SECURE 2.0 Act of 2022

Understanding the SECURE 2.0 Act Modified Retirement Plan Provisions

- On December 29, 2022, President Biden signed into law the Consolidated Appropriations Act of 2023 which included the SECURE 2.0 Act of 2022
- It is a significant piece of retirement plan legislation which includes 92 provisions and builds on the previous SECURE Act of 2019. This timeline is a brief summary of select provisions

2023

Startup Credit

- Eligible for employers with 50 or less employees (previously 100)
- Credit for administrative costs increased from 50% to 100% for first 3 years; annual maximum is $5,000
- Defined Contribution plans can take an additional credit for employer contributions:
  - Up to $1,000 per employee with FICA wages less than or equal to $100,000 (subject to cost-of-living adjustments)
  - Phases out over time: 100% for years 1-2, 75% for year 3, 50% for year 4, and 25% for year 5
  - Employers with 51-100 employees may be eligible for a reduced credit

effective for the 2023 tax year

Required Minimum Distributions (RMDs)

- RMD age increased to 73
- Penalty for failure to take an RMD is reduced from 50% to 25%

effective for the 2023 tax year

Participant Notices/Disclosures (Limited Disclosures to Nonparticipating Employees)

- Employees who are eligible but have no balance in the plan will no longer have to receive the same notices as participants with a balance in the plan (e.g. fee disclosure, summary annual report, etc.). Instead, they will only need to be provided with an annual notice notifying them that they are eligible to participate in the plan
- The IRS & DOL have also been directed to consolidate the notices required for participating employees within the next 2 years

effective for plan years beginning on or after 1/1/2023

Small Incentives Allowed to Employees

- Employers are now permitted to offer small incentives (i.e. gift cards) up to a de minimis amount (amount not yet established by IRS) to employees in order to encourage enrollment in employer retirement plans

effective for 2023 plan year

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2024

Required Minimum Distributions (RMDs)

- Participants are not required to take from designated Roth accounts in qualified plans

Distributions (not related to RMD)

- Emergency Expense Distributions
  - optional for plan year 2024 and later. Allows distribution of $1,000 per year that is exempt from 10% early withdrawal penalty. Can be repaid within 3 years. If not repaid, then may not be able to take further emergency withdrawals
- Emergency Savings Account
  - optional for plan year 2024 and later. Allows employers to establish an emergency account funded by employee contributions up to a maximum of $2,500. These contributions are treated as Roth contributions and would be matched under the 401(k) plan if applicable. Distributions from this account are NOT taxable
- Domestic Abuse
  - optional for plan year 2024 and later. Participants may now self-certify that they have experienced domestic abuse. They can withdraw the lesser of $10,000 (subject to cost-of-living adjustments) or 50% of account balance and it will be exempt from the 10% early withdrawal penalty. Distribution amounts may be repaid within 3 years
- Mandatory Distribution Limit
  - Also known as the automatic rollover or force out limit
  - Increased from $5,000 to $7,000
  - Effective for distributions after 12/31/2023

Roth Catch-Up Contributions

- Catch-up contributions to qualified retirement plans must be made on a Roth basis for any employee earning at least $145,000 (subject to cost-of-living adjustments)

effective 1/1/2024

2025

Mandatory Automatic Enrollment

- In general, plans started after 12/29/2022 are required to include an automatic enrollment feature starting with the 2025 plan year
  - We are currently waiting for further guidance and will provide additional information once it becomes available
- Initial automatic deferrals must be 3-10% and then automatic increases of 1% annually apply up to a maximum of 10-15%

**this does NOT apply to businesses with 10 or fewer employees, businesses existing less than 3 years, churches, or government entities

Additional Items Effective 2025 or later

- Higher catch-up limits will be available for individuals aged 60-63
- Long-Term Part-Time Rule will be based on 2 years of service worked with 500 hours worked, instead of 3 years

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