

SECURE 2.0 At-a-Glance

2023-24 KEY PROVISIONS FOR PLAN SPONSORS TO CONSIDER

Below is a high-level summary of key provisions that Plan Sponsors may want to consider right now. While many of the provisions contained in Secure Act 2.0 will be available for implementation over the next several years, these particular provisions have been designated for implementation during the 2023 and 2024 plan years. Please note the following:

- Not all changes are mandatory and retirement plans may differ.
- Although SECURE 2.0 has passed, the interpretation of the legislation is left to government agencies for clarification. It is expected that for many provisions, the regulators will need to issue rules regarding each aspect, which is common with such legislation.
- It is anticipated that the technical, operational and compliant execution of the majority of these provisions, such as new RMD rules, will fall within the responsibilities of plan recordkeepers and TPAs, as will the plan participant communications required.

2023

MANDATORY

- New exclusions to the 10% early withdrawal penalty for these three situations; in addition, under certain circumstances, employees are permitted to self-certify that they have had an event that constitutes a hardship for purposes of taking any hardship withdrawal.
 - Qualified disaster
 - Qualified birth or adoption
 - Terminal illness
- RMDs increased to age 73; thereafter, gradually increased until capped at age 75 in 2033.
- RMD excise tax for failure to take an RMD reduced from 50% to 25%.
- Small business retirement plan start-up tax credit increased to 100% if less than 50 employees.
- Additional small business retirement plan start-up tax credit increased to max of \$1,000 per employee and gradually reduces over 5 years; full credit available for employers with less than 50 employees.
- Certain disclosures, notices and plan documents no longer have to be provided to unenrolled employees if they are given an annual reminder of their eligibility, with election deadlines and any document they request to which they are entitled to receive otherwise. They must be given a summary plan description.

OPTIONAL

- Employers may allow employees to select to receive employer matching contributions on either a pre-tax or Roth (after-tax) basis.

2024

MANDATORY

- If earning more than \$145,000, employee catch-up contributions must be made on a Roth basis.
- No more RMD requirement for Roth 401(k)s and 403(b)s.
- Department of Labor must create a central data repository (the “Retirement Savings Lost and Found”) by December 29, 2024, to assist participants and beneficiaries in identifying retirement benefits and contacting plan administrators.
- New exclusions to the 10% early withdrawal penalty for these two situations:
 - Emergency distribution (up to \$1,000 may be withdrawn by an employee in a year for personal or family emergencies; no other such emergency distribution may be made within three years unless the initial distribution is repaid).
 - Domestic abuse (up to the lesser of \$10,000 or 50% of account balance; income taxes will be refunded to the participant for distributions repaid within three years).

OPTIONAL

- Employers may offer individuals the option to pay down a student loan instead of contributing to a 401(k) plan and still receive an employer match in their retirement plan. Plan sponsors may conduct separate non-discrimination testing for these individuals.
- Employers may offer de minimis, immediate financial incentives (such as gift cards) to encourage employees to join retirement plans.
- Employers may offer non-highly compensated employees an emergency savings account. Employers may auto-enroll employees at no more than 3% of compensation. Contributions are capped at \$2,500, after which time contributions must be stopped or directed to an employee’s Roth account (if they have one) until the balance falls below the cap.
- Employers may increase their plan’s participant account cash-out threshold from \$5,000 to \$7,000.

Your HUB advisor is always available to discuss these provisions in greater detail, along with the implications for your plan and employees. In addition, please consult with your recordkeeper partner for more information on how they plan to address implementation in their systems and communicate with participants.

Sources: <https://www.congress.gov/bill/117th-congress/house-bill/2954/text>
<https://www.shrm.org/ResourcesAndTools/hr-topics/benefits/pages/house-passes-secure-act-2-to-promote-retirement-savings.aspx>

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