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OPPORTUNITIES AND CHANGES FOR RETIREMENT PLANNING –

Introducing Detailed Highlights of SECURE 2.0[1]

The Setting Every Community Up for Retirement Enhancement (SECURE) Act passed in December 2019, bringing significant changes to retirement planning. Now nearly three years later, Congress passed the Consolidated Appropriations Act of 2023, which includes a successor retirement bill, SECURE 2.0 Act of 2022 (SECURE 2.0).

The bill was signed into law by President Biden on December 29, 2022. While many provisions won't take immediate effect or prompt year-end changes to financial plans, there are big changes coming for retirement savings that will have significant impacts for certain individuals, which makes knowing the details that much more important.

Pro tip: Check the dates!

The date of enactment (DOE) is December 29, 2022, but many provisions have effective dates different than the DOE. To help make sense of it all, we've added the effective dates of each provision to this guide.

If you have 5 minutes or less, here are the top takeaways

- Further increases to the required minimum distribution (RMD) age up from 72 as follows:
  - Born in 1950 or earlier: No changes
  - Born in 1951 to 1958: RMDs start at 73
  - Born in 1959 or later: RMDs start at 75
    Effective January 1, 2023
- IRA (Individual Retirement Account) catch-up contributions will be indexed for inflation in the same manner as the indexing for regular IRA contributions.
  Effective January 1, 2024
- 401(k) and similar plan catch-up contributions limits increase for individuals between 60 and 63 to the greater of $10,000 ($5,000 for (Savings Incentive Match Plans for Employees) SIMPLE plans) or 150% of the regular catch-up amount. *Effective January 1, 2025*

- 529-to-Roth IRA transfers can be made tax and penalty-free to a Roth account for the same 529 beneficiary if:
    - The 529 account was open for 15+ years
    - The amount does not exceed annual Roth IRA contribution limits or a lifetime maximum of $35,000
      Effective January 1, 2024
- RMDs for Roth 401(k)s and 403(b)s are eliminated, reducing the need for Roth IRA rollovers from these plans. *Effective January 1, 2024*
- Allows SEP (Simplified Employee Pension) and SIMPLE plans to be designated as Roth IRAs. *Effective January 1, 2023*
- All qualified catch-up contributions must receive Roth tax treatment except for participants whose prior year wages are $145,000 or less. This does not apply to SIMPLE or SEP IRAs. *Effective January 1, 2024*
- Allows individuals to designate matching contributions, including student loan contributions, as Roth contributions. *Effective on DOE*
- Employer retirement plans can treat qualified student loan payments as elective deferrals for matching purposes. *Effective January 1, 2024*
- Allows a one-time $50,000 QCD (Qualified Charitable Distribution) to a split-interest entity (i.e., CRAT (Charitable Remainder Annuity Trust), CRUT (Charitable Remainder Unitrust), charitable gift annuity), and indexes QCD contributions for inflation beginning after 2023. *Effective on DOE*
- Distributions up to $2,500 annually paid as premiums to a long-term care insurance contract are not subject to the 10% early distribution penalty. *Effective 3 years from DOE*
- Allows a surviving spouse to make an election to be treated as the employee (deceased spouse) which allows the spouse to take RMDs from a deceased spouse's employer sponsored plan as if they were the employee (i.e., delaying RMDs until they would have taken them and using their age to calculate RMDs). *Effective January 1, 2024*

Now for a birds-eye view on more of the detailed highlights

Automatic enrollment unless

- New 401(k) and 403(b) plans must meet the requirements of auto-enrollment in employer-sponsored plans for eligible employees except for certain small businesses, new businesses, church plans, and governmental plans, among others. *Effective January 1, 2025*

To save or not to save

- Rather than a nonrefundable credit (i.e., the existing Saver's credit), for contributions to individual retirement accounts (IRAs), it will be replaced by a refundable federal matching contribution into the taxpayer's IRA or retirement plan. *Effective January 1, 2027*

The starter pack

- The Starter 401(k) creates two plan designs for employers without a sponsored retirement plan:
  - Deferral-only arrangement
  - Safe harbor 403(b) plan
    Effective January 1, 2024

Anything but simple for self-employed retirement savers

- Like a profit-sharing plan, allows an employer to make additional contributions to each employee of a SIMPLE plan, not to exceed the lesser of 10% of compensation or $5,000. *Effective January 1, 2024*
- Permits an employer to replace a SIMPLE IRA with a safe harbor 401(k) plan any time during the year if they meet certain criteria. *Effective January 1, 2024*
- Changes contribution limits to certain SIMPLE IRAs as follows:
  - Employers with 25 or fewer employees – Employees would have deferral and catch-up contributions increased by 10%.
  - Employers with more than 25 employees – Current limits imposed unless they increase their matching contributions to 4% or their regular contributions to 3%.
    Effective January 1, 2024
- Increases credit for qualified start-up costs for employers with 50 or fewer employees from 50% to 100%, with an additional credit for 5 years of $1,000 per employee. *Effective January 1, 2023*
- Expands gain deferral provisions with a 10% limit on the deferral, to sales of employer stock to S corporation ESOPs (Employee Stock Ownership Plans). *Effective January 1, 2028*
- Allows employers to fund retirement plans with employee contributions for the prior year up to the original filing deadline, rather than the end of the taxable year. *Effective January 1, 2024*
- Allows sole proprietors and single member LLCs to fund new employee retirement plans with elective deferrals for prior year up to the original filing deadline, rather than the end of the taxable year. *Effective January 1, 2023*

More accessibility for some

- ABLE accounts can be established for those with a disability occurring before age 46 up from the current age of 26. *Effective January 1, 2026*
- Part-time workers will only need two consecutive years of 500+ hours to qualify for retirement plan participation. *Effective January 1, 2025*
- Excludes service-connected disability pension payments from gross income after reaching retirement age for first responders. *Effective January 1, 2027*
- Clarifies that in the case of a special needs trust (SNT) as an IRA beneficiary, the SNT beneficiary will not lose eligible designated beneficiary status if a non-natural entity, such as a charity is named as a remainder beneficiary. *Effective on DOE*

Easier access – earlier

- Allows one penalty-free withdrawal of up to $1,000 once every 3 years (if not repaid) annually for unforeseeable and immediate financial needs related to personal or family emergency expenses. *Effective January 1, 2024*
- Employers can offer an emergency savings account together with a retirement account, allowing employees a contribution up to $2,500 annually. The employer would consider the contribution as a deferral for matching employee contributions, and the distributions to the employee would be tax-free. *Effective January 1, 2024*
- Amending the current exception to the 10% penalty for early distributions for public safety employees who terminate employment after age 50 in governmental plans to also include private sector firefighters and correction officers. *Effective on DOE*
- Distributions to a terminally ill individual are not subject to the 10% early distribution penalty. *Effective after DOE*
- Distributions to an individual accessed because of a domestic abuse situation are not subject to the 10% early distribution penalty for the lesser of 50% of the total account balance or $10,000. *Effective January 1, 2024*
- Distributions for qualified disaster are permanently reinstated retroactively to disasters on or after January 26, 2021. The amount is limited to a $22,000 maximum as income spread over three years, and not subject to the 10% early distribution penalty. *Effective January 26, 2021*
- The substantial periodic payment exception continues to apply in the case of a rollover of the account, an exchange of an annuity, or any annuity that satisfies the RMD rules. *Effective January 1, 2024*

For the love of insurance

- Eliminates certain restrictions on life (income) annuities in retirement plans that would allow contracts to potentially have:
  - COLA (cost of living adjustment) on payments, lump-sum payments that reduce or eliminate future payments, dividends, return of premium less premium death benefits, or payments up to 12 months in the future payable now. *Effective January 1, 2023*
- Eliminates 25% limit on purchases on QLACs (qualified longevity annuity contracts) and allows up to $200,000 to be used from a retirement account to purchase a QLAC. *Effective on DOE*
- Requires the Treasury Secretary to revise regulations and allow for the use of Insurance Dedicated Exchange Traded Funds. *Regulations must be updated within 7 years of DOE*
- Eliminates penalty on partial annuitization by permitting account owners to elect the aggregate distributions from both portions of their account when determining annual RMDs. *Effective on DOE*

Fixing mistakes

- The excise tax for missing an RMD (or a shortfall) is reduced from 50% to 25%. And if the mistake is corrected in a timely manner, the 25% amount is further reduced to 10%. *Effective January 1, 2023*

- To the extent an RMD shortfall or excess contribution occurs, the statute of limitations is tied to filing an individual tax return (i.e., Form 1040) or the date the return would be filed if not otherwise required to file. The RMD statute of limitations is three years, while the excess contribution limit is six years. *Effective on DOE*
- Expands EPCRS (Employee Plans Compliance Resolution System) to include Individual Retirement Accounts and Individual Retirement Annuities for purposes of missed RMDs for owners and certain situations for beneficiaries. EPCRS is a system for self-correcting mistakes with retirement accounts to bring them into compliance and maintain tax benefits. *Effective on DOE*
- Exempts corrective distributions and corresponding earnings from IRAs from the 10% early withdrawal penalty. *Effective on DOE*

On the cutting room floor

Not included in Secure Act 2.0:

- Limit on Back-Door Roth
- Roth conversion restrictions
- Change to QCD age (70 ½)
- Clarification or correction to Secure Act 10-Year Rule
- Simplification of retirement-related tax laws

Learn more

Contact your financial professional today with any questions you have about these changes.

[1] Secure 2.0_Section by Section Summary 12-19-22 FINAL.pdf (senate.gov)

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