WHAT PLAN SPONSORS NEED TO KNOW

About SECURE 2.0 and Its Effect on Retirement Plans

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SECURE 2.0 became law when President Biden signed the Consolidated Appropriations Act, 2023, on December 29, 2022. Many of its provisions encourage small businesses to offer employees a workplace retirement plan with features that support participation. While SECURE 2.0 includes a host of provisions affecting the rules for individuals and employers, this article focuses on the key provisions pertaining to retirement plans.

SECURE 2.0 lowers hurdles for employers and employees by providing financial support for small businesses to adopt new plans and features while promoting plan participation. With that in mind, here are high-level summaries of the provisions that seem most impactful for retirement plans:

Effective Immediately (2023)

- **Startup retirement plan tax credit.** The tax credit for employers with 50 or fewer employees increases to 100 percent of the eligible startup expenses up to the $5,000 limit in each of the first three plan years for plans adopted after December 31, 2022.
    - The credit is not available to existing plans.

- **Employer contribution tax credit.** This is available to eligible employers for employer contributions equal to the applicable percentage of the contribution amount up to $1,000 per employee (for employees earning less than $100,000 annually) in each of the plan's first five years for plans adopted after December 31, 2022.
    - The applicable percentage is defined as:
        - 100 percent in years 1 and 2
        - 75 percent in year 3
        - 50 percent in year 4
        - 25 percent in year 5
        - 0 percent thereafter
    - The full additional tax credit is limited to employers with up to 50 employees, and then phases out for employers with 51–100 employees. Please consult with your tax professional to determine eligibility.
    - Defined benefit plans are not eligible for this tax credit.

- **Matching Roth contributions.** Plan sponsors who adopt this provision allow participants to direct some or all of the employer-matching contribution to a Roth account (treated as an after-tax contribution in line with the rules around Roth accounts).
    - Participants would recognize Roth matching contributions as income in the year contributed
    - Only applies to 401(k), 403(b), and 457(b) plans (doesn't apply to SIMPLE or SEP IRAs)

Effective in 2024

- **Catch-up contributions.** Mandates that individuals earning more than $145,000 direct catch-up contributions to a Roth account
- **Student loan repayment match.** Allows employers to match employees' student loan payments through a matching retirement plan within elective deferral limits
- **Emergency expense distributions.** Allows employees to take up to $1,000 per year without penalty, but it must be repaid before another distribution (It can be repaid through regular pretax deferrals.)
- **Roth RMDs.** No longer required for Roth 401(k)s, to match Roth IRA rules
- **Emergency savings accounts.** Allows non-highly compensated employees within a 401(k) plan an option to save for emergencies
- Upgrade to safe harbor 401(k). Employers allowed to "switch" plans midyear from a SIMPLE IRA to a safe harbor 401(K)

Effective After 2024

- **Auto-enrollment requirement.** Beginning January 1, 2025, plans adopted after December 29, 2022 must automatically enroll employees as they become eligible for at least 3 percent, but not more than 10 percent, of their pay, and then increase the deferral rate by 1 percent annually up to at least 10 percent but no more than 15%.
  - Exceptions exist for employers with fewer than 10 employees, plans adopted prior to December 29, 2022, governmental plans, church plans, and SIMPLE IRA plans, as well as for employers that have been in existence less than three years.
- **Escalated catch-up deferrals.** The retirement plan catch-up contribution limit for individuals ages 60–63 increases to at least $11,250.
- **Retirement savings lost and found.** The DOL will create a searchable database so people can find retirement assets they may have forgotten.
- **Saver's Match.** Starting in 2027, low- and moderate-income individuals who contribute to a qualified retirement account (e.g., 401(k) plan) will be eligible for a match contribution from the federal government. (This replaces the Saver's Credit.)

Although SECURE 2.0 offers incentives and options for retirement plans, more work remains; for example, there was no update on the 10-year rule for beneficiary designation accounts (BDA) enacted by the original SECURE Act, the act does not allow 403(b) plans to offer CITS, limits were not put in place as to who can do Roth conversions, and backdoor, and mega backdoor, Roth strategies are still allowed.

Questions?
SECURE 2.0 is extensive; it's part of an act with more than 4,000 pages. Many provisions not covered in this summary could affect specific situations, making it important that we continue the conversation. Please contact my office with retirement plan–related questions. I look forward to hearing from you.

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