SECURE 2.0 Act of 2022
Summary of provisions

On December 29, 2022, President Biden signed into law the 2023 Consolidated Appropriations Act (CAA), a $1.7 trillion omnibus spending bill passed by Congress on December 22 and 23. CAA includes numerous significant changes to retirement plans, referred to in the CAA as the SECURE 2.0 Act of 2022 (SECURE 2.0), a law nearly 400 pages in length. Some SECURE 2.0 provisions become effective on the date of enactment, while most provisions have effective dates in 2023 or later.

SECURE 2.0 contains about 100 retirement provisions and will impact almost all plans. Plan amendments to comply with the Act must generally be adopted by the end of the 2025 plan year. Plans must be operated in accordance with the statutory changes, starting on each statutory change effective date.

Below is a list of key elements that may be most impactful to Plan Sponsors and their Participants.

Provision	Effective Date	Required or Optional
1.) Roth treatment for catch-up contributions by higher paid employees • For taxable years beginning after 2023, all qualified plan catch-up contributions must be Roth contributions. • Employees with compensation of $145,000 or less (indexed for inflation) are exempt from this requirement.	Effective for plan years after December 31, 2023	Required (if plan allows for catch-up contributions)
2.) Higher catch-up contribution limit to apply at age 60, 61, 62, and 63 • For Non-SIMPLE Plans: » Increases the limit on catch-up contributions for individuals aged 60-63 to the greater of (a) $10,000 or (b) 150% of the regular catch-up amount for 2024, indexed for inflation. • For SIMPLE Plans: » Increases the limit on catch-up contributions for individuals aged 60-63 to the greater of (a) $5,000 or (b) 150% of the regular catch-up amount in 2025, indexed for inflation.	Effective for taxable years beginning after December 31, 2024	Optional

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3.) Elective treatment of student loan payments as elective deferrals for purposes of matching contributions • Allows employer contributions made on behalf of employees for "qualified student loan payments" to be treated as matching contributions, provided certain requirements are satisfied. • Applies to 401(k), 403(b), SIMPLE IRAs, and governmental 457(b) plans. • Employers are permitted to apply the ADP test separately to employees who receive matching contributions on account of qualified student loan payments. • Employer may rely on employee certification of student loan payment.	Effective for plan years beginning after December 31, 2023	Optional
4.) Optional treatment of employer matching or nonelective contributions as Roth contributions • Allows a Section 401(a) qualified plan, a Section 403(b) plan, or a governmental 457(b) plan to permit employees to designate employer matching or nonelective contributions as Roth contributions. • Student loan matching contributions may also be designated as Roth contributions. • Matching and nonelective contributions designated as Roth contributions are not excludable from the employee's income and must be 100% vested when made.	Effective for contributions made after enactment	Optional
5.) Increase in starting age for Required Minimum Distributions (RMDs) • Increases the RMD age to: » 73 for a person who attains age 72 after December 31, 2022, and age 73 before January 1, 2033. » 75 for an individual who attains age 74 after December 31, 2032.	Effective for distributions made after December 31, 2022, for individuals who attain age 72 after that date	Required
6.) Mandatory automatic enrollment / escalation for new plans • SECURE 2.0 requires most **new** 401(k) and 403(b) plans to automatically enroll participants (employees may opt out). • The initial automatic enrollment amount must be at least 3% but not more than 10%. • The deferral rate is automatically increased by 1% each year until it reaches at least 10%, but not more than 15%. • Small businesses with 10 or fewer employees, new businesses (those that have been in business for less than 3 years), church plans and governmental plans are exempt.	Effective for plan years beginning after December 31, 2024	Required for new plans (small plan exception)

Provision	Effective Date	Required or Optional
7.) Emergency savings accounts linked to individual account plans • Provides employers the option to offer their non-highly compensated employees pension-linked emergency savings accounts. • Employers may automatically opt employees into these accounts at up to 3% of salary, with the employee funded portion of the savings account capped at $2,500 (or lower as set by the employer). • Once the cap is reached, additional employee contributions can be directed to the employee's Roth defined contribution plan (if they have one) or stopped until the balance attributable to contributions falls below the cap. • Contributions are made on a Roth-like basis and treated as elective deferrals for purposes of retirement matching contributions, with an annual matching cap set at the maximum account balance. • The first four withdrawals from the account each plan year may not be subject to any fees or charges solely on the basis of such withdrawals. • At separation from service, employees may take their emergency savings accounts as cash or roll it into their Roth defined contribution plan (if they have one) or IRA.	Effective for plan years beginning after December 31, 2023	Optional
8.) Replacement of the current nonrefundable Saver's credit with a federal match to IRA and retirement plan contributions • Changes Saver's credit from a cash credit paid with the tax refund (or against taxes owed) to a federal matching contribution, regardless of tax obligation, that must be deposited into a taxpayers' IRA or retirement plan. • The match will be 50% of contributions up to $2,000 per individual (gradually phased out at various income levels).	Effective for tax years beginning after December 31, 2026	Required

Provision	Effective Date	Required or Optional
9.) Improving coverage for part-time workers • Reduces from three to two the required years of service before long-term, part-time workers are eligible to contribute to a plan. • Pre-2021 service is also disregarded for purposes of the vesting of employer contributions (and pre-2023 service is disregarded for eligibility and vesting purposes under the new, SECURE 2.0 part-time employee provision). • Extends the long-term, part-time coverage rules to 403(b) plans that are subject to ERISA.	Generally effective for plan years beginning after December 31, 2024. The clarification that pre-2021 service may be disregarded for vesting purposes is effective as if included in the 2019 SECURE Act, so effective for plan years beginning after December 31, 2020.	Required
10.) Retirement savings Lost and Found • Directs the DOL to create an online searchable “Lost and Found” database to collect information on benefits owed to missing, lost or non-responsive participants and beneficiaries in tax-qualified retirement plans. • Assists plan participants and beneficiaries in locating those benefits. • Applies to tax-qualified defined benefit and defined contribution plans subject to ERISA vesting provisions.	Directs the creation of the databases no later than two years after the date of enactment of SECURE 2.0.	Required

Additional notable provisions in the SECURE 2.0 Act of 2022:

- Amends ERISA to require defined contribution plans to provide participants with at least one paper benefit statement annually (one every three years for defined benefit plan participants), unless a participant affirmatively requests electronic delivery.
- Allows employees to self-certify financial hardships for purposes of taking a hardship withdrawal.
- Limit on small balance "cash outs" of former employees increased from $5,000 to $7,000, effective for distributions made after 2023.
- Reduces excise tax penalty for failing to take a required minimum distribution from 50% to 25%.
- Establishes a new "Starter K," which will allow employers that do not currently sponsor a retirement plan to offer a starter 401(k) plan (or safe harbor 403(b) plan).
- 100% tax credit for the start-up of new retirement plans by small businesses.
- Eases current restrictions and expands current limits for qualified longevity annuity contracts (QLACs) and eliminates a penalty on partial annuitization.
- Allows for the establishment of auto-portability arrangements.
- Permits 403(b) plan custodial accounts to participate in group trusts (such as CITs).
- Allows for one repayable emergency distribution, not to exceed $1,000, per year.
- Allows de minimis financial incentives, such as low-dollar gift cards, to incentivize employee participation in 401(k) and 403(b) plans.
- Provides permanent rules for the use of retirement funds in connection with qualified federally declared disasters.
- Permits penalty-free withdrawals from retirement plans for individual cases of domestic abuse.
- Provides a safe harbor for corrections of employee elective deferral failures.
- Expands the Employee Plans Compliance Resolution System (EPCRS) to allow more errors to be corrected internally through self-correction.
- Directs DOL to update fee disclosure regulations, to allow investments (such as target date funds) that use a mix of asset classes to be benchmarked against a blend of broad-based securities market indices.
- Clarifies that plan audit rules apply to any plan filing under a group of plans if it covers 100 participants or more.
- Clarifies prior grey area to specifically allow 403(b) plans to utilize Multiple Employer Plans ("MEPs").