Prep now for retirement plan changes under the SECURE 2.0 Act

Get in on the Act

The SECURE 2.0 Act was signed into law on Dec. 29, 2022, as part of the Consolidated Appropriations Act of 2023. This legislation is a substantial follow-up to the first SECURE Act from late 2019 and will significantly impact the retirement plan industry for years to come.

Despite bipartisan support, the bill spent most of 2022 on hold in Congress. With its passage, the SECURE 2.0 Act seeks to expand retirement plan coverage and savings, introduce new plan design features and simplify certain administrative requirements. Changes impact many areas of retirement plan administration and design.

While most changes require no immediate action in early 2023, it's important for plan sponsors to be aware and get ahead of changes that will soon impact them.

This chart highlights the most significant changes:

TOPIC	PROVISION(S)	EFFECTIVE DATE
Designated match and nonelective Roth contributions	Allows employees to designate employer match (including student loan match) or nonelective contributions as Roth; not excludable from the employee's income, and must be 100% vested when made.	Immediate
Expansion of EPCRS	Allows certain unintentional failures to be self-corrected under the IRS' Employee Plans Compliance Resolution System at any time.	Immediate
Governmental 457(b) deferral rate elections	Participants may elect to change deferral elections at any time before compensation is made available to the employee; applicable for governmental 457(b) plans.	Immediate
Hardship withdrawals	An employer may rely on an employee's self-certification that they have had a safe harbor event that constitutes a deemed hardship.	Immediate
Participant notice requirements	Defined contribution plans are no longer in violation of ERISA for failing to provide certain enrollment materials if the summary plan description is distributed; plan sponsors may consolidate multiple notices (safe harbor, auto-enrollment, Qualified Default Investment Alternative) into one notice. Annual funding notices for defined benefit plans must include additional information.	Immediate
Recovery of overpayments	Fiduciary relief is granted for failure to recoup overpayments from plans to participants; protection of tax-exempt status is provided for overpayments rolled over.	Immediate
403(b) plan investments	Permits 403(b) plans with custodial accounts to invest in collective investment trusts, which is already permitted for 401(k) plans. *Note: While the Internal Revenue Code was updated in this legislation, securities law does not yet fully permit this option.*	For all plan years beginning after Dec. 31, 2022
Financial incentives to employees who contribute	Permits employers to offer employees *de minimis* financial incentives (such as gift cards) for contributing to 401(k) or 403(b) plans.	For all plan years beginning after Dec. 31, 2022
MEPs and PEPs	Extends certain multiple employer plan and pooled employer plan provisions to 403(b) plans and allows PEPs to designate any fiduciary other than a participating employer as trustee for contributions.	For all plan years beginning after Dec. 31, 2022
RMDs	The required minimum distributions age is increased to 73 (effective Jan. 1, 2023) and age 75 (effective Jan. 1, 2033)	All RMDs due after April 1, 2023
RMD failure excise tax relief	The excise tax for failure to take RMDs is reduced from 50% to 25% on amounts not distributed timely; further reduced to 10% in certain situations.	For all plan years beginning after Dec. 31, 2022

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TOPIC	PROVISION(S)	EFFECTIVE DATE
"Starter" plans for employers with no retirement plan	These new plan designs mandate employees be automatically enrolled at a 3% to 15% rate; maximum contributions mirror IRA limits; no discrimination testing required; applicable for 401(k) and 403(b) plans.	For all plan years beginning after Dec. 31, 2023
Domestic abuse withdrawals	In-service withdrawals are permitted for victims of domestic abuse, subject to self-certification; applicable for 401(k), 403(b) and governmental 457(b) plans.	For all plan years beginning after Dec. 31, 2023
Elimination of Roth RMDs	Roth 401(k) and 403(b) plans are exempt from RMD rules; mirror rules governing Roth IRAs.	For all plan years beginning after Dec. 31, 2023
Emergency expense withdrawals	One penalty-free $1,000 withdrawal is permitted per year for "unforeseeable or immediate financial needs relating to personal or family emergency expenses"; may be repaid within three years.	All distributions made after Dec. 31, 2023
ESAs	Emergency savings accounts are permitted via Roth contributions, which may be deferred automatically up to a 3% rate and capped at no more than $2,500 (indexed for inflation) with no minimum requirements; participants may take at least one withdrawal per month, and the first four withdrawals per year cannot be subject to fees.	For all plan years beginning after Dec. 31, 2023
Hardship withdrawals	Rules pertaining to 403(b) plan hardship withdrawals now mirror those of 401(k) plans, allowing for these withdrawals within 403(b) plans to be sourced from all money types (with interest) and without a "loan first" requirement.	For all plan years beginning after Dec. 31, 2023
Involuntary cash-out distributions	The threshold to automatically cash out small plan balances is increased from $5,000 to $7,000.	For all plan years beginning after Dec. 31, 2023
Student loan match	"Qualified student loan payments" may be treated as elective deferrals and receive the plan's stated matching contribution; applicable for 401(k), 403(b) and governmental 457(b) plans.	For all plan years beginning after Dec. 31, 2023
Top-heavy requirements	Permits 401(k) plans to carve out "otherwise excludable" employees (employees who are under age 21 and/or did not complete one year of service) from top-heavy testing.	For all plan years beginning after Dec. 31, 2023
Automatic enrollment	An eligible automatic contribution arrangement is required for all new plans (3% minimum, 10% maximum default savings rate; permissible withdrawals within 90 days; auto escalate savings 1% per year up to 10% minimum, 15% maximum); for all new 401(k) and 403(b) plans, with some exclusions.	For all plan years beginning after Dec. 31, 2024; plans adopted after passage converted in 2025
Catch-up contributions	The age 60 to 63 catch-up contribution limit increased to the greater of $10,000 or 150% of the "standard" catch-up contribution limit (indexed for inflation); applicable for 401(k), 403(b) and governmental 457(b) plans.	For all plan years beginning after Dec. 31, 2024
Long-term part-time eligibility	403(b) and 401(k) plans must permit an employee to contribute if the employee worked at least 500 hours per year for at least two consecutive years and has met the minimum age requirement (age 21); requirement was previously three consecutive years and for only 401(k) plans.	For all plan years beginning after Dec. 31, 2024
Catch-up contributions	Catch-up contributions must be made on a Roth basis, except employees with prior year wages less than $145,000 (indexed for inflation); applicable for 401(k), 403(b) and governmental 457(b) plans.	IRS update: For all plan years beginning after Dec. 31, 2025
Retirement savings lost & found	The Department of Labor will create an online searchable "Lost and Found" database to collect information on benefits owed to missing, lost or non-responsive participants and beneficiaries.	No later than two years after passage of SECURE 2.0 Act

The full SECURE 2.0 Act starts on page 2046 of the Consolidated Appropriations Act. More guidance is forthcoming in several areas; in the meantime, for more information on the impact of this Act, please email Vince Bocchinfuso at vbocchin@hanys.org.

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