



## SECURE 2.0 OVERVIEW

President Biden signed into law on December 29, 2022 the SECURE 2.0 Act of 2022 (SECURE 2.0) which is intended to enhance the American retirement system by making it easier for Americans to participate in and benefit from their employer's retirement plan in various ways, along with easing some of the administrative burdens for employers.

SECURE 2.0 has many provisions that may impact your retirement plan. The effective dates for these provisions vary. Many of the new rules will involve significant recordkeeping system updates and/or additional guidance from the Internal Revenue Service and Department of Labor.

Below is a high-level explanation of some of the items that may impact your retirement plan listed by effective date. Many of these provisions are optional and are subject to plan sponsor choice. We are currently in the planning stages of implementing many of the SECURE 2.0 provisions and will provide more information on when they will be available, additional details clarified by guidance or technical corrections, as well as how to adopt provisions that will require a plan amendment.

Provision	Explanation of Provision Effective Date of Provision/Comments
Permanent rules governing federally declared disaster areas	<p>The new rules allow for penalty-free distributions of up to \$22,000 to plan participants who are impacted by federally declared disasters, and participants can recontribute the distributed amounts within three years. Plans may also increase loan limits to the lesser of (1) \$100,000 or (2) the greater of \$10,000 or 100% of the present value of the participant's nonforfeitable accrued benefit and extend repayments by one year.</p> <p><b><i>For any disasters after January 26, 2021</i></b></p>
Hardship distribution self-certification	<p>Employers can now rely on an employee self-certification that they have had a safe harbor event that constitutes a deemed hardship for purposes of taking a hardship distribution.</p> <p><b><i>December 29, 2022</i></b></p>
Repayment of Qualified Birth or Adoption Distributions (QBADs)	<p>Repayment period for QBADs limited to three years</p> <p><b>For QBADs made after December 29, 2022. For prior distributions, the repayment period ends December 31, 2025.</b></p>
Exception for early withdrawal penalty for terminal illness	<p>A new exception to the early withdrawal penalty is added for distributions made to certain terminal ill participants.</p> <p><b><i>For distributions beginning December 29, 2022</i></b></p>
Treatment of employer matching and nonelective contributions as Roth contributions	<p>Employers can choose to provide participants the option to receive any matching or nonelective contribution on a Roth basis. Such Roth contributions must be 100% vested when made.</p> <p><b>Effective for contributions made after December 29, 2022. While effective immediately, payroll and recordkeeping system changes needed to support this option are extensive and actual implementation date is to be determined.</b></p>

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Eliminated unnecessary disclosures for unenrolled participants	Employers will no longer be required to provide disclosures and notices that are otherwise required to be provided to unenrolled participants who have elected not to participate in an employer's retirement plan, if certain conditions are satisfied.  <b>Plan years beginning after December 31, 2022</b>
Increase in age for required beginning date for mandatory required distributions and reduction in excise tax for amounts not distributed by deadline.	Increases the RMD age to: (i) 73 for a person who attains age 72 after December 31, 2022 and age 73 before January 1, 2033, and (ii) 75 for an individual who attains age 74 after December 31, 2032.  The excise tax for failure to take an RMD amount in a timely manner is reduced from 50% to 25% of the required amount with a further reduction to 10% if timely corrected.  <b>RMD age change is effective for distributions made after December 31, 2022, for individuals who attain age 72 after that date and excise tax changes are effective for taxable years beginning after December 29, 2022.</b>
Small, immediate financial incentives for contributing to plan	Employers permitted to offer small financial incentives (not paid for with plan assets) to encourage 401k plan participation, e.g. low-dollar gift cards.  <b>Plan years beginning after December 31, 2022</b>
Treatment of student loan payments as 401(k) contributions for purposes of matching contributions	Participants making qualified student loan payments can have those payments matched in the retirement plan without negatively impacting nondiscrimination testing.  <b>Plan years after December 31, 2023</b>

Provision	Explanation of Provision
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Withdrawal for certain emergency expenses	Employers may allow for one unforeseeable personal or family emergency withdrawal of up to \$1,000 per year with the option to repay within three years. Also, the distribution would not be subject to early withdrawal penalty.  <b><i>Distributions after December 31, 2023</i></b>
Allow additional nonelective contributions to SIMPLE plans	Employers may make additional contributions to each employee of the plan in a uniform manner, provided that the contribution does not exceed 10% of compensation (max \$5,000, indexed)  <b><i>Taxable years after December 31, 2023</i></b>
Contribution Limit for SIMPLE plans	Annual deferral and catch-up limits are increased to 110% of the 2024 SIMPLE plan limits in the case of an employer with no more than 25 employees. An employer with 26 to 100 employees would be permitted to provide these higher limits but only if the employer provides either a 4% matching contribution or a 3% employer contribution.  <b><i>Taxable years after December 31, 2023</i></b>
Increase Dollar Amount for Mandatory Distributions (Force-Outs)	Will increase the force out dollar amount from \$5,000 to \$7,000. This also applies to cash-outs for plans subject to spousal consent rules.  <b><i>Distributions after December 31, 2023</i></b>
Application of top-heavy rules to plans covering excludable employees	Will allow plans to test excludable employees versus nonexcludable employees for top-heavy testing purposes. May allow plans with less restrictive eligibility conditions to avoid being a top-heavy plan (minimum contribution requirement).  <b><i>Plan years after December 31, 2023</i></b>

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Domestic Abuse Withdrawals from qualified plans	<p>Plans may allow domestic abuse victims to withdraw the lesser of \$10,000 (indexed for inflation) or 50% of their account. Such distributions are not subject to early withdrawal penalty and can repaid over three years.</p> <p><b><i>Distributions made after December 31, 2023</i></b></p>
Amendments to Increase Benefit Accruals for previous plan year	<p>Will allow plan amendments that increase benefit accruals for participants for the previous plan year up to the employer's tax return due date (including extensions).</p> <p><b><i>Plan years after December 31, 2023</i></b></p>
Roth 401k plan distribution rules	<p>Pre-death RMD amounts from Roth accounts will no longer be required. Does not apply to 2023 RMD amounts that are permitted to be paid after December 31, 2023.</p> <p><b><i>Taxable years after December 31, 2023</i></b></p>
Surviving Spouse to be treated as employee	<p>Allows a spousal beneficiary to irrevocably elect to be treated as the employee for RMD purposes and if the spouse is the employee's sole designated beneficiary, the applicable distribution period after the participant's year of death is determined under the uniform life table.</p> <p><b><i>Calendar years after December 31, 2023</i></b></p>
Employers allowed to amend from SIMPLE plan to Safe Harbor 401(k) plan during the year	<p>A SIMPLE IRA can be replaced with a Safe Harbor 401(k) plan at any time during the year, provided certain conditions are met.</p> <p><b><i>Plan years after December 31, 2023</i></b></p>

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Safe harbor for correction of employee elective deferral	<p>Allows employer to still be considered a qualified plan if it self-corrects a reasonable administrative error made in implementing automatic enrollment, automatic escalation or failing to offer an affirmative election due to the employee's improper exclusion from the plans within 9 ½ months of the end of the year in which the error occurred (or date on which employee notifies the plan sponsor of the error, if earlier) and meets other conditions.</p> <p><b><i>For any errors with respect to which the date that is 9½ months after the end of the plan year during which the error occurred is after December 31, 2023.</i></b></p>
Catch-up contributions must be made to a designated Roth account except for participants with prior year compensation of not more than \$145,000.	<p>Participants who had prior year compensation of \$145,000 or less can choose to make catch-up contributions on pre-tax or Roth basis.</p> <p><b><i>Taxable years after December 31, 2023</i></b></p>
Higher Catch-up contribution limit to apply to participants ages 60-63, inclusive.	<p>Non-SIMPLE plans – Increases catch-amounts for participants ages 60-63 up to the greater of \$10,000 or 150% of the regular catch-up limit for 2024, indexed for inflation.</p> <p>SIMPLE plans – Increases catch-amounts for participants ages 60-63 up to the greater of \$5,000 or 150% of the regular SIMPLE catch-up limit for 2025, indexed for inflation.</p> <p><b><i>Taxable years after December 31, 2024</i></b></p>

## Provision

## Explanation of Provision

### Effective Date of Provision/Comments

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Improving retirement plan access for part-time workers

Reduced the number of years that a long-term part-time employee has to work from three years to two years to be eligible to make 401(k) contributions to a retirement plan. SECURE 1.0 required that employees working at least 500 or more hours per year in 3 consecutive years must be eligible to make 401(k) contributions. This was effective with plan years beginning in 2021 with the first year of eligibility being plan years beginning in 2024.

***Change to two years effective for plan years beginning after December 31, 2024. The three-year rule is still in effect and employees (who already are not participants in your plan) who had three consecutive years of 500 or more hours in 2021, 2022 and 2023 must be given the opportunity to make 401(k) contributions to the plan beginning in 2024. IRS Guidance on long-term part-time eligibility and vesting rules is expected this year.***

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Emergency savings accounts linked to individual account plans

Permits employers to amend its plan to offer short-term emergency savings accounts. These accounts must be funded with Roth contributions and participants may be automatically enrolled at a rate of up to 3% of compensation. Contributions are capped at \$2,500 (indexed for inflation). Participants must be allowed to take at least one withdrawal per month and the first four withdrawals cannot be subject to fees. Assets in these accounts must be invested in cash, interest bearing accounts and principal preservation accounts.

***Plan years after December 31, 2023***

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Saver's Match

Modifies existing nonrefundable credit for contributions made to retirement plans to a federal matching contribution deposited into the retirement plan by the Treasury up to \$2,000. The match phases out at certain income thresholds. Further guidance will certainly be required on this provision.

***Tax years beginning after December 31, 2026***

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