

President Biden closed out 2022 by signing a legislative package into law that included the *Securing a Strong Retirement Act of 2022*—or as it is more commonly known: SECURE 2.0. Supporters of the bipartisan legislation say it will increase access to 401(k) and individual retirement plans, especially among low- to middle-income workers. It is also expected to provide incentives for U.S. workers to save for retirement and make it easier for small businesses to offer retirement plans.

SECURE 2.0 builds on the *Setting Every Community Up for Retirement Act of 2019* (SECURE 1.0), which included a broad range of provisions intended to improve access to retirement plans for both employers and workers. The sections that follow provide a brief overview of the significant provisions of SECURE 2.0 to help our members understand the changes and the impact they could have on their clients.

Changes to required minimum distributions

- The act raises the default age at which required minimum distributions (RMDs) must begin in two steps. The first age increase was from 72 to 73 for taxpayers who turn 72 after Dec. 31, 2022. In the second step occurs when the default age for RMDs increases to 75 for individuals who turn 74 after Dec. 31, 2032.
- The excise tax on plan participants who fail to take an RMD decreased from 50% to 25%, starting Jan. 1, 2023. The tax decreases to 10% if the distribution is corrected within a two-year period.
- Roth IRA accounts in employer-sponsor plans, such as 401(k) plans, will be exempt from the RMD rules while the participant is alive beginning in 2024.
- Spousal beneficiaries of employer-provided plans may elect to be treated as an employee for the purposes of RMDs. If the spouse is the sole beneficiary of the account, the distribution rates will be determined using the uniform life table.

Retirement saving lost-and-found database to be created

- The U.S. Department of Labor must set up an online searchable database to assist plan participants and their beneficiaries in finding their retirement plan benefits by the end of 2024.

Automatic enrollment and escalations

- Most new 401(k) and 403(b) plans must meet the requirements for an eligible automatic contributions arrangement (EACA) beginning in 2025. Under an EACA:
 - An employer must automatically enroll employees in the plan (but the employees may opt out).
 - The plan must treat employees as having elected to make contributions.
 - The plan document specifies the uniform percentage of wages that will be withheld after they have received notice.
 - Employees must be allowed to reduce or eliminate the default withholding.
- Employers are required to automatically enroll employees at a contribution rate equal to between 3% and 10% of their earnings. The contribution rates must increase by 1% annually until they reach at least 10%, but at most 15%.

Long-term, part-time employee changes

- Employees who have worked for an employer at least 500 hours per year for at least two consecutive years must be allowed to make contributions to a 401(k) plan beginning in 2025 if they meet the minimum age requirement. Previously, employees were required to have worked at least 500 hours per year for three years to contribute to a 401(k) plan.

Matching Roth accounts allowed

- Employers may give employees the option of receiving matching and non-elective contributions to their Roth IRA accounts. Previously, matching payments to employer-sponsored plans were made on a pre-tax basis.

Increased limits on catch-up contributions

- Beginning in 2024, all catch-up contributions to non-SIMPLE plans by participants with compensation of \$145,000 or more must be Roth IRA contributions made in after-tax dollars.
- Starting in 2025, catch-up contributions for participants in non-SIMPLE plans who are between the ages of 60 and 63 will increase to the greater of \$10,000 or 150% of the standard catch-up limit.
- Beginning in 2025, the catch-up contribution limit for SIMPLE plan participants between the ages of 60 and 63 increases to the greater of \$5,000 or 150% of the standard catch-up limit.

Changes to 403(b) plans

- 403(b) plans will have the same hardship distribution rules that are currently enjoyed by 401(k) plans.
- 403(b) plans may not invest in collective pooled trusts
- Plans can join a multiple employer plan or a pooled employer plan.

Mandatory distribution amount increased

- The threshold for involuntary distributions will increase from \$5,000 to \$7,000 for distributions taken beginning in 2024. An involuntary distribution occurs when a former employee is involuntarily removed from their former employer's 401(k) plan with an account balance or accrued benefit of less than \$5,000 (raising to \$7,000 Jan. 1, 2024). The former employer is required to give notice to the former employee so that they can decide what to do with the funds. If the former employee doesn't respond and has a vested balance of more than \$1,000, the former employer must transfer the money to an IRA. For amounts of less than \$1,000, the former employee will receive a check, or the former employer will open an IRA on the former employee's behalf.

Emergency withdrawals allowed

- A plan participant may withdraw up to \$1,000 per year from their retirement account to address certain emergency situations starting in 2024.
- Withdrawn amounts will be subject to income tax, but if it is repaid within three years, it will not be subject to the 10% early withdrawal penalty.
- Participants may only withdraw once during the three-year repayment period if the initial withdrawal was not repaid.

New plan-linked emergency savings accounts

- Employers can create an emergency savings account as part of a defined contribution plan beginning in 2024. The designated Roth IRA account will be allowed to accept participant contributions from non-highly compensated employees.
- Contributions amount would be set by the employer and can be up to 3% of their compensation, limited to \$2,500 annually.
- The first four withdrawals each year from an emergency savings account would be tax- and penalty-free.
- If the plan allows, contributions may be eligible for an employer match.

Employers may match student loan repayments

- Employers can match student loan payments by contributing the same amount to the employee's retirement account starting in 2024.

Automatic portability

- Retirement plan service providers may offer plan sponsors automatic portability services that will transfer an employee's low-balance retirement account to a new plan when they change jobs.

Enhanced credits for smaller plans

- Employers with 50 or fewer employees may qualify for a start-up tax credit of up to 100% of the qualified start-up costs. The credit had been 50% for employers with 100 or fewer employees.

Fiduciaries not required to recover overpayments

- Plan fiduciaries are not required to recover accidental overpayments made to participants and beneficiaries if the plan complies with applicable tax limitations on benefits and minimum funding rules.
- Failure to seek reimbursement of an accidental overpayment will not be treated as a breach of fiduciary duty under ERISA or a violation of the Internal Revenue Code's tax-qualification requirements.
- If the fiduciary does not seek to recover the overpayment, the recipient can treat the overpayment as eligible for a tax-free rollover. Additionally, new rules apply to a plan fiduciary if they choose to recover the overpayment from the participant.

Increased qualified charitable distribution limit

- The \$100,000 tax-free qualified charitable distribution that taxpayers may take from their IRA each year to contribute to a charitable organization is now indexed for inflation.
- Participants who are 70 ½ or older may elect to make a one-time gift of up to \$50,000 (also indexed for inflation) to a charitable remainder unitrust, charitable remainder annuity trust or charitable gift annuity as part of their qualified charitable distribution (QCD) limit beginning in 2023.
- The one-time gift counts toward the participant's annual RMD.

529 plan rollovers to Roth IRAs

- Beneficiaries of 529 college savings accounts are allowed to roll over up to \$35,000 from any account in their name to their Roth IRA over the course of their lifetime.
- The 529 account must have been open for more than 15 years.
- Rollovers are subject to Roth IRA annual contribution limits.

Financial incentives for contributing to plans

- Employers can offer participants in 401(k) or 403(b) plans small financial incentives for contributing to the plan, so long as they are not paid with plan assets.

EPCRS self-correction expansion

- The IRS's Employee Plans Compliance Resolution System (EPCRS) self-correction program is expanded to allow plan sponsors to correct some inadvertent failures at any time. Currently, plans are currently only allowed to correct significant failures within three years of the date of the failure.

Saver's credit now a saver's match

- The nonrefundable saver's credit for certain IRA and retirement plan contributions will be replaced in 2027 with a federal matching contribution that is deposited into the plan.
- The saver's match will be 50% of the participant's IRA or retirement plan contributions of up to \$2,000 per participant. Some income limits and phase-outs will apply.