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SECURE 2.0: Key changes and takeaways

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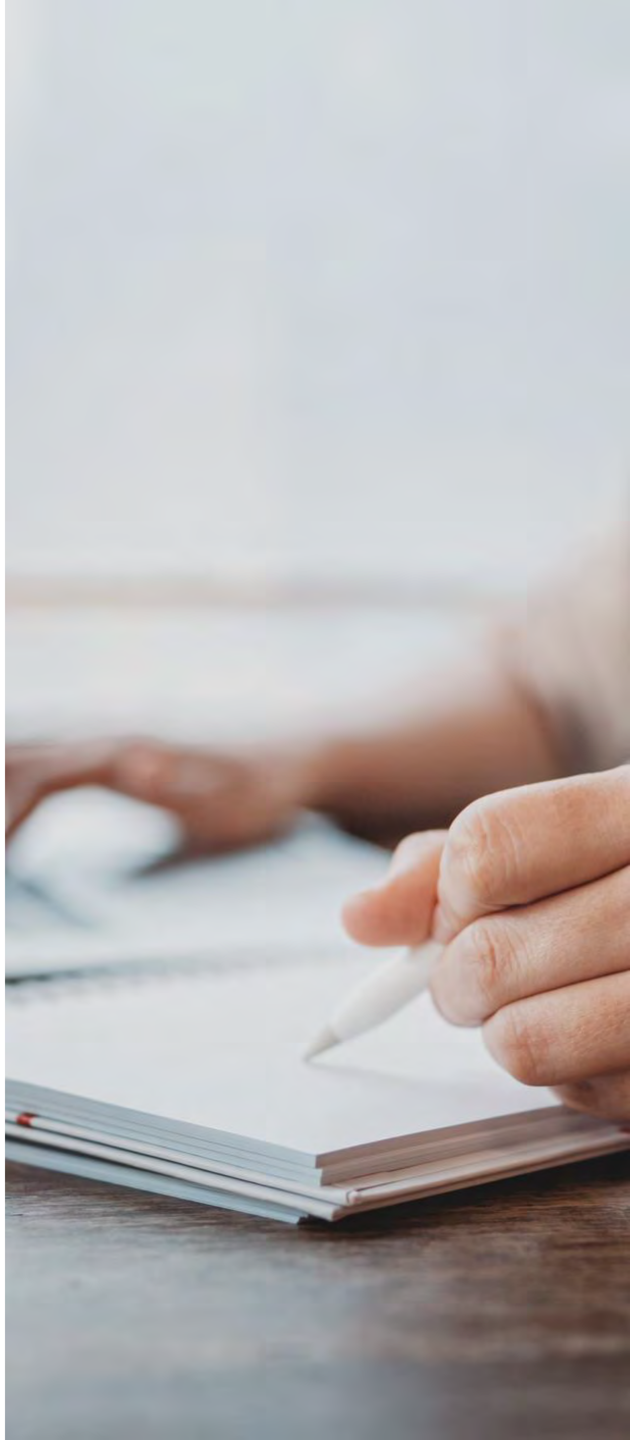
Agenda

1. Mandatory provisions
2. Optional plan enhancements
3. Correction of retirement plan errors



Mandatory Provisions

Required automatic enrollment

/ New 401(k) and 403(b) plans established on or after December 29, 2022 must include automatic enrollment and automatic escalation features, starting with plan years after December 31, 2024.

/ Eligible automatic contribution arrangement (EACA) “flavor” of automatic enrollment.

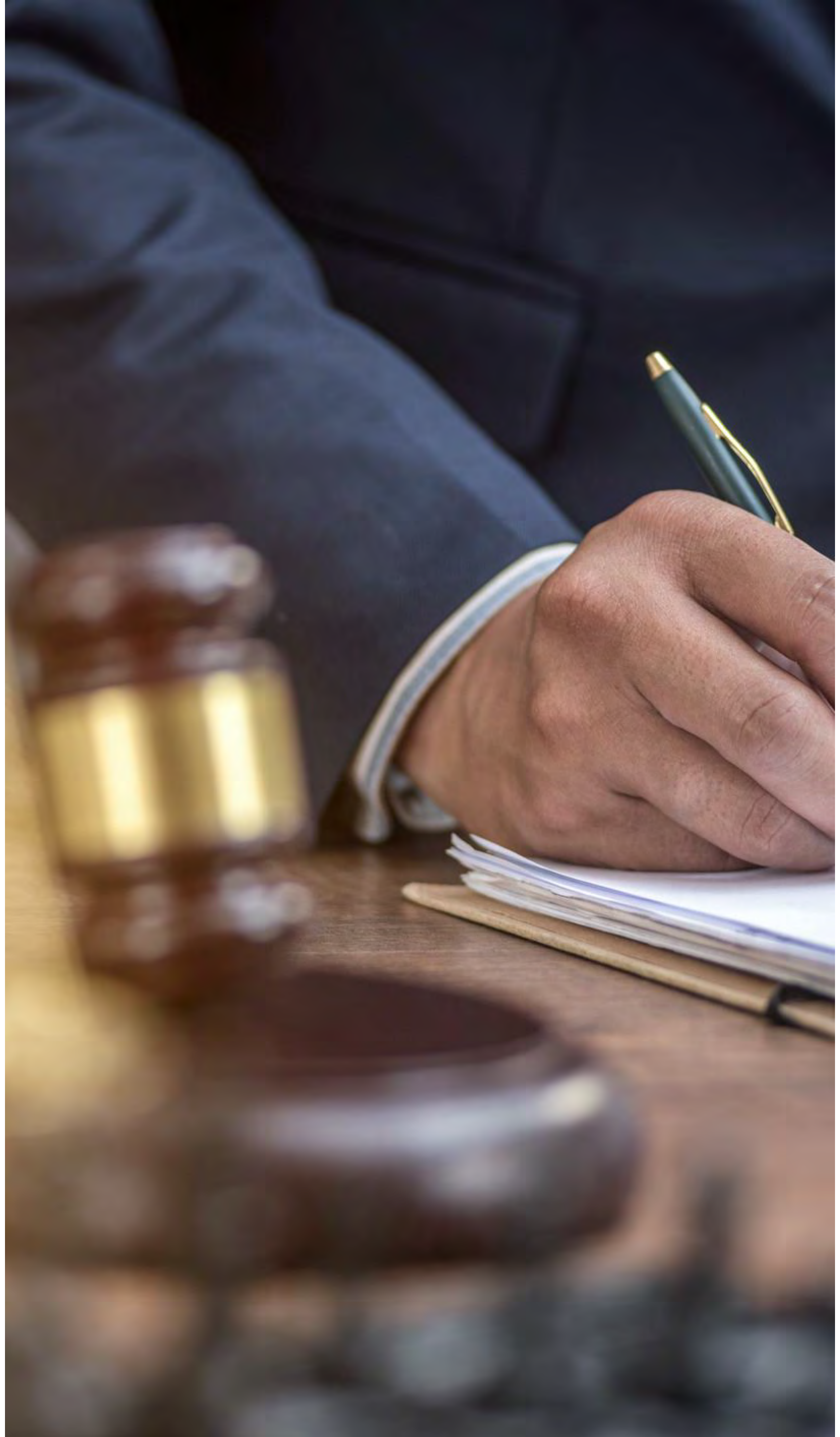
- Qualified default investment alternative (QDIA) default investment
- Participants can unwind within 90 days

/ Must start at least at 3% but not above 10% of pay

/ Also applies to employers that first adopt a multiple employer plan on or after December 29, 2022

/ Not applicable to plans in existence prior to December 29, 2022

/ Not applicable to certain small and new businesses, church plans, or SIMPLE 401(k) plans



Long-term part-time (LTPT) employees

SECURE Act 2019

- Applies to 401(k) plans.
- Employees who work at least 500 hours in three consecutive 12-month periods must be permitted to make elective deferrals.
- Periods of service beginning on and after January 1, 2021, must be counted (earliest 401(k) plan eligibility date for LTPT employee is January 1, 2024).

SECURE 2.0

- Applies to 401(k) and 403(b) plans.
- Employees who worked at least 500 hours in two consecutive 12-month periods must be permitted to make elective deferrals.
- Periods of service beginning on and after January 1, 2023 must be counted (earliest 403(b) plan eligibility date for LTPT employee is January 1, 2025).
- Pre-2021 services are disregarded for both eligibility and vesting (effective as if included in SECURE 1.0).
- LTPT employee can be excluded for nondiscrimination testing purposes.

Required minimum distribution (RMD)—starting age

- Code change wired in — plans might be able to require earlier distribution
- 2022: Age 72
- 2023: Age 73 for individuals who turn 73 before January 1, 2033
- 2033: Age 75 for individuals who turn 74 after December 31, 2032
- Glitch for individuals born in 1959
- 25% reduced penalty for failing to comply with RMD (10% if corrected within two years).

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Roth catch-up contributions

Catch-up contributions made by participants with annual compensation over $145,000 in prior year must be made on a Roth basis.

Effective after December 31, 2023.

- / Plan amendment needed if Roth isn't currently a plan option
- / Compensation is wages subject to FICA

New Saver’s Match Program

Beginning in 2027, low-income taxpayers who make qualified retirement contributions can receive a government match contribution up to $2,000 to an eligible IRA or retirement plan, which does not count toward the annual contribution limit.

/ This program will result in government match dollars being contributed to employer-sponsored retirement plans.

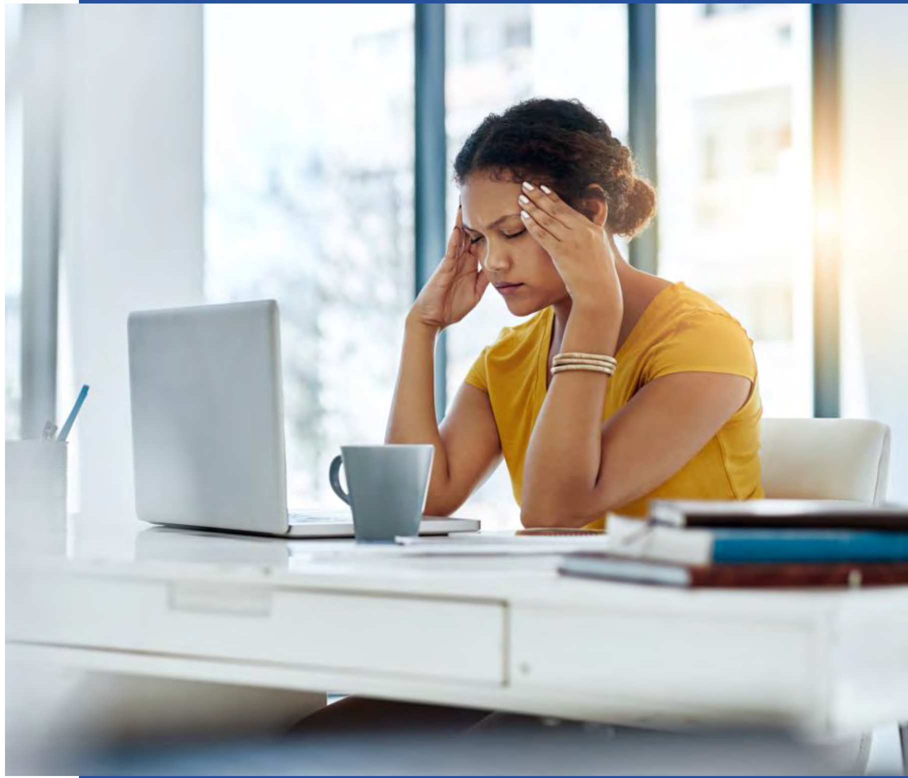
/ This program is an evolution of the current Saver’s Credit program which provides tax credits to low-income individuals who contribute to an IRA or retirement plan.

Optional Plan Enhancements

Emergency withdrawals

Qualified disaster recovery distributions

- Tax-favorable rules for distributions made to individuals who sustain economic loss due to federally declared disasters occurring after January 26, 2021
- For distributions made within 180 days after the first day of the disaster or the date of its declaration
- Limit $22,000 - taxable ratably over three years; may be recontributed within three years
- Loan repayments due during the disaster period + 180 days may be delayed for one year, and the 5-year repayment period extended by the disaster period + 180 days
- Increased loan limits ($100,000 or 100%)



Emergency withdrawals

Pension-Linked Emergency Savings Accounts

- Optional separate designated Roth contributions accounts in defined contributions plans for non-highly compensated employees with balances up to $2,500 (adjusted for inflation)
- Auto-enrollment at up to 3% is permitted
- Withdrawals permitted at least once per month
- First four withdrawals are free of fees
- Upon employment termination, funds can be transferred to another designated Roth account or made available to the participant
- Employers must separately account for such accounts and invest them in cash, interest-bearing bank accounts or an investment product that maintains the amount equal to the amount of contributions made, preserves principal, and provides a reasonable rate of return
- Notice 30-90 days before first contributions and annually thereafter is required
- Effective for plan years beginning after 2023

Emergency withdrawals

Withdrawals for Emergency Personal Expenses

- An unforeseeable or immediate financial need for necessary personal or family expenses
- One emergency personal expense distribution in a calendar year up to the lesser of $1,000 or the difference between the account balance and $1,000
- A participant cannot have any more of these distributions in the next three calendar years unless the employee has repaid the withdrawn amount to the plan or contributed to the plan after the distribution at least as much as he or she received
- A participant can repay the distribution within three years
- Employers may rely on an employee's certification of the emergency
- Effective for distributions made after 2023

Penalty-free withdrawal for victims of domestic violence

- Victims of domestic violence may withdraw up to the lesser of $10,000 or 50% of their vested accrued benefit
- Self-certification
- Distribution within one year after the date of domestic abuse by spouse or domestic partner
- No early distribution 10% excise tax
- Effective after December 31, 2023

Penalty-free withdrawal for terminal illness

- 10% early distribution penalty will no longer apply to a terminally ill individual provided the individual's physician certifies that the illness or physical condition is expected to result in death within 84 months (effectively immediately)
- Effective after December 29, 2022

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Penalty-free withdrawal for payment of long-term care insurance premiums

- Distribution up to the least of the cost of insurance, 10% of vested account balance, or $2,500 (indexed) per year from defined contribution plan for the payment of premiums for certain long-term care insurance contracts
- Insurance contracts must provide meaningful financial assistance for home-based or nursing home care needs
- Employers that adopt this optional feature will need to substantiate that the distribution was used to pay the premium costs for qualifying coverage
- No early distribution 10% excise tax
- Effective after December 29, 2025

Hardship withdrawals enhancements

/ Plan sponsors may now choose to allow participants to self-certify the need for financial hardship distributions from 401(k) or 403(b) plans or unforeseeable emergency distributions from 457(b) plans (effective for plan years beginning after December 29, 2022)

/ Beginning in 2024, 403(b) plans can permit hardship withdrawals from all contribution types.

- Currently, 403(b) plans can permit hardship withdrawals from employee contributions only (excluding any earnings)
- This rule change aligns hardship withdrawals from 403(b) plans with 401(k) plans, which already can allow hardship withdrawals from all contribution types

Mandatory distribution limit increase to $7,000

- Optionally effective for distributions made after December 31, 2023
- Cash-out dollar limit for retirement plans increases from $5,000 to $7,000
- Amounts between $1,000 and $7,000 can be rolled over to an automatic IRA

Spousal beneficiary treatment as an employee for RMD purposes

1

Extends current IRA rule to qualified plans

2

Permits sole designated beneficiary spouses to elect treatment as participant for RMD purposes

3

Effective for calendar years after 2023

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Starter 401(k) and 403(b) plans

/ New plan design for employers that don’t already sponsor a 401(k) or 403(b) plan

/ Available to employers of any size

/ Deferral-only, safe harbor

/ Required 3%-15% automatic enrollment

/ Same contribution limit as IRA limit ($6,000 + $1,000 age 50 catch-up, indexed for inflation)

/ Effective for plan years after December 31, 2023

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Financial incentives to encourage plan participation

Plan sponsors can provide de minimis financial incentives to encourage plan participation (e.g., small gift card, water bottle, etc.).

/ May not be funded by plan assets

/ Act creates exemptions and exceptions to contingent benefit rule and prohibited transaction concerns

/ Effective January 1, 2023

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Rothification

- Employer contributions can be made on a Roth basis, effective December 30, 2022
- Roth-related changes helped make SECURE 2.0 revenue-neutral

Rothification

- Prior to SECURE 2.0, RMDs from Roth contributions under employer plans must begin at age 72, even if the participant is still alive. RMDs from Roth IRAs aren’t required if the accountholder is still alive.
- Effective January 1, 2024, the pre-death RMD requirement is eliminated for Roth contributions (like Roth IRAs).

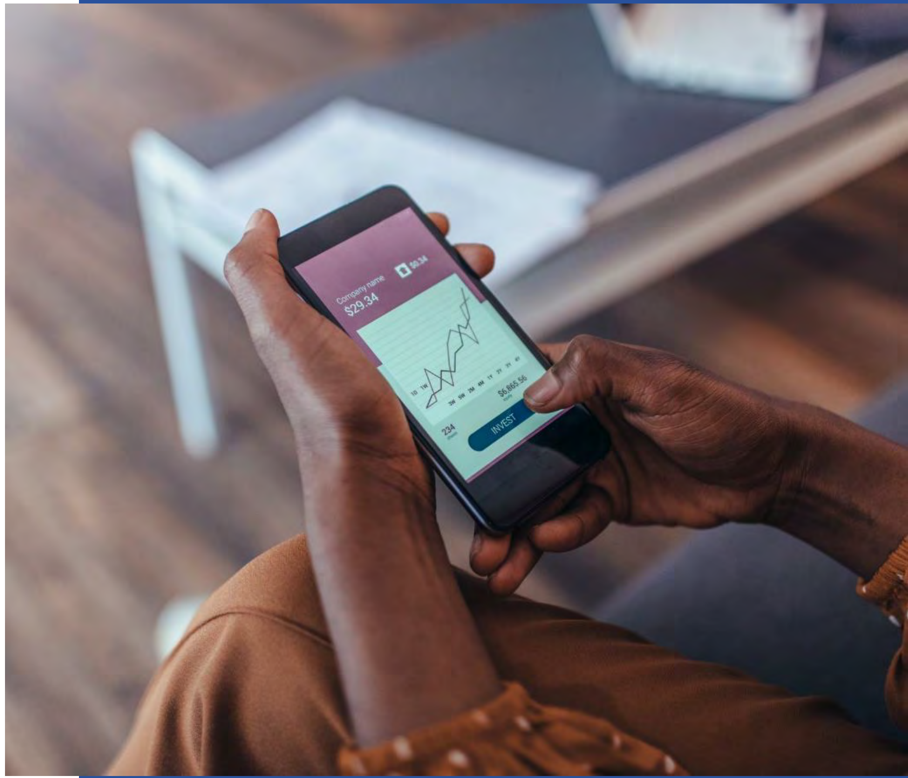
Enhanced catch-up contributions

Participants aged 60-63 can make enhanced catch-up contributions up to greater of $10,000 (indexed) or 150% of regular catch-up limits.

- Regular catch-up contribution limits apply to participants aged 50-59, and participants aged 64+
- Effective January 1, 2025

Matching contributions on loan repayments

- Optional change to provide matching contributions based on the repayment of qualified student loans
- Student loan repayments treated as elective deferrals (up to 402(g) limit)
- Made available to all match-eligible participants, and at the same rate as matching contributions on elective deferrals
- Employer can rely on employee certification of loan repayment
- Can be tested separately from matching contributions on elective deferrals
- Effective for plan years after December 31, 2023



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Discretionary amendment timing

- Normally, a plan amendment that increases benefits is due by the end of the plan year
- Deadline is extended to the due date of employer's tax return
- Effective for plan years after December 31, 2023

403(b) plan pooled employer plans (PEPs) and multiple employer plans (MEPs)

- SECURE Act 2019 allowed for the creation of PEPs.
- 403(b) plans weren't included in the rules and not explicitly permitted to participate in MEPs.
- Effective January 1, 2023, 403(b) plans can participate in PEPs and MEPs, and aren't subject to "one bad apple" rule

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403(b) plans and collective investment trusts

One goal of the Act was to enable 403(b) plans to offer low-cost collective investment trusts (CIT) as investment options. This change was highly anticipated by 403(b) plan sponsors and the investment community. Currently 401(k) plans can offer CITs, but 403(b) plans cannot. The Act removed the prohibition in Section 403(b) of the Tax Code.

However, SEC regulations impose a second hurdle that will need to be amended before 403(b) plans can adopt CITs.

Correction of Retirement Plan Errors

Overpayments

Inadvertent benefit overpayments on and after December 29, 2022:

/ Plan sponsors can opt not to pursue overpayments

- Tax status of rolled over overpayments will be preserved
- Fiduciary relief for failure to make plan whole

/ Collections for ERISA plans are subject to limitations:

- Restrictions on offsets of future plan payments
- Restrictions on collection efforts from participants (e.g., must recover within three years, no interest added)

Self-Correction

Pre-SECURE 2.0, self-correction of plan errors generally permitted only for insignificant operational failures or for failures corrected within three years.

/ Effective December 29, 2022, any eligible inadvertent failure can be self-corrected at any time unless:

- IRS identifies the failure first
- More than a reasonable period has passed
- Failure is egregious or involves the misuse or diversion of plan assets

/ IRS correction procedures (EPCRS) will be updated accordingly (no later than December 29, 2024)

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Retirement Lost and Found

- The Department of Labor (DOL) will create a national online database for participants and beneficiaries to search for retirement plan administrators' contact information in order to make a claim for benefits
- The database is to be created by December 29, 2024
- Plans will need to provide reporting about former employees to the DOL for plan years after December 31, 2023

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Thank you

Questions?

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