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In Focus: SECURE 2.0 Act
Paves the Way for Big Changes

The SECURE 2.0 Act of 2022 ("SECURE 2.0") is chock-full of provisions – 92, in fact – aimed at improving Americans' preparedness for retirement. Like SECURE Act 1.0 (passed December 2019), this latest round of legislation provides workers with greater access to retirement plans and further encourages retirement savings. This article highlights key provisions of SECURE 2.0 which are likely to have the greatest impact for savers (plan participants) and retirement plans going forward.

Access

For some Americans, not having access to a workplace retirement plan has perpetuated the challenges of planning and saving for retirement. Within SECURE 2.0, a provision will now provide multi-year tax incentives for smaller employers (generally with 50 or fewer employees) to adopt a new retirement plan. SECURE 2.0 has also introduced a provision which will require Automatic Enrollment and Automatic Escalation for new 401(k) and 403(b) plans beginning after December 31, 2024. While there are exceptions for certain types of plans (generally non-ERISA plans) and for smaller employers, mandating automatic features will help ensure more Americans are enrolled and actively saving in workplace retirement plans.

Increased Savings

Some of the most meaningful provisions within SECURE 2.0 are designed to promote retirement savings.

Increase in Catch-Up Contributions (effective for taxable years beginning after December 31, 2024)

- Current catch-up contribution limits allow those age 50 and older to contribute an additional $7,500 (eligible plan) or $3,500 (SIMPLE).
- SECURE 2.0 will allow those within the age range of 60-63 to make additional catch-up contributions – *the greater of* $10,000 for eligible plans ($5,000 for SIMPLE plans) or 150% of the current year catch-up contribution limit (indexed for inflation).
- It is important to note that, for participants taking advantage of catch-up contributions and whose wages exceeded $145,000 in the prior calendar year, SECURE 2.0 has mandated that such participants make catch-up contributions on a Roth (after-tax) basis (for tax years beginning after 2023).

"Rothification" of Employer Matching and/or Non-Elective Contributions (2023)

- While not mandatory, SECURE 2.0 includes a provision allowing plans to offer participants the ability to take some or all of matching and/or non-elective employer contributions as Roth contributions. If so elected, the employer Roth contribution would be includable in employee income; such contributions must be fully vested at the time they are made.

Further Expansion of Roth Retirement Accounts (2023)

- SECURE 2.0 authorizes the creation of SIMPLE Roth accounts and SEP Roth accounts, allowing individuals additional flexibility in choosing whether to save for retirement on a pre-tax ('traditional') or after-tax (Roth) basis.

Inflation Adjustments for IRA Catch-up Contributions (2024)

- While IRA "regular" contribution limits have been indexed for inflation since 2002, the same has not been true for IRA catch-up contribution limits; beginning in 2024, IRA catch-up contribution limits will finally be indexed for inflation.

Optional Treatment of Student Loan Payments as Elective Deferrals for Purposes of Matching Contributions (effective for plan years beginning after December 31, 2023)

- Applies to qualified retirement plans (401(k), 403(b), 457(b) plans and SIMPLE IRAs)
- Plan Sponsors may provide matching contributions on qualified student loan payments
- Student loan match must be subject to the same vesting schedule as the regular match
- Employee must be eligible to receive matching contributions, and all employees eligible for matching contributions must be eligible for a student loan match

Emergency Savings Accounts (effective for plan years after December 31, 2023)

- Plan-linked emergency savings account (PLESA)
- Participants may make Roth (after-tax) contributions until account balance reaches $2,500 (although Plan Sponsor can set a lower limit)
- Employee contributions are match-eligible (not made to PLESA)
- Automatic enrollment option available (employer)
- Highly compensated employees are not eligible
- Participant must be able to take emergency savings distributions at least once per month
- Distributions are not subject to early withdrawal penalties and are not taxable

Additional Flexibility for 529 College Savings Plans (2024)

- One of the more unique surprises of SECURE 2.0 is the provision to allow unused 529 college savings funds to be rolled over directly to a Roth retirement account, beginning in 2024. The 529 account must have been maintained for at least 15 years; any contributions made to the 529 account within the prior five years are ineligible for a rollover; the receiving Roth account must be in the name of the 529 plan beneficiary; the annual limit for such rollovers is limited to the annual IRA contribution limit, less any other IRA contributions made for that same year; and the maximum allowable rollover amount is $35,000 during an individual's lifetime.

Expanded Distribution Options

While there are some "revenue boosters" included within SECURE 2.0, there are also many provisions geared toward helping participants keep retirement money invested longer.

Required Minimum Distributions ("RMDs") Extended (effective January 2023)

- The RMD beginning age has gradually increased from age 70½ to 72 in recent years and will now expand further to age 75 over the coming decade.
  - RMD age 72 – individuals born in 1950 or earlier
  - RMD age 73 (starting in 2023) – individuals born between 1951-1959
  - RMD age 75 (starting in 2033) – individuals born in 1960 or later
- Provision applies to Individual Retirement Account ("IRA") holders as well

Elimination of Pre-Death RMD for Roth Accounts (effective January 1, 2024)

- SECURE 2.0 eliminates the pre-death distribution requirement for in-plan Roth amounts
- This change does not apply to distribution amounts prior to the effective date

Withdrawals for Certain Emergency Expenses (effective for withdrawals made after December 31, 2023)

- In-service distributions from eligible retirement plans (401(k), 403(b) and 457(b) plans)
- May withdraw up to $1,000 for emergency expenses (not subject to tax on early distributions)
- Only one emergency expense (up to $1,000) is allowed per year
- Distribution may be repaid within three years or future withdrawals may be limited

Penalties for Missed Required Minimum Distributions (RMDs) (2023)

- The penalty for not withdrawing the full amount of a required minimum distribution (RMD) will decrease from 50% to 25%, with a further reduction to 10% for taxpayers who correct the error in a timely manner.

Inflation Adjustments for Qualified Charitable Distributions (QCDs) (2024)

- The annual limit for QCDs has remained at $100,000 since its 2006 inception; beginning in 2024, the annual QCD limit will be indexed for inflation.
- Also of note, while the RMD age will continue to rise over the coming decade, the eligible age for making a QCD remains at 70½.

Access to Lower Fee Investments

One of the great disparities among retirement plans today is the availability of certain institutionally priced investment vehicles, like Collective Investment Trusts or "CITs". For years, 401(k) and other plan types have been eligible to invest in CITs that can offer access to investments at a lower price point when compared to mutual funds. 403(b) plans, for example, have been limited to only mutual funds and/or annuity contracts. SECURE 2.0 has eliminated that barrier going forward by allowing 403(b) plans to invest in CITs, when deemed appropriate. While this change is effective as the date of SECURE 2.0's enactment, there will be a delay before we see CITs in 403(b) plans given the need to modify applicable securities laws.

Summary

While this article touches on key themes of SECURE 2.0, there are many more provisions which will help redesign the retirement plan landscape to build a more sustainable and effective framework for employees to save and spend in retirement.

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