

There are many provisions that are part of SECURE 2.0. This document is meant to cover the provisions that affect qualified retirement plans for 2023 and 2024 Plan Years. IRS technical guidance will be needed for most provisions. Further information will be provided about provisions effective for 2025 and beyond.

Provisions effective for 2023

Extending the Age for beginning required minimum distributions.

Raised the age at which retirement plan distributions must begin to age 73 for individuals who reach age 72 after 2022. The age will be increased again, to age 75, for those who reach age 74 after 2032.

Expanding existing startup tax credits for small employers.

Increases the tax credit to 100% of an employer's out-of-pocket costs of starting up a plan, to a maximum credit of \$5,000 per year for 3 years for employers with 50 or fewer employees.

Creating new tax credits for small employers to cover plan contributions.

Employers with up to 50 employees that establish a plan will get a tax credit for contributions for employees whose wages do not exceed \$100,000. The maximum credit per employee is \$1,000 and the credit is available for the first five years the plan exists. The credit is 100% in the 1st and 2nd years fo the plan, 75% in the 3rd year, 50% in the 4th year and 25% in the 5th year. The credit will be phased out for employers with between 51 and 100 employees. This credit does not apply to defined benefit plans.

Limiting the notice and disclosure requirements for unenrolled participants.

Will no longer require employers to provide certain notices to unenrolled participants who have not elected to participate in a workplace retirement plan. The plan will be required to send an annual reminder notice of the participant's eligibility to participate in the plan with any election deadlines and any requested documentation at any time by the participant.

Allows employees to self-certify that they have had an event that constitutes a hardship.

Employees can now self-certify that they have had an event that constitutes a hardship for purposes of taking a hardship withdrawal.

Allowing (but not requiring) plans to give participants the option to treat 100% vested matching and/or non-elective employer contributions as Roth contributions.

Allows defined contribution plans to provide participants with the option of receiving matching and/or non-elective employer contributions on an after-tax basis to the plan's Roth account.

Give small incentives for contributing to a plan.

Prior to SECURE 2.0, employers were not allowed to give any financial incentives to employees to encourage them to contribution to a plan. The Act will permit employers to provide de minimis incentives (such as a small gift card) to help improve participation in the plan. The incentive cannot be paid from plan assets.

Provisions effective for 2024

Treatment of student loan payments as elective deferrals for purposes of matching contributions.

Permits an employer to make matching contributions under a 401(k) plan, 403(b) plan, or SIMPLE IRA with respect to "qualified student loan payments". Student loan matching contributions must be: available to all participants eligible to receive matching contributions on elective deferrals, matched at the same rate as matching contributions on elective deferrals and subject to the same vesting schedule as matching contributions on elective deferrals.

Withdrawals for certain emergency expenses.

Provides an exception from the 10% tax penalty for premature distributions if the distribution is used for certain emergency expenses that are unforeseeable or for 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 or the participant makes elective contributions at least equal to the amount of the distribution.

Starter 401(k) plans for employers with no retirement plan.

Allows an employer that does not sponsor a retirement plan to offer a starter 401(k) plan (or safe harbor 403(b) plan). A starter 401(k) plan (or safe harbor 403(b) plan) would generally require that all employees be default enrolled in the plan at a 3% to 15% of compensation deferral rate. The limit on annual deferrals would be the same as the IRA contribution limit.

Emergency savings accounts linked to individual account plans.

Employers may offer their non-highly compensated employees an opportunity to save through a pension-linked emergency savings account. Employee contributions to the emergency savings account are capped at \$2,500 (or a lower amount set by the employer). Once the cap is reached, additional contributions can be directed to the employee's Roth defined contribution plan (if they have one) or, if the plan does not have a Roth source, stopped until the balance attributable to contributions falls below the cap. Contributions to the emergency savings account are made on a Roth-like basis and treated as elective deferrals for purposes of retirement matching contributions, with an annual matching cap set at the maximum account balance (i.e., \$2,500 or lower) as set by the plan sponsor. Distributions from an emergency savings account are deemed to be a qualified Roth distribution and are not taxable.

Retirement savings lost and found.

Directs the Department of Labor (DOL) to create a national online searchable lost-and-found database for Americans' retirement plans at the Department of Labor. The database will collect information regarding benefits owed to missing, lost, or non-responsive participants and beneficiaries in tax-qualified retirement plans and enable retirement participants and beneficiaries, who might have lost track of their pension or 401(k) plan, to search for the contact information of their plan administrator.

Application of top-heavy rules to defined contribution plans covering excludable employees.

Plans that are deemed top heavy are required to provide employees with a minimum of a 3%-of-pay non-elective contribution, which is a significant cost to small businesses. Other nondiscrimination tests that apply to 401(k) plans allow an employer to test otherwise excludable employees (e.g., those who are under age 21 and have less than 1 year of service) separately. However, this separate testing is not allowed for the top heavy test. An employer is allowed to perform the top-heavy test separately on the non-excludable and excludable employees. This removes the financial incentive to exclude employees from the 401(k) plan and increases retirement plan coverage to more workers.

Updating dollar limit for mandatory distributions.

Employers may transfer former employees' retirement accounts from a workplace retirement plan into an IRA if their balances are between \$1,000 and \$5,000; the limit is increased from \$5,000 to \$7,000.

Elective deferrals generally limited to regular contribution limit.

Provides that all catch-up contributions to qualified retirement plans are subject to Roth tax treatment. An exception is provided for employees with compensation of \$145,000 or less (indexed).