Keeping Current

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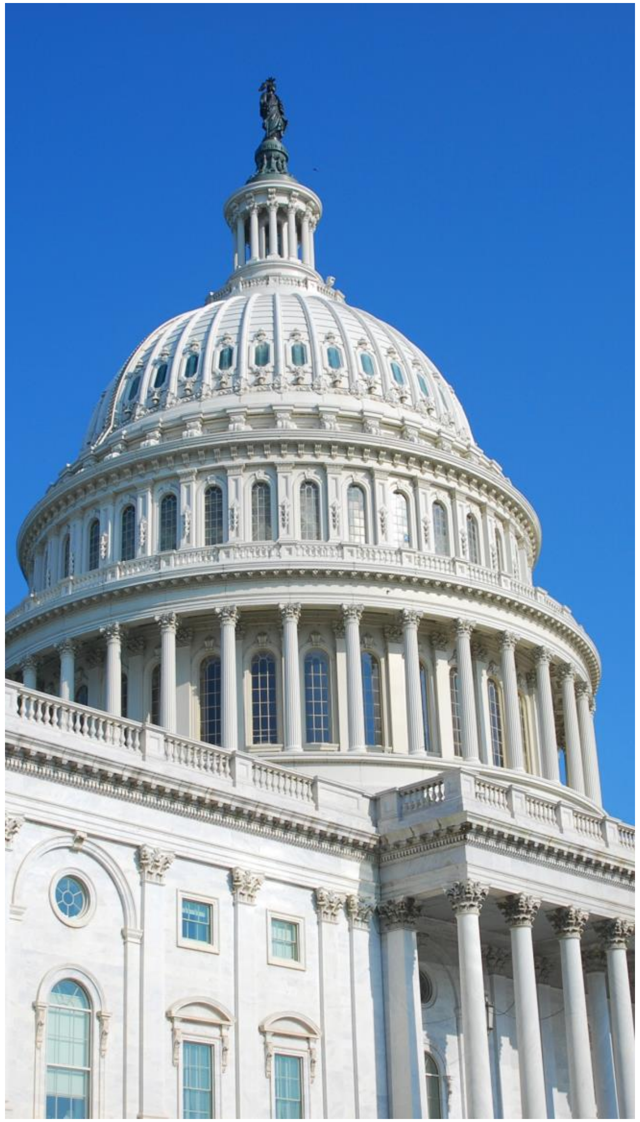
Pension Plan Specialists, PC



Legislation

- Consolidated Appropriations Act, 2023 passed Congress 12/23/2022
- Signed by President 12/29/2022 – Date of Enactment
- SECURE 2.0 Act of 2022
- Title 1: Expanding Coverage and Increasing Retirement Savings
- Title 2: Preservation of Income
- Title 3: Simplification and Clarification of Retirement Plan Rules (50 sections!)
- Title 4: Technical Amendments (to 2020 SECURE 1.0)
- Title 5: Administrative Provisions (Plan amendment deadlines)
- Title 6: Revenue Provisions (Lots of Roth stuff)
- Title 7: Tax Court Retirement Provisions (We won't cover)

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2025 Amendment Deadline

Act Section
501
Qualified
Yes
403(b)
Yes
457(b)
Yes
Eff. Date
N/A

- No operational failure if amended by last day of first plan year beginning on or after 1/1/2025
  - IRS can grant later deadline
  - Governmental and union plan deadlines extended two years
  - Amendment must be retroactively effective
- Anti-cutback relief also available
- Must operate in accordance with law and amendment as ultimately adopted

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More on Amendments

- Presumably, deadline for terminating plans is termination date
- Will not be included in 403(b) restatements now being submitted to the IRS
- 2025/2027 deadline also applies to amendments for
  - SECURE 1.0
  - CARES
  - Taxpayer Certainty and Disaster Tax Relief Act of 2020

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2023 Changes

- Retroactive effective date
- Effective 12/29/2022
- Effective first plan year beginning in 2023

SECURE Act 2.0 - Key Priorities 2023

SECTION 1: Updates and Enhancements

What's happening in 2023…

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Additionally…

"Applicable in 2023" includes those provisions with effective dates stated as "plan years beginning after date of enactment or after December 31, 2022; taxable years beginning after date of enactment or after December 31, 2022; or on or after the date of enactment; and any retroactive effective dates.

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2023 **Mandatory** Changes

Act §	Provision	Qual	403(b)	457(b)
401	QACA ACP Safe Harbor Notice Required	401(k)	Yes	No
107	Age 73 RMD	Yes	Yes	Yes
311	QBAD recontribution deadline 3 years after distribution	Yes	Yes	Gov't
348	Cash balance interest crediting rate for variable rate must be reasonable rate not greater than 6%	DB	No	No
349	End of variable rate PBGC premium; replaces it with flat $52/$1000 unfunded vested benefit	DB	No	No
105	Named fiduciary (not trustee) responsible to collect contributions for PEP	DC	Yes	No

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SECURE Act 2.0 – Increase in age for Required Minimum Distributions

APPLICABLE IN 2023
Bill Section 107

Act Section
107
Code Section
401(a)(9)
Qualified
Yes
403(b)
Yes
457(b)
Yes
Eff. Date
Years after 2022
Mandatory

Required Beginning Date (RBD) was April 1 of calendar year after participant turned 70 ½ (or retired)

- It's going up, up, up!

Year	Age
2020	72
2023	73
2033	75

Date of Birth	RBD
Before July 1, 1949	Based on 70 1/2
7/1/1949-12/31/1950	Based on 72
1/1/1951-12/31/1959	Based on 73
After 12/31/1958	Based on 75

- Non-owner born in 1950 retires 2023: RBD is 4/1/2024
- Participant born in 1951: RBD is 4/1/2025
- Born in 1959: may be 73, may be 75 (need correction)
- Born in 1959: may be 73, may be 75 (need correction)

SOURCES
Pension Plan Specialists, PC
finance.senate.gov
For a more complete list of SECURE 2.0 provisions, please review the Congressional Summary, released by the Senate Finance Committee on December 19th 2022.

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QBADs

Act Section
311
Code Section
72(t)
Qualified
DC
403(b)
Yes
457(b)
Gov't
Eff. Date
Enactment
Repayment Deadline Mandatory

- Recipient of Qualified Birth and Adoption Distribution (QBAD) can repay it to plan or an IRA
- SECURE 1.0 didn't impose a time limit for repayment
- SECURE 2.0 limits repayment to 3 years, beginning on day after distribution received
  - For distributions received before enactment, new deadline: Must repay before January 1, 2026
    - So, deadline is December 31, 2025
- Can apply to governmental 457(b) plans

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SECURE Act 2.0 – Increased Plan Startup Credit – Administrative Expenses

APPLICABLE IN 2023
Bill Section 102

Act Section
102
Code Section
45E
Qualified
Yes
403(b)
No
457(b)
No
Eff. Date
Tax years after 2022

- Code §45E allows a credit for up to 50% of plan startup costs for three years for small employers (no more than 100 employees)
  - Based on the year plan established, even if no contributions until later
  - Must have an NHCE in plan
- SECURE 2.0 changes that to 100% of plan startup costs for employers with no more than 50 employees
  - Higher credit can apply to plans established in 2021 or 2022
  - Employee count includes those with at least $5,000 comp in prior year
  - Same limits: Greater of $500 or $250/NHCE up to $5,000 max
  - Still limited to expenses for administration and education
  - Applies to qualified plans (DB/DC), SEPs, and SIMPLEs

SOURCES
Pension Plan Specialists, PC
finance.senate.gov
For a more complete list of SECURE 2.0 provisions, please review the Congressional Summary, released by the Senate Finance Committee on December 19th 2022.

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SECURE Act 2.0 – Increased Plan Startup Credit – ER Contributions

APPLICABLE IN 2023
Bill Section 102

Act Section
102
Code Section
45E
Qualified
DC
403(b)
No
457(b)
No
Eff. Date
Tax years after 2022

- Credit for employer contributions to new DC plan, SEP, SIMPLE
  - Match and nonelective
- Full credit available only if employer had 50 or fewer employees
  - Phase out between 50-100
- Maximum credit for any employee is $1,000
  - No credit in prior year if FICA wages exceeded $100,000 (indexed)
  - No limitation on more than 5% shareholders
- Credit is 100% of contributions, as limited, for years 1 and 2, 75% in year 3, 50% in year 4, and 25% in year 5
  - Example: plan adopted in 2022; 2023 is year 2

SOURCES
Pension Plan Specialists, PC
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SECURE Act 2.0 – Startup Credits – IMPORTANT!

APPLICABLE IN 2023
Bill Section 102

- If you claim a credit, you can't claim a deduction
  - Impacts computation of earned income for self-employed
- Credit is nonrefundable
  - So, nonprofits can't claim it
- Expense credit calculation example: 12 NHCEs: Max Credit $3,000
  - $5,000 in expenses
  - Can claim $3,000 credit and $2,000 deduction
- IRS Form 8881

SOURCES
Pension Plan Specialists, PC
finance.senate.gov
For a more complete list of SECURE 2.0 provisions, please review the Congressional Summary, released by the Senate Finance Committee on December 19th 2022.

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Roth Employer Contributions

Act Section
604
Code Section
402A
Qualified
DC
403(b)
Yes
457(b)
Gov't
Eff. Date
Contrib. after Enactment
Optional

- Vested employer contributions can be Roth
  - Now all vested contributions can be Roth
  - Could apply to a plan without deferrals
  - Possibly not available to partially vested participant
- Participant must make election to designate as Roth
  - Will require written/electronic election form
  - Separate recordkeeping buckets needed
  - Designate all or selected future contributions as Roth?
- Can apply to 2022 contributions deposited in 2023 (if we get guidance on how to do this)

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Roth Employer Contributions

- Roth employer contributions likely starts 5-year clock, if not already started
  - For year included in income
- Tax reporting
  - Probably appear on Form W-2, box 1 in year contribution made; maybe Form 1099-R
    - Not clear whether these amounts count for FICA/Medicare taxes
    - Employee likely should increase withholding or make estimated tax payments
  - Employee responsible for taxes; employer gets deduction
  - Shouldn’t be counted as compensation for plan purposes
  - Alternatively, could be done as in-plan Roth conversation and Form 1099R

Small Deferral Incentives Allowed

Act Section
113
Code Section
401(k)(4)
Qualified
401(k)
403(b)
Yes
457(b)
No
Eff. Date
Plan Years after 2022
Optional

- §401(k)(4)(A) forbids employers from conditioning bonuses or other benefits (other than a match) on whether employees defer
- New law allows "de minimis financial incentives (not paid for with plan assets)"
  - Could come from employer or others, so long as plan assets not affected
  - Presumably could be tied to amount of deferral
  - Likely no amendment needed
  - $25 is likely safe; be conservative until there's guidance
  - Extra vacation day?   If paid vacation, not sure it's de minimis

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SECURE Act 2.0 – Retroactive Sole Proprietor Deferrals

APPLICABLE IN 2023
Bill Section 317

Act Section
317
Code Section
401(b)
Qualified
401(k)
403(b)
No
457(b)
No
Eff. Date
Plan Years after 2022
Optional

Note: Partnerships still out in the cold…Congress didn't specify why.

- SECURE 1.0 allowed retroactive plan adoption
  - Up to extended due date of tax return
  - Only applied to employer contributions
- New law allows deferral election for 1st year of retro adopted plan
  - Limited to unincorporated sole proprietor with no employees
    - Could apply to LLC taxed as sole proprietorship
  - Deferral election made after end of tax year, but by filing deadline, treated as made before end of first plan year for retroactively adopted plan
    - First year is 2023 (adopted in 2024)

SOURCES
Pension Plan Specialists, PC
finance.senate.gov
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Retro Deferrals

- Current rules:
  - The deadline to make a deferral election is the last day of the partnership's or sole proprietor's tax year. [Treas. Reg. §1.401(k)-1(a)(6)(iii)]
    - You can fund it later, but the election needs to be in place by last day
  - You can adopt a plan in 2023, and have it retroactively effective for 2022, but it is too late to make deferral election for 2022
- Change provides limited exception, allowing a sole proprietor to adopt plan in 2024, retroactively effective for 2023, and make a 2023 deferral election
  - Provided there were no other employees in 2023
- Partnerships still out in the cold
  - Congress didn't say why

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Notices to "Unenrolled" Participants

Act Section
320
Code Section
Code §414(bb) ERISA §111
Qualified
DC
403(b)
Yes
457(b)
No
Eff. Date
Plan years after 2022
Optional

- Eliminates need to provide notices and disclosures (IRS or DOL) to unenrolled participants, other than:
  - Annual reminder notice
  - Documents unenrolled participant requests
- Unenrolled participant is someone who…
  - Eligible to participate
  - Has received SPD and other notices related to initial eligibility to participate
  - Is not participating in the plan
    - Presumably, employee with ER or rollover money in plan is participating
  - Satisfies other criteria determined by IRS/DOL

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Notes on “Unenrolled Participant” Rules

- Furnished by paper or old (opt in) DOL e-Disclosure rules
- Furnished in connected with open enrollment or (if none) a reasonable period prior to beginning of plan year
- Notifies participant of:
  - Eligibility to participate
  - Key benefits and rights under plan (focus on employer contributions and vesting)
- Calculated to be understood by average participant

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Notes on “Unenrolled Participant” Rules

- Notices you can avoid:
  - Fee and investment disclosures
  - Benefits statements
  - Summary annual reports
  - QDIA/EACA notices
  - Safe harbor notices
- Doesn’t excuse you from delivering SMM
- Applies to new plans and existing plans
  - Means that you must maintain 2 different mailing lists

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Can Rely on Employee Certification for Hardships

Act Section
312
Code Section
401(k)(14)
Qualified
401(k)
403(b)
Yes
457(b)
Gov't
Eff. Date
Plan Years after 2022
Optional

- Allows plan to rely on employee's written certification that:
  - Distribution is on account of deemed immediate and heavy financial need under safe harbor regulations
    - Or governmental 457(b) unforeseeable emergency
  - Distribution doesn't exceed amount of need
  - Employee doesn't have other resources
- IRS can issue regulations addressing:
  - When employer has contrary knowledge
  - Cases of employee misrepresentation

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Hardship Verification

- Plan now has three choices:
  - Get copies of documents showing existence of hardship and amount
    - Only option for non-safe harbor hardships
  - IRS detailed summary verification system (substantiation guidelines)
    - Sponsor must provide information re: hardship rules to participant
    - Sponsor must obtain summary information from the participant
    - Participant required to retain source documents
  - New: Participant certifies existence of hardship and amount
    - I need a $5,000 hardship distribution to cover medical expenses for my kid
- Many employers want to stick with old systems:
- Can satisfy fiduciary responsibilities with any of the three

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Reduced RMD Penalties

Act Section
302
Code Section
401(a)(9)
Qualified
Yes
403(b)
Yes
457(b)
Yes
Eff. Date
Tax years after 2022

- Late RMDs have been subject to 50% penalty tax
- Automatically reduced to 25%
- Can reduce it to 10% if:
  - Take RMD during correction window
  - Submits return during correction window reflecting tax
  - Available for plans, as well as for IRAs
- Correction window ends:
  - Two years after year RMD should have been taken
  - Unless IRS assesses/issues deficiency notice sooner

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More On Reduced RMD Penalties

- Penalty tax applies in year RMD should have been taken
- Reduced penalty applies to tax years after 2022
- Example: RMD not taken in 2021, 2022, or 2023
  - Discovered in 2024
  - Penalty is 50% for 2021 and 2022; 25% for 2023
    - Potential to reduce 2023 tax to 10%
- Penalty tax can still be forgiven under EPCRS and possibly IRS Form 5329
  - Contact PPS For Assistance

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Statute of Limitations Penalties for RMDs and Excess Contributions

Act Section
313
Code Section
6501
Qualified
No
403(b)
No
457(b)
No
Eff. Date
Enactment

- Individual reports RMD and excess IRA contribution penalties on Form 5329
- Old rule: if you don’t file the form, you don’t start the statute
- Under new law, filing Form 1040 starts the statute
  - 3 years for RMD failures
  - 6 years for excess contributions
- Should apply to assessments of tax after Enactment
  - It could apply to penalties for 2020 that aren’t yet assessed

Remember Participant <u>must</u> take the RMD from Qualified Retirement plan first!

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Changes That Go Into Effect In 2024

SECURE Act 2.0 – Long-Term Part-Time Employee 2024 ONLY

APPLICABLE IN 2024
Bill Section 125

Act Section
125
Code Section
401(k)(15)
Qualified
401(k)
403(b)
No
457(b)
No
Eff. Date
2024
Mandatory

- Just two changes from SECURE 1.0 for 2024
  - Years of service for vesting limited to years after 2020
- LTPT becomes eligible to defer to 401(k) after 3 consecutive years (after 2020) with 500 – 999 HOS
- Applies to owner-only plan with part-time employees
- Under new regulations (effective for 2023 returns), DC plans count for 5500 purposes employees with account balances

So Much for the New Audit Rules!

SOURCES
Pension Plan Specialists, PC
finance.senate.gov
For a more complete list of SECURE 2.0 provisions, please review the Congressional Summary, released by the Senate Finance Committee on December 19th 2022.

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Long-Term Part-Time Employee Coverage Changes

Act Section
125
Code Section
401(k)(15)
Qualified
401(k)
403(b)
YES
457(b)
No
Eff. Date
Plan Years after 2024
Mandatory

- LTPT employees are eligible to defer
  - Under new regulations (effective for 2023 returns), DC plans count for 5500 purposes employees with account balances
- LTPT rules added to ERISA §202 and to Code §403(b)(12)(D)
  - Limited to 403(b) plans subject to ERISA
  - Disregard years beginning before 2023 for eligibility and vesting
- LTPT is EE who has 2 consecutive eligibility computation periods with 500 – 999 HOS and attained age 21
  - Used to be 3 consecutive years
- Can exclude LTPT from testing; No minimum # of employees

2024 Only!

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SECURE Act 2.0 – SECURE Act 2.0 – Long-Term Part-Time Notes

- 2024 plan years must apply most SECURE 1.0 Rules
  - 3-year eligibility rule
  - Only 2024 changes relate to vesting and top-heavy
- 2025: begins new LTPT Rules
  - 2-year eligibility
  - 403(b) now subject to LTPT
- Could you go with 2-year rule in 2024?
  - Yes, but uncertain whether you get LTPT testing benefits
- Yes, we will do LTPT webinar later in the year

SOURCES
Pension Plan Specialists, PC
finance.senate.gov
For a more complete list of SECURE 2.0 provisions, please review the Congressional Summary, released by the Senate Finance Committee on December 19th 2022.

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SECURE Act 2.0 – Long-Term Part-Time Comparison of 401(k) and 403(b) Rules

401(k)

- Ignores years beginning before 2021 for eligibility and vesting
  - All years beginning after 2020 with at least 500 HOS for someone who enters as LTPT count as YOS for vesting
- Requires 3 consecutive years with 500-999 HOS and age 21 for 2024
- Requires 2 consecutive years with 500-999 HOS and age 21 for 2025
  - Could be 2021 and 2022

ERISA 403(b)

- Ignores years beginning before 2023 for eligibility and vesting
  - All years beginning after 2022 with at least 500 HOS for someone who enters as LTPT count as YOS for vesting
- LTPT has 2 consecutive years with at least 500 HOS and Age 21
- Overrides 20-hour and student-employee exemptions from universal availability

SOURCES
Pension Plan Specialists, PC
finance.senate.gov
For a more complete list of SECURE 2.0 provisions, please review the Congressional Summary, released by the Senate Finance Committee on December 19th 2022.

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SECURE Act 2.0 – Some Age 50 Catch-Ups Must Be Roth

APPLICABLE IN 2025, WAS 2024

Bill Section 603

Act Section
603
Code Section
414(v)
Qualified
401(k)
403(b)
Yes
457(b)
Gov't
Eff. Date
Tax Years after 2023
Mandatory

- Catch-ups must be Roth for:
  - Participants whose prior calendar year FICA wages from the employer exceeded $145,000 (indexed)
    - Arguably this excludes self-employed because no FICA wages
    - 5% owner with < $145,000 can do regular catch-up
  - Means non-Roth plan cannot take catch-ups for these folks
- Would start Roth 5-year clock
- So, ADP or §415 catch-up needs to be Roth
  - Either requires making Roth up front
  - Allowing participant to elect to recharacterize rather than receive distribution (or permit it to be deemed recharacterized)
    - Maybe reflect recharacterization on Form 1099-R

Revenue estimate $16B

SOURCES
Pension Plan Specialists, PC
finance.senate.gov
For a more complete list of SECURE 2.0 provisions, please review the Congressional Summary, released by the Senate Finance Committee on December 19th 2022.

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SECURE Act 2.0 – Red Card! Congress Makes Boo-Boo

- In error, when Congress changed catch-up rules for HCE, they amended out the income exclusion for all pre-tax catch-up contributions
- We (and everyone else) expect this will be part of technical corrections bill in near future …
  - Or that IRS will fix it on their own

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SECURE Act 2.0 – Spousal / Child Attribution Fix

APPLICABLE IN 2024
Bill Section 414

Act Section
315
Code Section
414
Qualified
Yes
403(b)
Yes
457(b)
No
Eff. Date
Plan years after 2023
Mandatory

- Disregard community property ownership between spouses
  - Allows couples in community property states to use non-involvement exception in controlled group determinations
- Prevents parent-child attribution from creating controlled group between businesses owned separately by the spouses
- Also applies to common control and traditional affiliated service groups
- If this results in breakup of group, coverage transition rule applies
  - Could result in controlled group plan becoming a MEP

SOURCES
Pension Plan Specialists, PC
finance.senate.gov
For a more complete list of SECURE 2.0 provisions, please review the Congressional Summary, released by the Senate Finance Committee on December 19th 2022.

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SECURE Act 2.0 – Mid-Year Conversion from SIMPLE IRA to Safe Harbor 401(k)

APPLICABLE IN 2024
Bill Section 332(a)

Current law does not allow an employer to change from a SIMPLE IRA to a 401(k) mid-year.

SECURE 2.0 allows an employer to replace a SIMPLE IRA plan with a SIMPLE 401(k) plan or other 401(k) that requires mandatory employer contributions during a plan year and is effective for plan years beginning after December 31, 2023.

SOURCES
Pension Plan Specialists, PC
finance.senate.gov
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SECURE Act 2.0 – New "Starter 401(k)"

APPLICABLE IN 2024
Bill Section 121

Act Section	121
Code Section	401(k)(16)
Qualified	401(k)
403(b)	No
457(b)	No
Eff. Date	Plan Years after 2023
Optional	

- Deferral-only 401(k) plan with no ADP and no top heavy
  - Must apply to all eligible employees
    - All who satisfy minimum age and service (no limit on # EEs)
    - Can exclude union and nonresident alien
  - Automatic enrollment at 3% - 15% (uniform)
  - Maximum deferral = $6,000 (indexed) + IRA catch-up
  - No ER contribution; ⚠ rollovers likely ok
- ERISA plan subject to ERISA rules and Form 5500 filing
- No limit on how long a company can use a Starter 401(k)
  - Employer can't have another qualified plan that year
  - Conceivably could be part of MEP or PEP

SOURCES
Pension Plan Specialists, PC
finance.senate.gov
For a more complete list of SECURE 2.0 provisions, please review the Congressional Summary, released by the Senate Finance Committee on December 19th 2022.

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SECURE Act 2.0 – Student Loan Repayments Matched Like Deferrals

APPLICABLE IN 2024
Bill Section 110

Act Section
110
Code Section
401(m)
Qualified
401(k)
403(b)
Yes
457(b)
Govt
Eff. Date
Plan Years after 2023
Optional

- Applies to "Qualified Student Loan Payment"
  - Incurred on behalf of employee ⚠ (not employee's children)
  - For qualified higher education expenses
    - Applies to current payments, not past
    - Expenses incurred while carrying at least half-time full student load
  - Can't exceed §402(g) limit minus elective deferrals
    - Payments don't reduce §402(g) limit; excess payments not matched
- Employee must annually certify payment made on loan
  - Employer may rely on certification

SOURCES
Pension Plan Specialists, PC
finance.senate.gov
For a more complete list of SECURE 2.0 provisions, please review the Congressional Summary, released by the Senate Finance Committee on December 19th 2022.

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SECURE Act 2.0 – Matching Contribution Specifics

APPLICABLE IN 2024
Bill Section 110

- If plan matches student loan payments:
  - It must do so at same rate as match on elective deferrals
    - Add deferrals and loan repayments
    - Uncertain how this applies to payroll period match
  - Match would be in ACP test/ACP safe harbor
  - The match related to the loan must vest in the same manner as match on deferrals (100% if ACP safe harbor match)
- Eligibility limited to employees otherwise eligible to receive match for elective deferrals
  - So, included in coverage test for deferrals and match and Form 5500 count

SOURCES
Pension Plan Specialists, PC
finance.senate.gov
For a more complete list of SECURE 2.0 provisions, please review the Congressional Summary, released by the Senate Finance Committee on December 19th 2022.

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Emergency Savings Accounts ("ESAs")

Act Section
127
Code Section
402A(e)
Qualified
401(k)
403(b)
Yes
457(b)
Govt
Eff. Date
Plan Years after 2023
Optional

- Plans can set up pension-linked ESAs:
  - Limited to Roth accounts
  - Limited to employee contributions
  - No new contributions if account balance of account exceeds $2,500 (subject to indexing) or lower plan-specified amount
  - Limit applies to portion of account "attributable to contributions"
  - Presumably, contributions net of withdrawals (i.e., not including earnings)

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Emergency Savings Accounts ("ESAs")

If Excess Contributions Made, Plan Can:

- Allow participant to treat excess as regular Roth deferral
- Treat excess as Roth deferral unless participant opts out
- Not accept the contribution; plan does not permit excess to be treated as catch-up

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More on Emergency Savings Accounts ("ESAs")

Investment can have gains and losses, although required investment intended to be very safe:

- Interest bearing account; or
- Investment designed to preserve capital consistent with liquidity, offered by regulated institution

Must treat emergency savings like deferrals for purposes of match

- Match goes in match bucket, not in ESA
- No requirement to forfeit or suspend match on withdrawals
- Maximum annual match with regards to ESAs is $2,500

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More on Emergency Savings Accounts (“ESAs”)

- Contributions maybe count against §402(g) limit
  - §402(g) failures must be corrected first by returning that year’s ESA $
  - Since HCEs can’t use ESA, §402(g) and §415 may be academic
- Can’t charge account (including for Form 1099 preparation) a fee for the first 4 withdrawals/year
  - Subsequent withdrawals can have reasonable fee
  - Can charge employer or general plan accounts, must exhaust ESA before taking hardship
- Can do auto-enroll up to 3%
  - Can combine with auto-enroll for regular deferrals

More on Emergency Savings Accounts (“ESAs”)

- ESAs treated like another source
  - Although subject to different investment and withdrawal rules
- Distributions “at discretion of” participant
  - Sounds like no need for spousal consent
  - No minimum withdrawal
- Distribution treated as qualified Roth distribution
  - Allows tax-free distribution of earnings
  - Not subject to normal Roth 5-year clock/distributable event rules

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Termination of Emergency Savings Accounts ("ESAs")

- Employer can terminate arrangement at any time
  - No anti-cutback right
- After termination of employment or arrangement:
  - Participant can choose to move money to another Roth account in plan
    - And roll from there to a Roth IRA or other Roth account
  - Otherwise, plan makes account available to participant
    - Participant's choice

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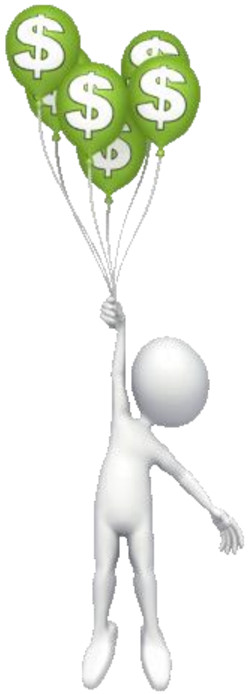
Increase Cash-Out Limit

Act Section
304
Code Section
411(a)(11)
Qualified
Yes
403(b)
Yes
457(b)
No
Eff. Date
Distributions after 2023
Optional

- Cash-out limit is currently $5,000
- Impacts
  - Auto rollovers
  - Distributions without consent
  - Distributions exempt from QJSA
  - DB and DC
- Increased to $7,000 (not indexed)
  - Can implement operationally as of 1/1/2024 and amend by 2025/2027
- No change in participant notices



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Changes That Go Into Effect After 2024

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Long-Term Part-Time Employee Coverage Changes

Act Section
125
Code Section
401(k)(15)
Qualified
401(k)
403(b)
YES
457(b)
No
Eff. Date
Plan Years after 2024
Mandatory

- LTPT employees are eligible to defer
  - Under new regulations (effective for 2023 returns), DC plans count for 5500 purposes employees with account balances
- LTPT rules added to ERISA §202 and to Code §403(b)(12)(D)
  - Limited to 403(b) plans subject to ERISA
  - Disregard years beginning before 2023 for eligibility and vesting
- LTPT is EE who has 2 consecutive eligibility computation periods with 500 – 999 HOS and attained age 21
  - Used to be 3 consecutive years
- Can exclude LTPT from testing; No minimum # of employees

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Long-Term Part-Time Notes

Act Section
125
Code Section
401(k)(15)
Qualified
401(k)
403(b)
YES
457(b)
No
Eff. Date
Plan Years after 2024
Mandatory

- 2024 plan years must apply most SECURE 1.0 Rules
  - 3-year eligibility rule
  - Only 2024 changes relate to vesting and top-heavy
- 2025: begins new LTPT Rules
  - 2-year eligibility
  - 403(b) now subject to LTPT
- Could you go with 2-year rule in 2024?
  - Yes, but uncertain whether you get LTPT testing benefits

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SECURE Act 2.0 – Mandatory Automatic Enrollment

APPLICABLE IN 2025
Bill Section 101

Beginning in 2025, employers who have more than 10 employees and have been in business for three or more years must implement an automatic enrollment provision for a 401(k) plan or 403(b) plan established on or after December 29th 2022.

The initial deferral percentage must be at least 3 percent but cannot exceed 10 percent. The percentage must automatically increase each year by 1 percent until reaching at least 10 percent (but not exceeding 15 percent).

- Non safe harbor plans cannot exceed a 10 percent deferral rate for plan years ending before January 1, 2025.
- Automatically enrolled participants may affirmatively elect to defer a higher or lower percentage or may choose not to defer.
- This provision does not apply to church or governmental plans.

(Effective for 2025 and later plan years.)

Additionally…
Auto enrollment & Auto-increase feature isn't required in plans until 2025 but all plans established on or after December 29th 2022, will need to add auto enrollment / increase features.

SOURCES
Pension Plan Specialists, PC
finance.senate.gov
For a more complete list of SECURE 2.0 provisions, please review the Congressional Summary, released by the Senate Finance Committee on December 19th 2022.

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SECURE Act 2.0 – Mandatory Automatic Enrollment

APPLICABLE IN 2025
Bill Section 101

- Plans established before 12/29/2022 – [Code 414A(c)(2), SECURE 101]
  - Conservative approach: adopted and effective before 12/29/2022
  - Uncertain about grandfather for spin-offs

- Plans sponsored by ER that normally employs fewer than 11 EEs
  - Presumably includes part-time and new hires
  - Exemption expires 1 year after close of first tax year following the employer exceeding limit
    - Example: Calendar year employer has 9 employees in 2024, and grows to 11 in 2025
    - Mandatory auto enrollment applies in 2027
  - Controlled group rules probably apply

SOURCES
Pension Plan Specialists, PC
finance.senate.gov
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Pension Plan Specialists, PC

SECURE Act 2.0 – IRS Savers Tax Credit Becomes Savers Matching Contribution

2025 Current Credit:

Beginning in 2027 for tax year 2026. Current Saver Tax Credit will continue until 2026.

SECURE 2.0 revises the Saver's Credit by making it a government paid matching contribution. Taxpayers will claim the credit on their tax return and the matching contribution will be deposited to a Traditional IRA or to the pretax deferral account of a 401(k), 403(b) plan, or governmental 457(b) plan.

- Match is 0% to 50% of deferrals, depending on modified adjusted gross income. (add back retirement plan deductions / exclusions)
- Gradual phase-out over indexed MAGI range

Filing Status	50% Match	0% Match
Joint	$41,000	$71,000
Head of Household	$30,750	$53,250
Single / Separate Returns	$20,500	$35,500

SOURCES
Pension Plan Specialists, PC
finance.senate.gov
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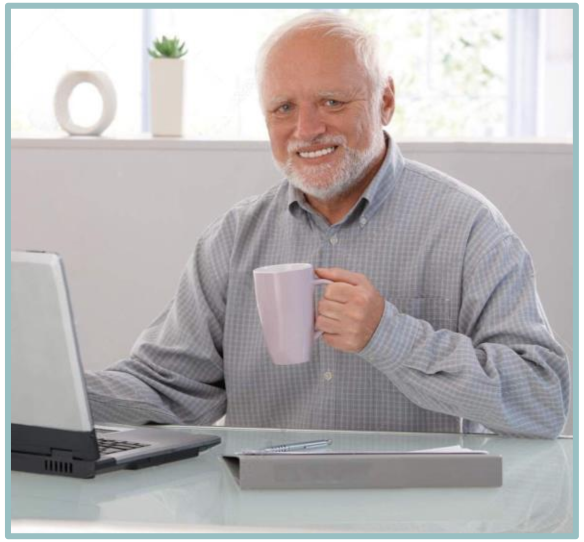
Pension Plan Specialists, PC

SECURE Act 2.0 – Higher Catch-Up Contribution Limit

APPLICABLE IN 2025
Bill Section 109

Current law allows catch-up contributions to begin at age 50.

Participants who attain age 60, 61, 62, and 63 during a given taxable year may make additional “catch-up” salary deferral contributions to 401(k) plans, 403(b) plans, governmental 457(b) plans, SAR-SEP plans, SIMPLE IRA plans, and SIMPLE 401(k) plans.



- Section 109 increases limits to the greater of $10,000 or 50% more than the regular catch-up amount in 2025 for individuals ages 60 through 63.
- 150% of 2024 catch-up limit (indexed for inflation after 2025)
    - Based on 2023 limit ($7,500), in those 4 years catch-up would be:
        - $5,250 for SIMPLE IRA / 401(k)
        - $11,250 for other plans

SOURCES
Pension Plan Specialists, PC
finance.senate.gov
For a more complete list of SECURE 2.0 provisions, please review the Congressional Summary, released by the Senate Finance Committee on December 19th 2022.

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SECURE Act 2.0 – Long-Term Care Insurance

APPLICABLE IN 2024
Bill Section 334

Code Section
401(a)(39)
Qualified
Yes
403(b)
Yes
457(b)
Yes
Eff. Date
Distributions after 12/29/25
Optional

- SECURE 2.0 allows Qualifies Long-Term Care Distributions
  - Distributable event
- Annual calendar year limit is least of:
  - Amount employee paid or is charged for long-term care insurance for employee, spouse, or family member
  - 10% vested accrued benefit
  - $2,500 (indexed)
- Limited to taxable distributions
  - Exempt from early distribution penalty tax

SOURCES
Pension Plan Specialists, PC
finance.senate.gov
For a more complete list of SECURE 2.0 provisions, please review the Congressional Summary, released by the Senate Finance Committee on December 19th 2022.

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Thank You

Any Questions?

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