



SECURE 2.0: Reshaping the Retirement Landscape

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Learning Objectives

- Understand new 401(k) features, including emergency savings accounts, student loan payments, starter 401(k)s, required auto-enrollment features and increased credits and limitations
- Be aware of enhanced SIMPLE-IRA features, modifications to 457(b) eligibility requirements and ability to treat employer contributions as Roth amounts
- Comprehend expanded rollover options, additional distribution penalty exemptions and RMD changes
- Know changes to MEP, PEP and Group of Plans rules
- Understand effective dates of the provisions and amendment requirements

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Course Overview



- How We Got Here: Background of the New Law
- Employer-Sponsored Retirement Plan Provisions
- Other Plan-Related Provisions
- Other Provisions
- DOL/IRS Homework
- Summary

How We Got Here: Background of the New Law

How We Got Here



A combination of three bills to further improve workers' long-term financial wellbeing

HR 2954, The Securing a Strong Retirement Act of 2021	S 4353, Retirement Improvement and Savings Enhancement to Supplement Healthy Investments for the Nest Egg (RISE & SHINE) Act	Enhancing American Retirement Now (EARN) Act
51 provisions	26 provisions	70 provisions
March 29, 2022, passed the full House with a 414-5 vote	June 14, 2022, unanimously passed out of the Senate Health, Education, Labor & Pensions Committee	June 22, 2022, unanimously passed out of the Senate Finance Committee

Final version of the agreed upon provisions included as Division T in the Consolidated Appropriations Act, 2023—the omnibus spending bill

Key Themes of SECURE Act 2.0



- Expand plan coverage
- Increase retirement savings
- Preserve retirement income
- Simplify and clarify retirement plan rules

Employer-Sponsored Retirement Plan-Related Provisions

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For New Plans



For plans with 50 or fewer employees

- Increases the plan startup credit from 50% to 100% up to \$5,000 for first 3 years
- PLUS offers additional credit up to \$1K per employee for employer contributions to DC plans with 50 or fewer employees
- For taxable years beginning after 12/31/2022

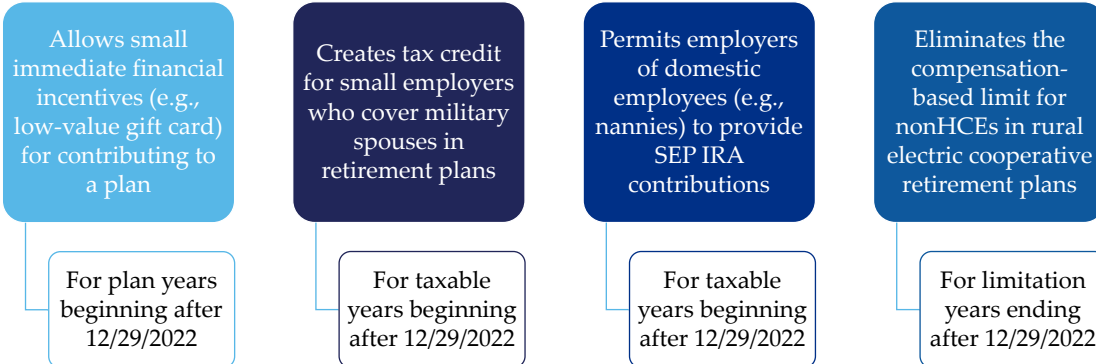
Required automatic enrollment in 401(k) and 403(b) plans

- Year 1 enrollment amount at least 3% up to 10%
- Year 2-8 deferral amount increased by 1% until it reaches at least 10%, but not more than 15%
- Participants may opt out or elect another percentage
- Existing plans exempt
- Other exceptions apply
- For plan years after 12/31/2024

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2023 Effective Provisions



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2023 Effective Provisions



QLACs—Repeals the 25% limit and allows up to \$200,000 (indexed) to be used from an account to purchase a QLAC

- For contracts purchased/exchanged on or after 12/29/2022

When a tax-preferred retirement account holds an annuity, account owner is permitted to aggregate RMDs from the annuity portion and cash portion of the account

- Effective on 12/29/2022

Allows plan fiduciaries to decide not to recoup retiree overpayments, limitations and protections apply if recoupment attempted, rollovers remain valid

- Effective on 12/29/2022

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2023 Effective Provisions



Expands of Employee Plans Compliance Resolution System for more self-correction, inadvertent IRA errors, certain RMD failures

- Effective on 12/29/2022

Allows changes to deferral elections for governmental 457(b) plans prior to receipt of compensation rather than prior to the beginning of the month

- For taxable years after 12/29/2022

2023 Effective Provisions



Employer may rely on employee self-certifying that hardship distribution conditions are met

- For plan years beginning after 12/29/2022

Allows retroactive first year elective deferrals for sole proprietors and single member LLCs

- For plan years beginning after 12/29/2022

2023 Effective Provisions



Eliminates unnecessary plan notices for unenrolled but otherwise eligible employees, annual reminder required

Extends the age-50 early distribution rule for qualified public safety employees to private sector firefighters

For plan years beginning after 12/31/2022

For distributions after 12/29/2022

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2023 Effective Provisions



Repeals direct payment requirement for \$3K public safety officer distributions to pay health and long-term care insurance premiums

- For distributions after 12/29/2022

Extends age-50 public safety officer early distribution penalty exception to those with at least 25 years of service

- For distributions made after 12/29/2022

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 distributions made after 12/29/2022

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2023 Effective Provisions



Optional treatment of employer matching or nonelective contributions as Roth contributions

- Effective 12/29/2022

Extends employers' ability to use assets from overfunded pension plans to pay retiree health and life insurance benefits until 2032

- For transfers made on or after 12/29/2022

Authorizes tribal courts to issue DROs

- For DROs received by plan administrators after 12/31/2022

2023 Effective Provisions



Removes RMD barriers of life annuities

Calendar years ending after 12/29/2022

Reduces penalty for failure to take RMDs from 50 to 25%, if failure to take IRA RMD timely corrected, penalty reduced to 10%

For taxable years beginning after 12/29/2022

Limits repayment of qualified birth or adoption distribution limited to 3 years

For distributions made after 12/29/2022 and retroactively

2023 Effective Provisions



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

- Effective after 12/31/2023 and for annuity distributions on 12/29/2022

Exception to penalty on early distributions from qualified plans for individuals with a terminal illness

- Distributions made after 12/29/2022

Increases RMD age to 73 on 01/01/2023, and to 75 on 01/01/2033

2023 Effective Provisions



Modification of RMD rules for special needs trust

- For calendar years beginning after 12/29/2022

Adjusts statute of limitations for excise tax on IRA excess contributions and missed RMDs

- Effective on 12/29/2022

Penalty exception for qualified federal disaster distributions

- For disasters on or after 01/26/2021

Polling Question

The penalty for failure to take an RMD is changing from 50% to what percentage?

- A. 5%
- B. 20%
- C. 25%
- D. 40%

2024 Effective Plan Provisions



Increases deferral and catch-up limits (by 10%) for SIMPLE IRA and 401(k) plans of employers with 25 or fewer employees, employers with 26-100 employees may provide higher deferral limits, but only if provide a 4% match or 3% employer contribution

- For taxable years beginning after 12/31/2023

Increases the plan cash out limit from \$5K to \$7K

- For distributions after 12/31/2023

2024 Effective Plan Provisions



Starter 401(k) or 403(b) plans for employers without retirement plans, automatic deferral rate of 3 to 15% up to IRA contribution limit

- For plan years beginning after 12/31/2023

Following plan cash outs to default IRAs, permits service providers to automatically transfer participant's default IRAs into participant's new employer's retirement plan, unless elect otherwise

- For transactions occurring on or after 12/29/2023

2024 Effective Plan Provisions



Employers may offer nonHCEs pension-linked emergency savings accounts with optional auto-enroll at 3%, capped at \$2,500 (or lower at employer's discretion), contributions are Roth-like, employer may match, first 4 distributions not subject to fees

- For plan years beginning after 12/31/2023

Allows employer to perform top-heavy test separately on the non-excludable and excludable employees

- For plan years beginning after 12/31/2023

2024 Effective Plan Provisions



Treatment of student loan payments as elective deferrals for purposes of matching contributions

For plan years beginning after 12/31/2023

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

For distributions after 12/31/2023

Allows employers to adopt discretionary amendments that increase participants' benefits by the employer's tax return due date

For plan years beginning after 12/31/2023

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2024 Effective Plan Provisions



Pension plans must provide information to compare in-plan benefits vs lump sum

- DOL must issue regulations after 12/29/2023

Eliminates RMDs from designated Roth accounts for plan participants

- For taxable years beginning after 12/31/2023

Surviving spouse may elect to be treated as deceased employee for RMD rules

- For calendar years beginning after 12/31/2023

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2024 Effective Plan Provisions



Allows for a grace period of 9 ½ months after plan year end to correct, penalty-free, reasonable errors related to automatic enrollment and escalation features

- For errors after 12/31/2023

Penalty exception for withdrawals for emergency expenses

- For distributions after 12/31/2023

All catch-up contributions to qualified retirement plans must be Roth, except for employees with compensation of \$145,000 or less (indexed)

- For distributions after 12/31/2023

Polling Question

New 401(k) plans must include an auto enrollment feature after what year?

- A. 2022
- B. 2023
- C. 2024
- D. Never

2025 Effective Plan Provisions



Higher catch-up limit (greater of \$10,000 or 50% more than the regular catch-up) at age 60, 61, 62, and 63

- For taxable years beginning after 12/31/2024

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

- For plan years beginning after 12/31/2024

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2026 Effective Plan Provisions



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;

- Effective 12/29/2025

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

- For plan years beginning after 12/31/2025

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2027 Effective Plan Provisions



Permits first responders to exclude service-connected disability pension payments from gross income after reaching retirement age

- For amounts received in taxable years after 12/31/2026

Saver's Match-50% of IRA or retirement plan contributions up to \$2,000 per individual, subject to phase-out, deposited to IRA or retirement plan

- For taxable years beginning after 12/31/2026

Polling Question

Starting in 2033, RMDs must commence by what age?

- A. 59 ½
- B. 65
- C. 72
- D. 75

Other Plan Provisions

MEPs, PEPs and GoPs



PEP may designate named fiduciary (other than employer) to collect contributions

- For plan years beginning after 12/31/2022

MEPs and PEPs can include 403(b) plans

- Plan years beginning after 12/31/2022

Ensures plan startup credit is available for 3 years for employers joining a MEP or PEP

- For taxable years beginning after 12/31/2019

Clarifies plans in a Group of Plans need only submit an audit opinion if, individually, the plan has 100 participants or more;

- Effective 12/29/2022

403(b)-Specific Provisions



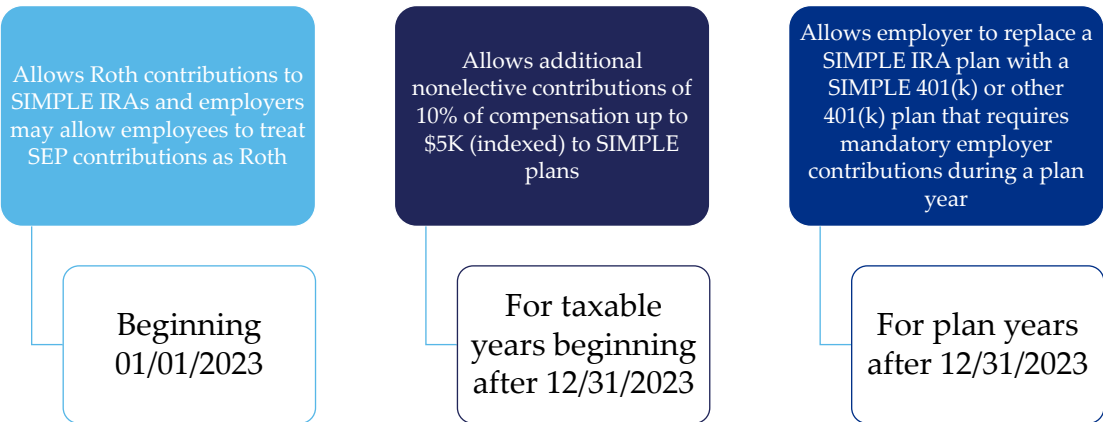
Permits 403(b) custodial accounts to participate in group trusts with other tax-preferred savings plans and IRAs

- Effective after 12/29/2022
- Note: While amendments pursuant to SECURE Act 2.0 allow 403(b) plans to invest in CITs from the IRS's perspective, SEC rules still prohibit such investing practices at this time.

Conforms hardship withdrawal rules for 403(b)s to 401(k) plans

- For plan years beginning after 12/31/2023

SIMPLE IRA-Specific Provisions



ESOP-Specific Provisions



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

- For plan years beginning after 12/31/2027

1042 Stock Exchanges for S Corporations with ESOPs

- For sales made after 12/31/2027

Defined Benefit-Specific Provisions



Requires a cash balance plan’s variable interest crediting rate be a reasonable projection, subject to a maximum of 6%

- For plan years after 12/29/2022

Replaces the variable rate premium indexing with a flat \$52 for each \$1,000 of unfunded vested benefits

- Effective on 12/29/2022

For minimum funding rules, limits future mortality improvements to .78% beyond plan’s valuation date

- Effective on 12/29/2022

Annual funding notices must clearly define funding issues

- For plan years beginning after 12/31/2023

Plan Amendments



Plan amendments due 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 compliance required as of effective date
- Conforms amendments due for prior law changes

DOL/IRS Homework and Future Regulations

DOL/IRS Homework



- DOL and IRS to study impact of inflation on retirement savings
- IRS, DOL and PBGC must review reporting and disclosure requirements for retirement plans as soon as practicable after 12/29/2022
- DOL to produce reports on PEPs every 5 years; first report due by 12/29/2027
- Requires DOL to create a national retirement savings lost and found by 12/29/2024
- DOL must review pension risk transfer interpretive bulletin for needed updates by 12/29/2023
- Requires the Government Accountability Office to issue a report effectiveness of section 402(f) distribution notices; due 6/29/2024
- Requires DOL to review DC plan fee disclosure rules for needed improvements; report due to Congress by 12/29/2025
- DOL to create performance benchmarks for asset allocation funds (e.g., target dates); regulations due by 12/29/2024
- IRS and DOL must amend rules to allow consolidation of DC plan notices by 12/29/2024
- IRS must issue sample forms for direct rollovers for retirement plans and IRAs by 01/01/2025

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Other Provisions

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IRA-Specific Provisions



Clarifies if an individual has multiple IRAs, only the IRA involved with a PT is disqualified

- For taxable years beginning after 12/29/2022

One-time election for IRA QCD (up to \$50K) to gift annuities, charitable remainder unitrusts, and charitable remainder annuity trusts, indexes IRA QCD dollar limit

- For distributions made in taxable years ending after 12/29/2022

IRA-Specific Provisions



Allows for rollovers from 529 accounts after 15 years to Roth IRAs (up to \$35K over lifetime, subject to annual Roth IRA contribution limit)

- For distributions after 12/31/2023

Eliminates additional tax on corrective distributions of IRA excess contributions after 12/29/2022

Indexes IRA catch-up limit

- Effective 01/01/2024

Other Provisions



Assist States in locating owners of applicable savings bonds

Modification of age requirement for qualified ABLÉ programs

Insurance-dedicated exchange-traded funds

Reform of family attribution rules

Worker Ownership, Readiness, and Knowledge (WORK) Act

Amendments relating to Setting Every Community Up for Retirement Enhancement Act of 2019

Summary

Practical and Tactical Actions



- Consult with plan providers regarding their approaches to various provisions; discuss timelines
- Consider plan design elements for incorporation
- Contemplate necessary operational changes and timeline
- Develop communications for various audiences
- Reconsider SIMPLE IRA arrangements in light of enhanced contributions
- Based on sponsor workforce, consider emergency savings feature
- Apprise small businesses of the new 401(k) Starter option
- Reconsider QLACs given the increased limits

Questions?

