

116TH CONGRESS
1ST SESSION

H. R. 1874

To amend the Internal Revenue Code of 1986 to require that qualified cash or deferred arrangements allow certain long-term employees to participate.

IN THE HOUSE OF REPRESENTATIVES

MARCH 26, 2019

Mrs. MURPHY introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To amend the Internal Revenue Code of 1986 to require that qualified cash or deferred arrangements allow certain long-term employees to participate.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. QUALIFIED CASH OR DEFERRED ARRANGE-**
4 **MENTS MUST ALLOW LONG-TERM EMPLOY-**
5 **EES WORKING MORE THAN 500 BUT LESS**
6 **THAN 1,000 HOURS PER YEAR TO PARTICI-**
7 **PATE.**

8 (a) PARTICIPATION REQUIREMENT.—

1 (1) IN GENERAL.—Section 401(k)(2)(D) of the
2 Internal Revenue Code of 1986 is amended to read
3 as follows:

4 “(D) which does not require, as a condi-
5 tion of participation in the arrangement, that
6 an employee complete a period of service with
7 the employer (or employers) maintaining the
8 plan extending beyond the close of the earlier
9 of—

10 “(i) the period permitted under sec-
11 tion 410(a)(1) (determined without regard
12 to subparagraph (B)(i) thereof), or

13 “(ii) subject to the provisions of para-
14 graph (15), the first period of 3 consecu-
15 tive 12-month periods during each of which
16 the employee has at least 500 hours of
17 service.”.

18 (2) SPECIAL RULES.—Section 401(k) of such
19 Code is amended by adding at the end the following
20 new paragraph:

21 “(15) SPECIAL RULES FOR PARTICIPATION RE-
22 QUIREMENT FOR LONG-TERM, PART-TIME WORK-
23 ERS.—For purposes of paragraph (2)(D)(ii)—

24 “(A) AGE REQUIREMENT MUST BE MET.—

25 Paragraph (2)(D)(ii) shall not apply to an em-

1 employee unless the employee has met the require-
2 ment of section 410(a)(1)(A)(i) by the close of
3 the last of the 12-month periods described in
4 such paragraph.

5 “(B) NONDISCRIMINATION AND TOP-
6 HEAVY RULES NOT TO APPLY.—

7 “(i) NONDISCRIMINATION RULES.—In
8 the case of employees who are eligible to
9 participate in the arrangement solely by
10 reason of paragraph (2)(D)(ii)—

11 “(I) notwithstanding subsection
12 (a)(4), an employer shall not be re-
13 quired to make nonelective or match-
14 ing contributions on behalf of such
15 employees even if such contributions
16 are made on behalf of other employees
17 eligible to participate in the arrange-
18 ment, and

19 “(II) an employer may elect to
20 exclude such employees from the ap-
21 plication of subsection (a)(4), para-
22 graph (3), subsection (m)(2), and sec-
23 tion 410(b).

24 “(ii) TOP-HEAVY RULES.—An em-
25 ployer may elect to exclude all employees

1 who are eligible to participate in a plan
2 maintained by the employer solely by rea-
3 son of paragraph (2)(D)(ii) from the appli-
4 cation of the vesting and benefit require-
5 ments under subsections (b) and (c) of sec-
6 tion 416.

7 “(iii) VESTING.—For purposes of de-
8 termining whether an employee described
9 in clause (i) has a nonforfeitable right to
10 employer contributions (other than con-
11 tributions described in paragraph
12 (3)(D)(i)) under the arrangement, each
13 12-month period for which the employee
14 has at least 500 hours of service shall be
15 treated as a year of service.

16 “(iv) EMPLOYEES WHO BECOME
17 FULL-TIME EMPLOYEES.—This subpara-
18 graph shall cease to apply to any employee
19 as of the first plan year beginning after
20 the plan year in which the employee meets
21 the requirements of section
22 410(a)(1)(A)(ii) without regard to para-
23 graph (2)(D)(ii).

24 “(C) EXCEPTION FOR EMPLOYEES UNDER
25 COLLECTIVELY BARGAINED PLANS, ETC.—Para-

1 graph (2)(D)(ii) shall not apply to employees
2 described in section 410(b)(3).

3 “(D) SPECIAL RULES.—

4 “(i) TIME OF PARTICIPATION.—The
5 rules of section 410(a)(4) shall apply to an
6 employee eligible to participate in an ar-
7 rangement solely by reason of paragraph
8 (2)(D)(ii).

9 “(ii) 12-MONTH PERIODS.—12-month
10 periods shall be determined in the same
11 manner as under the last sentence of sec-
12 tion 410(a)(3)(A).”.

13 (b) EFFECTIVE DATE.—The amendments made by
14 this section shall apply to plan years beginning after De-
15 cember 31, 2020, except that, for purposes of section
16 401(k)(2)(D)(ii) of the Internal Revenue Code of 1986 (as
17 added by such amendments), 12-month periods beginning
18 before January 1, 2021, shall not be taken into account.

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