MINIMIS FINANCIAL INCENTIVES

- De minimis means \$250 or less in value
- The incentive relief is only available for employees who do not have an existing deferral under the plan
- Matching contributions cannot qualify as de minimis financial incentives
- De minimis financial incentives are treated as taxable wages to the employee



### DISTRIBUTIONS FOR TERMINAL ILLNESS

- Employee self-certification is not sufficient to demonstrate eligibility
- The terminally ill individual must be otherwise eligible for an in-service distribution to be exempt from the 10% early withdrawal penalty tax (i.e., hardship withdrawal)
- The plan does not have to offer this distribution option for an eligible employee to qualify under the tax code



### PLAN AMENDMENT DEADLINE EXTENSION

- Both required and discretionary plan amendments are granted a one-year extension to reflect changes under the SECURE, SECURE 2.0, and CARES Acts
- Plan amendments must be completed by 12.31.26 for most plans, and 12.31.29 for governmental plans