SECURE Act 2.0: Your Year-by-Year Reference Guide

401(k) Plans

This guide lists many of the important provisions in SECURE Act 2.0 that apply to 401(k) plans. While the Act has additional provisions that could affect the design or operation of 401(k) plans, the focus of this list is to provide plan sponsors with a handy chart of the year-by-year provisions that will likely be most impactful on their plans.

A unique feature of the SECURE Act 2.0 is that many of its provisions are optional. In other words, plan sponsors can adopt these new provisions if desired (for example, if they would benefit the workforce covered by the plan), but not adopt them if not desired. Of course, the Act also includes mandatory provisions that will need to be satisfied on a timely basis in order to avoid disqualification of the plan. The chart indicates which are mandatory and which are optional.

Provisions Effective in 2023

Provision	What It Means	Effective Date Details	Optional or Mandatory	Key Points
Optional treatment of employer matching or nonelective contributions as Roth contributions.	The Act includes a provision that permits plan sponsors, at their option, to allow participants to treat employer matching or nonelective contributions as Roth contributions. In that case, and if a participant elects, the employer contributions would be taxed to the participant, but would be received tax free when distributed.	Available for contributions made after 12/29/2022.	Optional	This new provision requires that the matching and/or nonelective contributions be fully vested. As a result, it may not be attractive for plans that have vesting schedules.
Small immediate financial incentives for contributing to a plan.	The Act enables employers to offer de minimis financial incentives (like gift cards in small amounts) to boost employee participation in, and deferrals to, 401(k) plans.	Plan years beginning after 12/29/2022.	Optional	The cost of the gift cards cannot be paid from plan assets. This change will allow plan sponsors to use gamification to encourage participation in, and increase deferrals to, 401(k) plans.
Plan sponsors may rely on employee certifying that deemed hardship distributions are met.	The Act provides that, under certain circumstances, employees are permitted to self-certify that they have had an event that constitutes a hardship for purposes of taking a hardship withdrawal.	Plan years beginning after 12/29/2022.	Optional	This change will ease the administration of hardship withdrawals.
Recovery of retirement plan overpayments.	The Act allows retirement plan fiduciaries the latitude to decide not to recoup overpayments that were mistakenly made to retirees. If plan fiduciaries choose to recoup overpayments, limitations and protections apply to safeguard innocent retirees.	Effective on enactment: 12/29/2022.	Optional	In the past, plan fiduciaries were expected to pursue collecting overpayments from participants, even for very small amounts. This change allows a more reasonable approach and has protections for participants who were overpaid.

Provisions Effective in 2023 (continued)

Provision	What It Means	Effective Date Details	Optional or Mandatory	Key Points
Reduction in excise tax on failure to take required minimum distributions.	The Act reduces the penalty for failure to take RMDs from 50% to 25%. The excise tax if further reduced from 25% to 10% if the failure is timely identified and corrected.	Taxable years beginning after 12/29/2022.	Mandatory	
Exception from penalty on early distributions for terminal Illness.	The Act provides an exception to the 10% penalty on early distributions for participants with terminal illnesses.	Distributions made after 12/29/2022.	Mandatory	Participants will need to provide “sufficient evidence” of a terminal illness. The IRS will issue guidance on the needed documentation.
Qualifying longevity annuity contracts.	The Act repeals the current 25 percent limit (of a participant’s account balance to purchase the annuity) and allows up to $200,000 (indexed) to be used from an account balance to purchase a qualifying longevity annuity contract (QLAC). The Act also facilitates the purchase of QLACs with spousal survival rights and clarifies that free-look periods are permitted up to 90 days.	Effective for QLACs purchased on or after 12/29/2022.	Optional	QLACS are deferred annuities that start making payments at a later date, e.g., age 85. In effect, they provide protection against running out of money due to longevity.
Automatic enrollment and automatic deferral increases for new 401(k) plans.	401(k) plans established on or after the Act’s enactment date—December 29, 2022 must provide for automatic enrollment and automatic deferral increases. The initial deferral rate must be at least 3% of pay and the increases must be up to at least 10%. Employees can opt of participation and can change their deferral rates.	The requirement applies to 401(k) plans adopted on or after 12/29/2022. However, those plans are not required to adopt the automatic provisions until their plan years beginning after 12/31/2024.	Mandatory	There are exceptions. For example, employers with 10 or fewer employees and employers in existence for 3 years or less are excepted from this requirement.

Provisions Effective in 2023 (continued)

Provision	What It Means	Effective Date Details	Optional or Mandatory	Key Points
Tax credit for small plan startup costs.	SECURE Act 2.0 increases the tax credit for administrative costs of starting up a new plan from 50% to 100% (up to $5,000) for small employers with up to 50 employees. The credit scales down for up to 100 employees. The Act adds a new credit for employer contributions of up to $1,000 per employee with a phase out for employers with between 50 and 100 employees. For both administrative and contribution costs, the credit is 100% in the first two years, 75% in the 3rd year, 50% in the 4th year, and 25% in the 5th year.	Tax years beginning after 12/31/2022.	Optional	The tax credit for contributions is not available for (i) pension plans and (ii) employees who earn more than $100,000 in the year.
Increase in age for required beginning date for mandatory distributions.	SECURE Act 1.0 increased the beginning age for required minimum distributions (RMDs) for 70 ½ to 72. SECURE Act 2.0 further Increases the RMD age to 73 for those who turn age 72 after 12/31/2022 The RMD age is further increased to age 75 for those who become 74 after 12/31/2032. While the change in age is "required", a plan may continue to require a former employee to commence distributions at an earlier age, but in that case the distribution is not an RMD for tax purposes (e.g., can be rolled over to an IRA or other qualified plan).	Distributions made after 12/31/22, for individuals who attain age 72 after that date.	Mandatory	While the changes increase the RMD ages, a plan can continue to use the prior RMD ages to "force" distributions at those earlier age. However, those earlier distributions would not be considered RMDs, e.g., they could be rolled over. In addition, there is a drafting error that will need to be corrected through technical corrections legislation. That is, a person who turns 73 in 2031 will also turn 74 in 2032, meaning that two starting ages apply to that person.

Provisions Effective in 2023 (continued)

Provision	What It Means	Effective Date Details	Optional or Mandatory	Key Points
Eliminates unnecessary plan notices for unenrolled eligible employees.	The Act eliminates the requirement that employers provide certain intermittent ERISA or Code notices to unenrolled participants who have not elected to participate in a plan. However, to further encourage participation of unenrolled participants, the plan is required to send (i) an annual reminder notice of the participant's eligibility to participate in the plan and any applicable election deadlines, and (ii) any otherwise required document requested at any time by the participant. This rule applies only with respect to an unenrolled participant who received the summary plan description, in connection with initial eligibility under the plan, and any other notices related to eligibility under the plan required to be furnished.	Plan years beginning after 12/31/2022.	Mandatory	

Provisions Effective in 2024

Provision	What It Means	Effective Date Details	Optional or Mandatory	Key Points
Treatment of student loan payments as elective deferrals for purposes of matching contributions.	The Act permits an employer to make matching contributions under a 401(k) plan for "qualified student loan payments" (QSLPs). A QSLP is broadly defined as any indebtedness incurred by an employee solely to pay qualified higher education expenses of the employee. For purposes of the nondiscrimination test applicable to elective contributions, this new provision permits a plan to separately test the employees who receive matching contributions on student loan repayments.	Plan years beginning after 12/31/2023.	Optional	Plans can rely on employee certification of having made QSLPs. The matching contributions for QSLPs must be treated the same as matching contributions for elective deferrals, except that they can be made annually.
Starter 401(k) plans for employers with no retirement plan.	The Act permits an employer that does not sponsor a retirement plan to offer a starter 401(k) plan. A starter 401(k) plan would require that all employees be automatically enrolled in the plan at no less than 3% and no more than 15% of compensation deferral rate. The limit on annual deferrals would be the same as the IRA contribution limit, which for 2022 is $6,000 with an additional $1,000 in catch-up contributions beginning at age 50.	Plan years beginning after 12/31/2023.	Optional	

Provisions Effective in 2024 (continued)

Provision	What It Means	Effective Date Details	Optional or Mandatory	Key Points
Emergency savings accounts linked to individual account plans.	The Act provides employers the option to offer to their non-highly compensated employees emergency savings accounts linked to their retirement plans. Employees can self-enroll in these accounts or employers may automatically enroll employees into these accounts at no more than 3% of their pay. The portion of an account attributable to the employee's contribution is capped at $2,500 (or lower as set by the employer), but the earnings can exceed that amount. Once the cap is reached, the additional contributions can be directed to the employee's Roth account in the plan (if they have one) or stopped until the balance attributable to contributions falls below the cap. Contributions are made on a Roth-like basis and are treated as elective deferrals for purposes of retirement matching contributions. However, the matching contributions are allocated to the plan matching account and not to the savings account. The first four withdrawals from the savings account each plan year cannot be subject to any charges solely on the basis of such withdrawals. At separation from service, employees may take their emergency savings accounts as cash or roll it into their Roth defined contribution plan (if they have one) or be distributed to the participant. The Act provides employers the option to offer to their non-highly compensated employees emergency savings accounts.	Plan years beginning after 12/31/2023.	Optional	These new emergency accounts (also called "sidecar savings accounts") will need to be supported by the plan's recordkeeper. Plan sponsors should coordinate with their advisors and recordkeepers. In additional, plan sponsors will need to educate their participants about this new provision—if adopted for the plan.

Provisions Effective in 2024 (continued)

Provision	What It Means	Effective Date Details	Optional or Mandatory	Key Points
Catch-up contributions for higher compensated participants must be on Roth basis.	The Act provides that all catch-up contributions to qualified retirement plans participants who make over $145,000 (indexed) must be treated as Roth deferrals.	Tax years beginning after 12/31/2023.	Mandatory	Unfortunately, the Act includes a drafting error, where the internal Revenue Code provision authorizing catch-up contributions was inadvertently repealed for years after 12/31/2023. It is anticipated that Congress will correct that error before 2024.
Withdrawals for emergency expenses.	The Act provides an exception to the 10% early distribution tax for certain distributions used for emergency expenses, which are unforeseeable or immediate financial needs relating to personal or family emergency expenses. Only one distribution is permissible per year of up to $1,000, and a taxpayer has the option to repay the distribution within 3 years. No further emergency distributions are permissible during the 3-year repayment period unless repayment occurs.	Distributions made after 12/31/2023.	Optional	
Increased dollar limits for "force-out" distributions.	Under current law, plans may transfer former employees' retirement accounts from a retirement plan to an IRA if their balances are between $5,000 of less. The Act increases the limit from $5,000 to $7,000.	Distributions made after 12/31/2023.	Optional	
RMD rules for Roth accounts.	The Act eliminates the pre-death distribution requirement for Roth accounts in retirement plans. That is, Roth accounts in 401(k) plans will not, after the effective dates, be required to make RMDs. This change aligns the requirements for retirement plans with those for IRAs.	Taxable years after 12/31/23.	Mandatory	This new provision does not apply to distributions which are required for years beginning before January 1, 2024, but are permitted to be paid in 2024.

Provisions Effective in 2024 (continued)

Provision	What It Means	Effective Date Details	Optional or Mandatory	Key Points
Application of top heavy rules to defined contribution plans covering excludable employees.	Small business retirement plans often do not cover excludable employees because, if the plan is or becomes top heavy, the employer may be required to contribute a top-heavy employer contribution for all employees who are eligible to participate in the plan, straining the budget for these small businesses. The Act allows a plan to perform the top-heavy test separately on the non-excludable and excludable employees. This removes the financial incentive to exclude, e.g., young and new employees, from their 401(k) plans and increases retirement plan coverage for more workers.	Plan years beginning after 12/31/2023.	Optional	
Penalty-free withdrawals from retirement plans for domestic abuse.	The Act allows retirement plans to permit participants that self-certify that they experienced domestic abuse to withdraw a small amount of money (the lesser of $10,000, indexed for inflation, or 50 percent of the participant's account). A distribution made under this new provision is not subject to the 10% tax on early distributions. Additionally, a participant has the opportunity to repay the withdrawn money from the retirement plan over 3 years and will be refunded for income taxes on money that is repaid.	Distributions made after 12/31/2023.	Optional	
Amendments to increase benefits.	The Act amends the Code to allow discretionary amendments that increase participants' benefits for the preceding year to be adopted by the due date of the plan sponsor's tax return.	Plan years beginning after 12/31/2023.	Optional	

Provisions Effective in 2025

Provision	What It Means	Effective Date Details	Optional or Mandatory	Key Points
Higher catch-up contribution limits.	The Act increases the limits for catch-up contributions to the greater of $10,000 or 50% more than the regular catch-up amount for individuals who have attained ages 60, 61, 62 and 63. The increased amounts are indexed for inflation after 2025.	Taxable years beginning after 12/31/2024.	Optional	
Improving coverage for part-time workers.	The 2019 SECURE Act requires employers to allow long-term, part-time workers to participate in their 401(k) plans. That Act required that 401(k) plans must allow long-term, part-time employees to participate upon the completion of 3 consecutive years of service (where the employee completes at least 500 hours of service each year). The SECURE Act 2.0 reduces the 3-year rule to 2 years.	Plan years beginning after 12/31/2024.	Mandatory	Long-term, part-time employees must be allowed to defer into the plan, but plan sponsors are not required to make matching or nonelective contributions for them. However, if desired, plan sponsors can make contributions for those employees
Retirement savings lost and found.	The Act creates a national online searchable lost-and-found database for Americans' retirement plans. The database will enable retirement savers, who might have lost track of their pension or 401(k) plan, to search for the contact information of their plan administrator.	DOL to create online lost and found by 12/29/2024.	Mandatory	Undoubtedly, the Department of Labor will need to update the reporting requirements to obtain the information needed for this website.
Long-term care contracts purchased with retirement plan distributions.	The Act permits retirement plans to distribute up to $2,500 per year for the payment of premiums for certain specified long term care insurance contracts. Distributions from plans to pay such premiums are exempt from the additional 10% tax on early distributions. Only a policy that provides for high quality coverage is eligible for early distribution and waiver of the 10% tax.	12/29/2025.	Optional	

Provisions Effective Beyond 2025

Provision	What It Means	Effective Date Details	Optional or Mandatory	Key Points
Saver's Match	Current law provides for a nonrefundable credit for certain individuals who make contributions to individual retirement accounts ("IRAs"), employer retirement plans (such as 401(k) plans), and ABLE accounts. The SECURE Act 2.0 repeals and replaces the credit with respect to IRA and retirement plan contributions, changing it from a credit paid as a tax refund into a federal matching contribution that is deposited into the IRA or retirement plan. The match is 50% of the IRA or retirement plan contributions up to $2,000 per individual. The match phases out between $41,000 and $71,000 in the case of taxpayers filing a joint return ($20,500 to $35,500 for single taxpayers and married filing separate; $30,750 to $53,250 for head of household filers).	Tax years beginning after 12/31/2026.	Mandatory	
Requirement to provide paper statements.	The Act amends ERISA to generally provide that, with respect to defined contribution plans, unless a participant elects otherwise, the plan is required to provide a paper benefit statement at least once annually. The other three quarterly statements required under ERISA are not subject to this rule (i.e., they can be provided electronically).	Plan years beginning after 12/31/2025.	Mandatory	

Provisions Effective Beyond 2025 (continued)

Provision	What It Means	Effective Date Details	Optional or Mandatory	Key Points
Plan amendments.	The Act allows plan amendments made pursuant to this Act the first plan year beginning on or after January 1, 2025 as long as the plan operates in accordance with such amendments as of the effective date of (i) a requirement or (ii) the use of an optional provision. The Act also conforms the plan amendment dates under the SECURE Act, the CARES Act, and the Taxpayer Certainty and Disaster Tax Relief Act of 2020 to these new dates (instead of 2022 and 2025).	Plan years beginning on or after 12/31/2025.	Mandatory	While plan amendments may be delayed until 2025, plans must be operated consistent with the mandatory provisions as of the effective dates of those provisions. With regard to optional provisions, once a plan sponsor decides to use an optional provision, the plan must be operated in a manner consistent with the requirements for that optional provision.

These materials, including the summaries and effective dates, are for general educational purposes only. The summaries are brief to make this easy to use, but the brevity necessarily leaves out parts of the rules. In addition, these materials are based on the provisions in the law as of February 1, 2023 and do not reflect any laws, regulations or other guidance after that date. Before making any decisions about plan design or operation, plan sponsors should consult with their legal counsel and advisors.

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