



SECURE 2.0

Impact on Employer Retirement Plans



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Overview of Select Provisions

Changes Currently Effective

Increased RMD
Age

Expansion of
Self-Correction

Overpayment
Recoupment
Relief

Employer
Contribution
Roth Treatment

Changes Effective After 12/31/2023

Roth Catch-up
Contribution
Requirement

Student Loan
Payments
Treated as
Elective
Deferrals

Increases
Mandatory Cash-
out Limit

Emergency
Savings Accounts

10% Early
Withdrawal
Penalty
Exceptions

Auto
Enroll/Escalation
Failure
Correction

Changes Effective After 12/31/2024

Increase to
Catch-up Limit

Auto-Enrollment
Requirement

Expands Long-
term Part-time
Worker
Eligibility

Changes Effective After 12/31/2025

Roth Catch-up Contribution
Requirement

Changes Currently Effective

Required Minimum Distributions

Increased
(Sec. 107)

Beginning Date Age

Required Beginning Date (RBD) Age

Date of Birth	RBD Age	Authority
Before July 1, 1949	70 ½	Pre-SECURE Act
On or after July 1, 1949 and before January 1, 1951	72	SECURE Act
On or after January 1, 1951 and before January 1, 1960	73	SECURE 2.0
On or after January 1, 1959	75	SECURE 2.0

Required Changes

- Apply new RBD age in determining:
 - Amount of the distribution that is not eligible for rollover;
 - Availability of period-certain forms of payment after RBD

Optional Changes

- Plan sponsor may consider changing plan's required commencement date to align with SECURE 2.0
- Fewer issues for defined contribution plans
- Defined benefit (pension) plans must provide actuarial increases for extended period
 - Are participants actively accruing benefits?
 - Does the plan permit terminated vested participants to defer beyond normal retirement?
 - Did the plan extend the required commencement age to 72 under SECURE Act?

Matching and Non-elective Contribution

Optional Roth Treatment (Sec. 604)

Optional Roth Treatment

- Effective for contributions made after December 29, 2022
- 401(a), 403(b) or governmental 457(b) can allow employees to choose whether employer matching or nonelective contributions may be made on a Roth basis (some or all)

Impact/Limitations of Roth Election

- Employer contributions treated as Roth are included in the employee's gross income for the year
- Employer contributions must be 100% vested



EPCRS

Expansion of Self-Correction (Sec. 305)



Expansion of Self-Correction

- Generally effective December 29, 2022
- “Eligible inadvertent failures” may be self-corrected prior to audit
 - Defined expansively to include any failure that occurs despite compliance practices and procedures that satisfy the standards of EPCRS
 - Does not include failures that are egregious, related to the diversion or misuse of plan assets, or relate to an abusive tax avoidance transaction
 - Self-correction must be completed within a reasonable time after the failure is identified
- Updated EPCRS Guidance to be issued by December 29, 2024

Plan Loans Failures

- Loan failures may be self-corrected according to the rules in EPCRS
- Loan failures self-corrected under EPCRS as permitted by SECURE 2.0 will be treated as meeting the requirements of the VFC Program
 - Secretary of Labor may impose reporting or other procedural requirements.

Recovery of Plan Overpayments

Flexibility and Participant Protections
(Sec. 301)

Changes to Overpayment Process

- Plan relieved of obligation to recover overpayments and reimburse the plan trust if certain conditions are met
- Plan can take participant's hardship into account in determining overpayment collection
- Grants new participant protections where traditional overpayment protection is pursued

Changes Effective After 12/31/2023



Student Loan Payments

Treated as Elective Deferrals for
Purposes of Matching Contributions
(Sec. 110)



Overview

- Effective for plan years beginning after December 31, 2023
- Employer may make matching contributions on “Qualified Student Loan Payment”

“Qualified Student Loan Payment”

- “Qualified Student Loan Payment”: Payment made by an employee in repayment of qualified education loan incurred by employee solely to pay qualified higher education expenses
 - Limited by 402(g), less elective deferrals made by the employee for such year
 - Employee must certify annually to payment
 - Employer may rely on employee certification of payment

Matching Contribution

- Must be made at same rate as deferrals
- Must be made on behalf of employees otherwise eligible to receive matching contributions on account of elective deferrals
- All employees eligible to receive matching contributions on elective deferrals must be eligible to receive matching contributions on Qualified Student Loan Payments
- Matching contributions may be made on a different schedule, pending regulatory guidance

Treatment for Purposes of Nondiscrimination Rules

- Plan may separately test employees receiving matching contributions on student loan repayments
- Matching contributions will count toward safe harbor 401(k) requirements or safe harbor automatic enrollment 401(k) plan requirements

Mandatory Cash-out Limit

Increased amount (Sec. 304)

Increases Cash-out Limit

- Effective for distributions made after December 31, 2023
- Cash-out limit currently set at \$5,000
 - Amounts between \$1,000 and \$5,000 must be automatically rolled over to an IRA
- Increases the \$5,000 amount to \$7,000
- Optional to implement

Emergency Savings Account

Linked to Individual Account Plans
(Sec. 127)

Emergency Savings Account

- Plan years beginning after December 31, 2023
- Can be offered to NHCEs linked to defined contribution plan, on a Roth basis
- May offer auto enrollment up to 3% of pay
- Contributions cease at \$2,500 (indexed) or lower amount
- Must be invested in principal preservation investment
- Must permit at least one withdrawal per month without penalty, and at least four withdrawals per year without fees

10% Early Withdrawal Penalty Exceptions

Emergency Expenses (Sec. 115),
Domestic Abuse (Sec. 314)

Certain Distribution Provisions

- Emergency Expenses (Sec. 115): Participants may take up to \$1,000 in a calendar year as an emergency personal expense distribution.
 - Distributions after December 31, 2023
- Domestic Abuse (Sec. 314): Victims may withdraw the lesser of \$10,000 or 50% of their account under a defined contribution plan during the one-year period beginning on the date on which the individual is a domestic abuse victim.
 - Self-certify eligibility and withdrawals may be repaid over a three-year period
 - Distributions after December 31, 2023

Auto Enrollment/Escalation

Correcting Failures (Sec. 350)

Auto Enrollment and Auto Escalation Failures

1. Reasonable administrative errors made in implementing auto enrollment or auto escalation provision; or
2. failure to afford employee opportunity to make affirmative election because improperly excluded.

Must be corrected prior to 9½ months after the end of the plan year in which the failures occurred.

Changes Effective After 12/31/2024



Catch-up Contributions

Increased Limits (Sec. 109)



Increased Limits

- Effective for taxable years beginning after December 31, 2024
- Increases catch-up contribution limit for individuals ages 60-63
- Increased to greater of \$10,000 or 150% of the regular catch-up amount in effect for 2024 (then adjusted for inflation)
- Limit is lower for SIMPLE Plans



Automatic-Enrollment

Requirement for New Plans (Sec. 101)



Requirement for New Plans

- Effective for plan years after December 31, 2024
- Unless exemption applies, new 401(k) and 403(b) plans must provide for automatic enrollment and must satisfy three additional requirements
- Exemptions for:
 - Existing retirement plans
 - Plans with 10 or less employees
 - Certain “new” businesses
 - Church plans and governmental plans

Potential Issues

- Employer that first adopts a MEP on or after December 29, 2022 will be treated as adopting a new plan
 - Changes to PEO?
- Plan mergers of existing and new plans
- Issues in transactions not addressed

Participation by Long-term Part-time Workers


Expanded Eligibility (Sec. 125)

Background under SECURE 1.0

- Historically, tracked “year of service” under minimum participation requirements
 - 1,000 hours in an eligibility computation period
- “Long-term Part-time worker” rule added in 2019
 - Must permit elective deferrals
 - No requirement for matching or nonelective contributions
 - First eligible in plan years beginning on or after January 1, 2024

Expansion under SECURE 2.0

- Excludes service prior to January 1, 2021 for purposes of vesting under SECURE 1.0
- Effective for plan years beginning after December 31, 2024
 - Now two consecutive years of service (instead of three under SECURE Act)
 - Extends requirement to 403(b) plans



Changes Effective After 12/31/2025

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Catch-up Contributions

Roth Requirement (Sec. 603)

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Roth Requirement

- Effective for taxable years beginning after December 31, 2023²⁵
- Catch-up contributions must be made as Roth contributions
- Exception for employees with compensation of \$145,000 or less, indexed
- Not applicable to SIMPLE IRAs or SEPs

Reminder: Plan Amendments



Plan Amendments

Remedial Amendment Period (Sec. 501)



Remedial Amendment Period

- Ending on the last day of the first plan year beginning on or after January 1, 2025 (December 31, 2025 for calendar year plans).
- For governmental plans and collectively bargained plans, the last day of the first plan year beginning on or after January 1, 2027 (December 31, 2027 for calendar year plans).
- Same deadline applies for amendments under the CARES Act and SECURE 1.0



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