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The SECURE 2.0 Act and What it Could Mean for You

The original SECURE Act was signed into law on December 20th, 2019. Its "sequel," the SECURE 2.0 Act, was similarly enacted at year-end on December 29th, 2022.

The guiding goal of SECURE 2.0 is right there in the name: **S**etting **E**very **C**ommunity **U**p for **R**etirement **E**nhancement (SECURE).

The SECURE 2.0 Act of 2022 builds upon the provisions of the original SECURE Act from 2019 and further ensures that more Americans can save for retirement and increase the amount they are able to save. The Act does this by expanding upon automatic enrollment programs, helping to ensure that small employers can easily and efficiently sponsor plans for employees, and enhancing various credits to make saving for retirement beneficial to both plan participants and plan sponsors. The Act also improves various investment options for plan participants, streamlines plan administration for plan fiduciaries and makes important changes to required minimum distributions that will help retirees with plan selections and decisions that will enhance their ability to make better use of their retirement savings.

Note: Implementation for each SECURE 2.0 provision varies from being effective immediately, to ramping up in future years. A few even apply retroactively. Many of its newest programs won't effectively roll out until 2024 or later, giving us time to plan. ***We've noted with each provision when it's slated to take effect.***

Following is an overview of the key components. You can also jump to the following sections:

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SAVING MORE, SAVING BETTER: INDIVIDUAL SAVERS

First, key provisions include several updates to encourage individual savers:

Expanded Auto-Enrollment Requirements (2025)

- Because you're more likely to save more if you're automatically added to your company retirement plan program, auto-enrollment will be required for additional new retirement plans. Even with auto-enrollment, you can still opt out individually. Also, the Act has made a number of exceptions to the rules, including, as described here, "employers less than 3 years old, church plans, governmental plans, SIMPLE plans, and employers with 10 or fewer employees."

Higher Catch-Up Contributions (2024–2025)

- To accelerate retirement saving as you approach retirement age, SECURE 2.0 Act has increased annual "catch-up" contribution allowances for many retirement accounts (i.e., extra amounts allowed beyond the standard contribution limits); and, importantly, tied future increases to inflation. However, in many instances, the updates also require high-wage-earners ($145,000/year or higher) to direct their catch-up contributions to after-tax Roth accounts.

Faster Plan Participation for Part-Time Employees (2024)

- If you're a long-term, part-time employee, the SECURE Act of 2019 made it possible for you to participate in your employer's retirement plan. With SECURE 2.0, you'll be eligible to participate after 2 years instead of 3 years (after meeting other requirements).

Saver's Match for Low-Income Savers (2027)

- A Saver's Credit for low-income families will be replaced by a more accessible Saver's Match for those whose income levels qualify. While the credit offsets income on a tax form, the match will be a direct contribution into your retirement account, of up to $1,000 in government-paid matching funds.

Expanded Contribution Window for Sole Proprietors (2024)

- If you're a sole proprietor, you'll be able to establish a Solo 401(k) through the current year's Federal income tax filing date, and still fund it with prior-year contributions.

Potential Tax Error "Do Overs": Employer Plans Compliance Resolutions System (EPCRS) (2025)

- To err is human, and often unintentional. As such, SECURE 2.0 has directed the IRS to apply an existing Employer Plans Compliance Resolutions System (EPCRS) to employer-sponsored plans *and* to IRAs. The details are to be developed, but as described here, the intent is to set up a system in which "most inadvertent failures to comply with tax-qualification rules would be eligible for self-correction."

Finding Former Plans (2024)

- It can be hard for company plan sponsors to keep in touch with former employees—and vice-versa. SECURE 2.0 has tasked the Dept. of Labor with hosting a national "lost and found" database to help you search for plan administrator contact information for former employees' plans, in case you've left any retirement savings behind.

More Flexible Use of Annuities (Varied)

- Without going into detail, SECURE 2.0 includes several sweeteners for annuity contracts, especially those held in qualified accounts.

Saving More, Saving Better: Employers

There also are provisions to help employers offer effective retirement plan programs:

Better Retirement Plan Start-Up Incentives (2023)

- Small businesses can take retirement plan start-up credits to offset up to 100% of their plan start-up costs (versus a prior 50% cap). Also, businesses with no retirement plan can apply for start-up credits if they join a Multiple Employer Plan (MEP)—and this one applies retroactively to **2020**.

A New "Starter 401(k)" Plan (2024)

- The Starter 401(k) provides small businesses that lack a 401(k) plan a simpler path to establishing one. Features will include streamlined regulatory and reporting requirements; auto-enrollment for all employees starting at 3% of their pay; a $6,000 annual contribution limit, rising with inflation; and a deferral-only structure, meaning the plan does NOT permit matching employer contributions.

Expanded SIMPLE Plan Contributions (2024)

- Under certain conditions, SECURE 2.0 allows for additional employer contributions to, and higher participant contribution limits for SIMPLE IRA plans.

New Household Employee Plans (2023)

- Families can establish SEP IRA plans for their household employees, such as nannies or housekeepers.
- **Small Perks (2023):** Until now, employers were prohibited from offering even small incentives to encourage employees to step up their retirement savings. Now, *de minimis* perks are okay, such as a gift card when a participant increases their deferral amount.

SPENDING TODAY, SAVING FOR TOMORROW

It can be hard to save for your future retirement when current expenses loom large. We advise proceeding with caution before using retirement savings for any other purposes, but SECURE 2.0 does include several new provisions to help families strike a balance.

Student Loan Payments Count as Elective Deferrals (2024)

If you're paying off student debt *and* trying to save for retirement, your student loan payments will qualify as elective deferrals in your company plan. This means, whether you contribute to your company retirement plan or you make student loan payments, your employer can use either to make matching contributions to your retirement account.

Transferring 529 Plan Assets to a Roth IRA (2024)

- This one is subject to a number of qualifying hurdles, but SECURE 2.0 establishes a path for families to transfer up to $35,000 of untapped 529 college saving plan assets into the beneficiary's Roth IRA. With proper planning, this may help families "seed" their children's or grandchildren's retirement savings with their unspent college savings.

New Emergency Saving Accounts Linked to Employer Plans (2024)

- SECURE 2.0 has established a new employer-sponsored emergency savings account, which would be linked to your retirement plan account. Unless you are a "highly compensated employee" (as defined by the Act), you can use the account to save up to $2,500, with your contributions counting toward matching funds going into your main retirement plan account.

Relaxed Emergency Plan Withdrawals (2024)

- SECURE 2.0 relaxes the ability to take a modest emergency withdrawal out of your retirement plan. Essentially, as long as you self-certify that you need the money, you can take up to $1,000 in a calendar year, without incurring the usual 10% penalty for early withdrawal. Once you've taken an emergency withdrawal, there are several hurdles before you're eligible to take another one.

Additional Exceptions to the 10% Retirement Plan Withdrawal Penalty (Varied)

- SECURE 2.0 has established new exceptions to the 10% penalty otherwise incurred if you tap various retirement accounts too soon. For example, there are several new types of public safety workers who can access their company retirement plans penalty-free after age 50. Various exceptions are also carved out if you're terminally ill or a domestic abuse victim, or if you use the assets to pay for long-term care insurance. The Act also has modified how retirement plan assets are to be used for Qualified Disaster Recovery Distributions. Many of the new exceptions are fairly specific, so check the fine print before you proceed.

Relaxed Emergency Loans from Retirement Plans (2023)

- If you end up living in a Federally declared disaster area, SECURE 2.0 also increases your ability to borrow up to 100% of your vested plan balance up to $100,000, with a more generous pay-back window.

Expanded Eligibility for ABLE Accounts (2026)

- ABLE accounts help disabled individuals save for disability expenses, while still collecting disability benefits. Before, you had to be disabled before age 26 to establish an ABLE account. That age cap increases to 46.

A Tax Break for Disabled First Responders (2027)

- If you are a first responder collecting on a service-connected disability, at least a portion of your disability payments will remain tax-free, even once you reach full retirement age and begin taking a retirement pension.

Traditional & Roth IRAs

Tax planning for your retirement savings is also important. To help with that, you can typically choose between two account types as you save for retirement: ***Traditional*** IRA or employer-sponsored plans, or ***Roth*** versions of the same.

Either way, your retirement savings grow tax-free while they're in your accounts. The main difference is whether you pay income taxes at the beginning or end of the process. For Roth accounts, you typically pay taxes up front, funding the account with after-tax dollars. Traditional retirement accounts are typically funded with pre-tax dollars, and you pay taxes on withdrawals.

That's the intent, anyway. To fill in a few missing links, the SECURE 2.0 Act:

- Eliminates Required Minimum Distributions for employer-sponsored Roth accounts, such as Roth 401(k)s and Roth 403(b)s, to align with individual Roth practices **(2024)**
- Establishes Roth versions of SEP and SIMPLE IRAs **(2023)**
- Lets employers make contributions to traditional *and* Roth retirement accounts **(2023)**
- Allows families to potentially move 529 plan assets into a Roth IRA **(2024 – as described above)**

There's one thing that's ***not*** changed, although there's been talk that it might: There are still no restrictions on "backdoor Roth conversions" and similar strategies some families have been using to boost their tax-efficient retirement resources.

Required Minimum Distributions

The government would prefer you eventually start spending your tax-sheltered retirement savings, or at least pay taxes on the income. That's why there are rules regarding when you must start taking Required Minimum Distributions (RMDs) out of your retirement accounts. That said, both SECURE Acts have relaxed and refined some of those RMD rules.

- **Extended RMD Dates (2023):** the original SECURE Act postponed when you must start taking taxable RMDs from your retirement account—from 70

½ to 72. The SECURE 2.0 Act extends that deadline further. If you were born between 1951–1959, you can now wait until age 73. If you were born after that, it's age 75.

- **Reduced Penalties (2023):** If you fail to take an RMD, the penalty is reduced from a whopping 50% of the distribution to a slightly more palatable 25%. Also, the penalty may be further reduced to 10% if you fix the error within a prescribed correction window.
- **Aligned RMD Rules for Personal and Employer-based Roth Accounts (2024):** As mentioned above, RMDs have been eliminated from employer-based Roth accounts. If you've already been taking them, you should be able to stop doing so in 2024.
- **Enhanced RMDs for Surviving Spouses (2024):** If you are a widow or widower inheriting your spouse's retirement plan assets, you will be able to elect to determine your RMD date as if you were your spouse. This provision can work well if your spouse was younger than you. As described here: "RMDs for the [older] surviving spouse would be delayed until the deceased spouse would have reached the age at which RMDs begin."

An Addendum For Charitable Donors
Even though RMD dates have been extended as described, you can still make Qualified Charitable Distributions (QCDs) out of your retirement accounts beginning at age 70 ½, and the income is still excluded from your taxable adjusted gross income, as well as from Social Security tax and Medicare surcharge calculations. Plus, beginning in **2024**, the maximum QCD you can make (currently $100,000) will increase with inflation. Also, with quite a few caveats, you will have a one-time opportunity to use a QCD to fund certain charitable trusts or annuities.

This is shared as a service to our clients, associates and friends. Recipients should not act on the information presented without seeking prior professional advice. Additional guidance on how this might affect your personal situation may be obtained by contacting Copper Leaf Financial at 802-878-2731.

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Reference Materials and Additional Reading:

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