SECURE ACT 2.0
HIGH LEVEL SUMMARY

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On December 29, 2022, SECURE Act 2.0 was passed into law. The SECURE Act 2.0 has many more provisions than the original SECURE Act, portions of which do not take effect until next year or later. Some of the provisions still need clarification from the IRS and some will need to be implemented by company retirement plans and/or custodians before they can be utilized.

THE ORIGINAL SECURE ACT

Let's first review the two major provisions that came from the original SECURE Act, which was passed into law in December of 2019.

- **AGE FOR REQUIRED IRA DISTRIBUTION** - The age for required distributions from retirement accounts was increased from 70.5 to 72.
- **INHERITED IRA DISTRIBUTIONS** - The ability for beneficiaries of inherited retirement accounts (from those who passed away in 2020 or later) to stretch distributions over their expected lifetime was eliminated. The law now requires the account to be distributed within 10 years. We are hopeful that clarity will be provided as to whether distributions from those inherited retirement accounts are required annually. There were no penalties for not taking distributions in 2021 and 2022.

MAJOR PROVISIONS OF SECURE ACT 2.0

RETIREMENT ACCOUNT DISTRIBUTION AGE

- The starting age requirement to take distributions from retirement accounts increased to 73 (from age 72). For those born in 1960 or later, the age to begin required distributions is 75.
- The age to begin making QCDs (qualified charitable distributions) remains at 70 ½. The $100,000 per year limit will be indexed for inflation beginning in 2024.

MAJOR PROVISIONS OF SECURE ACT 2.0 CONTINUED

ROTH CONTRIBUTIONS

There are more options for making Roth contributions in employer-sponsored retirement accounts.

- **EMPLOYER CONTRIBUTIONS** – Whether it is a matching contribution or a non-elective contribution (i.e., the company contributes 3%/year automatically), those contributions can now go into the Roth side of your retirement account. Note that the company gets a deduction for any contribution to the employee's account. If the employee elects to have it go into the Roth side, the contribution will be taxable income to the employee.
- **CATCH-UP CONTRIBUTIONS** (for those age 50 and older) – Beginning in 2024, if an employee's prior year's wages were over $145,000 (adjusted for inflation), the company will be required to put all employer contributions into the Roth side. This does not affect profit sharing plan contributions.

ROTH ACCOUNTS

SEP-IRAs and SIMPLE IRAs can now be a Roth version of those accounts. As mentioned in the introduction, the custodians have to create the necessary forms to allow the accounts to be opened and funded, but they are now allowed.

ROTH IRAS FROM 529 PLANS

For those individuals that have excess funds in a 529 Plan, starting in 2024, there will be the opportunity to use funds from the 529 Plan to fund a Roth IRA for the named beneficiary.

- The account has to have existed for at least 15 years and you cannot use contributions made within the past 5 years (or earnings on those last 5 years of contributions), but otherwise, those funds can be used to fund a Roth IRA.
- The ability to contribute to a Roth IRA is the same regardless of where the funds come from and you can use up to $35,000 (lifetime limit; indexed for inflation) from a 529 Plan to fund a Roth IRA.

ADDITIONAL CATCH UP CONTRIBUTIONS (AGE 60-63)

Beginning in 2025, in the year you turn ages 60, 61, 62, or 63, you may make a larger catch-up contribution.

- **401(K) OR SIMILAR PLANS** - at least $10,000
- **SIMPLE IRAS** - at least $5,000
- If your prior year's wages are over $145,000 (as described earlier), those additional catch-up contributions have to go into the Roth side.

SPOUSES INHERITING RETIREMENT ACCOUNTS

A surviving spouse can treat the inherited retirement account as if the decedent is still the owner. This could help delay distributions from the account.

MAJOR PROVISIONS OF SECURE ACT 2.0 CONTINUED

ABILITY TO TAKE DISTRIBUTIONS FROM RETIREMENT ACCOUNTS WITH MORE FAVORABLE TAX TREATMENT

Generally, you cannot take a distribution from a retirement account before age 59.5 without incurring a 10% penalty. Below are some new/updated provisions to allow early distributions without penalty under certain circumstances:

- **QUALIFIED DISASTER RECOVERY DISTRIBUTIONS** – Similar to the recent Covid-related distributions (and other natural disaster distributions), up to $22,000 can be distributed from a retirement account during a lifetime. The distribution can be paid back within 3 years and if not, the income can be spread over 3 years. This is relevant if someone lives in a natural disaster area. The amount one can borrow from a retirement plan (such as a 401(k)) increased and loan payments can be delayed up to one year.
- **DOMESTIC ABUSE VICTIM DISTRIBUTIONS** – Beginning in 2024, victims (self-certified) can take out the lesser of $10,000 or 50% of the vested retirement account balance.
- **TERMINAL ILLNESS DISTRIBUTIONS** - If a doctor states you have a condition or illness which can reasonably be expected to result in death within 7 years, you can take retirement plan distributions without penalty. Distributions are repayable for up to 3 years.
- **LONG-TERM CARE DISTRIBUTIONS** - Beginning on December 29, 2025, you can take money out for long-term care expenses at the lesser of $2,500/year (indexed for inflation) or 10% of your retirement account balance.
- **PUBLIC SAFETY WORKERS** - Currently they can make penalty-free distributions upon turning age 50. This has been expanded to those that have 25 or more years of service.
- **PRIVATE-SECTOR SAFETY WORKERS** - Similar to public safety workers, private-sector firefighters and state and local corrections officers will be able to take distributions without penalty once they reach age 50.

OTHER PROVISIONS OF SECURE ACT 2.0

Below is a high-level summary of additional provisions, however it is not an exhaustive list.

MISSED REQUIRED MINIMUM DISTRIBUTION PENALTY

Historically, the penalty for failing to take a required distribution from a retirement account was 50% of the required distribution. That has been lowered to 25% and further lowered to 10% if fixed in a timely manner.

STUDENT LOAN PAYMENTS

Beginning in 2024, employers can make matching contributions based on employee's making student loan payments.

OTHER PROVISIONS OF SECURE ACT 2.0 CONTINUED

MILITARY SPOUSES

In looking at their retirement account, companies with under 100 employees will be incentivized to treat military spouses as if they had been with a company for a longer period of time. This means:

- They must be eligible for retirement account participation within 2 months of joining the company
- They are treated as having 2 years of service once they start
- They are immediately vested in all employer contributions

DISABLED FIRST RESPONDERS

Beginning in 2027, instead of their tax-free disability income becoming taxable income when their pension begins, the amount of the disability income will continue to be tax-free in retirement.

IN SUMMARY

While there are many more provisions in the SECURE Act 2.0, we provide this summary based on what we believe to be the most relevant information for the families we serve. The application of these rules depends on each family or person's unique situation and it is important to discuss how the changes impact you with a trusted advisor. ■