SECURE 2.0 Effective Dates

Far-reaching and impactful retirement-savings-related provisions, collectively titled the SECURE Act 2.0 of 2022, became law on December 29, 2022, as part of the Consolidated Appropriations Act of 2023. In the last weeks of December, Congress successfully synthesized four bills [i.e., H.R. 2954 Securing a Strong Retirement (SSR) Act, H.R. 5891 Retirement Improvement & Savings Enhancement (RISE) Act, S. 4353 Retirement Improvement and Savings Enhancement to Supplement Healthy Investments for the Nest Egg (RISE & SHINE) Act and S. 4808 Enhancing American Retirement Now (EARN) Act] to arrive at over 90 provisions that build on the original SECURE Act of 2019, and further expand retirement plan coverage, increase retirement savings, preserve retirement income, and simplify and clarify rules for 401(k) plans, IRAs and other retirement-savings arrangements. Effective dates range from immediate to over the course of the next few years. The following is an overview of key provisions by effective date.

Provisions Effective NOW

- Defined contribution (DC) plans may give participants the option to receive matching or nonelective contributions on a Roth basis
- Qualified Longevity Annuity Contracts (QLACs)—Repeals the 25% limit and allows up to $200,000 (indexed) to be used from an account to purchase a QLAC
- Permits an account owner to calculate the required minimum distribution (RMD) by applying the defined contribution rules to the entire account including annuity contracts and other assets such as cash
- Allows plan fiduciaries to decide not to recoup retiree overpayments; limitations and protections apply if recoupment attempted; rollovers remain valid
- Extends the age-50 early distribution exception for qualified public safety employees to private sector firefighters
- Expands the Employee Plans Compliance Resolution System for self-correction of eligible inadvertent failures, including IRA errors and certain RMD failures
- Repeals the direct payment requirement for public safety officer distributions (up to $3,000) to pay health and long-term care insurance premiums

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- Extends the age-50 public safety officer early distribution penalty exception to those with at least 25 years of service
- Extends the public safety officer exception to the 10% early distribution penalty tax to corrections officers who are employees of state and local governments
- For pension minimum funding rules, limits future mortality improvements to .78% beyond plan's valuation date
- Clarifies plans in a Group of Plans need only submit an audit opinion if, individually, the plan has 100 participants or more
- Replaces the variable rate premium indexing for pension plans with a flat $52 for each $1,000 of unfunded vested benefits
- Extends employers' ability to use assets from overfunded pension plans to pay retiree health and life insurance benefits until 2032
- Eliminates the additional tax on corrective distributions of IRA excess contributions
- Limits repayment of qualified birth or adoption distributions to 3 years
- For plans with 50 or fewer employees, increases the plan startup credit from 50% to 100% of administrative costs up to $5,000 annually for first 3 years PLUS gives an additional credit for employer contributions to DC plans up to $1,000 per employee
- Creates a tax credit for small employers who cover military spouses in retirement plans
- Allows plan sponsors to give small immediate financial incentives (e.g., low-value gift cards) for contributing to a plan
- Permits employers of domestic employees (e.g., nannies) to provide SEP IRA contributions
- Eliminates the compensation-based limit for nonHCEs in rural electric cooperative retirement plans
- Allows changes to deferral elections for governmental 457(b) plans prior to receipt of compensation rather than prior to the beginning of the month
- Permits employers to rely on employee self-certifications that hardship distribution conditions are met
- Allows retroactive first year elective deferrals for sole proprietors and single member LLCs
- Eliminates unnecessary plan notices for unenrolled but otherwise eligible employees; annual reminder required
- Authorizes tribal courts to issue domestic relations orders (DROs)
- Requires a cash balance plan's variable interest crediting rate be a reasonable projection, subject to a maximum of 6%
- Makes available a one-time election for IRA qualified charitable distributions (QCD) (up to $50,000) to charitable gift annuities, charitable remainder unitrusts, and charitable remainder annuity trusts; also indexes the IRA QCD dollar limit
- Clarifies if an individual has multiple IRAs, only the IRA involved in a prohibited transaction is disqualified
- Removes RMD barriers to life annuities
- Reduces the penalty for failing to take RMDs from 50 to 25%; if the failure to take a RMD is timely corrected the penalty is reduced to 10% in certain cases
- Provides that the penalty exception for substantially equal period payments continues to apply for rollovers, an exchange of an annuity providing the payments, or an annuity that satisfies the RMD rules
- Gives an exception to the early distribution penalty tax for individuals with a terminal illness
- Modifies RMD rules for special needs trusts
- Adjusts the statute of limitations for excise taxes on IRA excess contributions and missed RMDs
- Increases the RMD age to 73
- Allows Roth contributions to SIMPLE IRAs and permits employers to allow employees to treat SEP contributions as Roth
- Ensures the plan start-up credit is available for 3 years for employers joining a multiple employer plan (MEP) or pooled employer plan (PEP)
- Permits 403(b) custodial accounts to participate in group trusts (e.g., a collective investment trust) with other tax-preferred savings plans and IRAs (Note: Securities laws were NOT addressed and remain a roadblock)
- Permits 403(b) plans to be operated as MEPs (including as PEPs)
- Permanent rules are established for relief in connection with Qualified Federal Disasters, permitting up to $22,000 in "qualified disaster recovery distributions" that are not subject to the 10% tax on early distributions. Qualified disaster recovery distributions are eligible to be taken into income over three years and can be repaid to the plan.

2024

- Employer contributions made on behalf of employee for “qualified student loan payments” are treated as matching contributions
- Allows one penalty-free withdrawal of up to $1,000 per year for unforeseeable or immediate financial needs relating to personal or family emergency expenses
- Creates a “Starter 401(k)” or safe harbor 403(b) plan for employers without a retirement plan, employees automatically enrolled at a deferral rate of 3% to 15%, with deferrals limited to the annual IRA contribution limit, plus catch-ups
- Gives employers the option to offer nonhighly compensated employees pension-linked emergency savings accounts with optional auto-enrollment at 3%; the account is capped at $2,500 (or lower at employer’s discretion); contributions are Roth-like, employers may give a match, and the first four distributions cannot be subject to fees
- Increases the plan cash-out limit from $5,000 to $7,000
- Allows employers to perform top-heavy tests separately on non-excludable and excludable employees
- Permits participants who self-certify they experienced domestic abuse to withdraw the lesser of $10,000 (indexed) or 50% of their retirement plan penalty free
- Allows employers to adopt discretionary plan amendments that increase participants’ benefits by the employer’s tax return due date
- Eliminates RMDs from designated Roth accounts for plan participants
- Allows surviving spouses to elect to be treated as the deceased plan participant for RMD rules
- Allows employers to replace a SIMPLE IRA plan with a SIMPLE 401(k) or other 401(k) plan that requires mandatory employer contributions during a plan year
- Requires pension plans to provide information to participants to compare in-plan benefits vs lump sums
- Mandates pension plans clearly define funding issues on annual funding notices
- Allows for a grace period of 9 ½ months after a plan year end to correct, penalty-free, reasonable errors related to automatic enrollment and escalation features
- Conforms hardship withdrawal rules for 403(b) plans to 401(k) plans
- Mandates all catch-up contributions to qualified retirement plans be made on a Roth basis, except for employees with compensation of $145,000 or less (indexed)
- Allows rollovers from 529 accounts in place for at least 15 years to Roth IRAs, subject to a lifetime limit of $35,000, the annual Roth IRA contribution limit applies
- Creates a penalty exception for withdrawals taken for emergency expenses
- Indexes IRA catch-up contributions in $100 increments in the same manner as the indexing for regular IRA contributions

2025

- Requires new plans to have automatic enrollment, year 1 deferral amount is at least 3% up to 10%, years 2-8 deferral amounts are increased by 1% until the deferral rate reaches at least 10%, but not more than 15%; all current 401(k)s and 403(b)s are grandfathered; other exceptions apply
- Establishes a higher catch-up limit (the greater of $10,000 or 150% of the regular catch-up) at age 60, 61, 62, and 63
- Reduces the 3-year eligibility rule to 2 years for long-term, part-time employees, pre-2021 service is disregarded for vesting purposes and extends provision to ERISA 403(b) plans
- Permits retirement plans to distribute up to $2,500 per year to pay premiums for certain specified, long-term care insurance contracts, exempt from 10% early distribution penalty tax

- Requires plan amendments by the last day of the first plan year beginning on or after 01/01/2025 (e.g., 12/31/2025 for calendar year plan) (2027 for governmental plans), operational requirement as of effective date, conforms amendments due for prior law changes
- Directs the IRS to issue sample forms for direct rollovers for retirement plans and IRAs

2026

- Unless participant elects otherwise, DC plans must provide paper benefit statements at least once annually, and DB plans must do so every 3 years

2027

- Changes Saver's credit to a federal match of 50% of IRA or retirement plan contributions up to $2,000 per individual, subject to phase-out match is deposited into an IRA or retirement plan
- Permits first responders to exclude service-connected disability pension payments from gross income after reaching retirement age

2028

- Opens the door for 1042 Stock Exchanges for S Corporations with employee stock ownership plans (ESOPs)
- Allows highly regulated companies with liquid securities that are quoted on nonexchange markets to treat their stock as "public" for ESOP purposes and allows certain nonexchange traded securities to qualify as "publicly traded employer securities" under certain conditions

2033

- Increases the RMD age to 75

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