Secure 2.0: A Summary of Key Changes Impacting Current Qualified Plans

This report addresses some of the key provisions under SECURE 2.0 which is part of the Consolidated Appropriations Act, 2023 (CAA) that will impact CURRENT employer-provided retirement plans.

Changes for newly created plans or Simple 401(k) plans are not covered by this report.

Changes to Required Minimum Distributions

- For calendar year 2023, the required minimum distribution (RMD) age increases to age 73 for a person who attains age 72 after Dec. 31, 2022 and age 73 before Jan. 1, 2033. It will increase again to age 75 in 2033 for an individual who attains age 74 after Dec. 31, 2032.
- Starting in 2024, Roth accounts in employer-sponsored plans, such as 401(k) plans, will be exempt from the RMD rules while the participant is alive.
- Beginning after the effective date of the CAA, the excise tax imposed on participants for failing to take an RMD will decrease from 50% to 25%, with a further reduction to 10% if corrected within a two-year correction window.
- The CAA will allow a spousal beneficiary of an employer-provided plan benefit to elect to be treated as an employee for purposes of RMDs, and if the spouse is the sole designated beneficiary of the participant's account, the rate of distributions will be determined under the uniform life table.

Increase to Catch-up Contribution Limits

- Beginning in 2025, catch-up contributions for participants between the ages of 60 and 63 will increase to the greater of $10,000 or 150% of the regular catch-up amount. Further, starting in 2024, all catch-up contributions must be Roth contributions for participants with compensation equal to or in excess of $145,000.

403(b) Plans

- The CAA will conform the current hardship distribution rules for 401(k) plans to 403(b) plans.
- Beginning in 2023, 403(b) plans can join a multiple employer plan (MEP) or pooled employer plan (PEP).

Roth Elections for Employer Contributions (Optional Provision)

- Effective immediately, participants may make a Roth election for employer contributions.

Increased Dollar Threshold for Mandatory Distributions

- For distributions after Dec. 31, 2023, the involuntary distribution threshold will increase from $5,000 to $7,000.

Student Loan Repayments Treated as Elective Deferral Contributions (Optional Provision)

- Beginning in 2024, employers can make matching contributions based on an employee's qualified student loan payments, including under a safe-harbor 401(k) plan.

Emergency Withdrawals (Optional Provision)

- Beginning in 2024, a participant may make a withdrawal of up to $1,000 per year from their retirement account for certain emergencies. The withdrawal will be taxable and may be repaid within three years, but it will not be subject to the 10% penalty for early withdrawals. Only one withdrawal is permitted per the three-year repayment period if the first withdrawal has not been repaid.

Creation of "Pension Linked Emergency Savings Accounts" (Optional Provision)

- Beginning in 2024, the CAA allows employers to create an Emergency Savings Account (EAS) as part of a defined contribution plan. For non-highly compensated employees, employers may enroll such individuals in an EAS up to 3% of their compensation, but maximum contributions cannot exceed $2,500, which is indexed for inflation. All contributions must be made on an after-tax basis. Each month, participants may take withdrawals from their EAS and the first four withdrawals for a year cannot be subject to distribution fees.

Participant Certification of Hardship Distributions (Optional Provision)

- Effective in 2023, the CAA allows for a plan administrator to rely on an employee's certification that a distribution is on account of an eligible financial emergency and that there is no alternative means to satisfy the need.

Changes to Family Attribution Rules

- Beginning in 2024, the spousal attribution rules will not apply to spouses with separate businesses in community property states. This change will affect controlled groups rules, which can be a complex analysis for individuals who own multiple trades or businesses.

Generally, the majority of these changes will not require retirement plans to be formally amended until the end of 2025.

This report is not intended to include all of the 92 retirement plan provisions included in Secure 2.0 and is not providing legal advice to any plan or fiduciary.

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