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## Key Provisions of the SECURE 2.0 Act of 2022



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The SECURE 2.0 Act of 2022 was passed by Congress and signed into law by President Joe Biden on December 29, 2022 as part of the broader Consolidated Appropriations Act of 2023. This is one of the most significant pieces of retirement reform legislation in decades.

SECURE 2.0 builds on and expands reforms made in the SECURE Act of 2019 to significantly improve retirement savings opportunities for Americans. It contains 92 new provisions—some taking effect immediately while others will be effective in the coming years. These new laws promote savings, boost incentives to start retirement plans for businesses, and provide more flexibility to those saving for retirement.

Below is a listing of key provisions.\*

**Automatic Enrollment for New 401(k) and 403(b) Plans:** An EACA-type automatic contribution arrangement will be required for all **new** 401(k) or 403(b) plans. This includes any participating employers joining an existing Multiple Employer Plan (MEP).

*Generally applies for plan years beginning after Dec. 31, 2024.*

**Approval of Employer Match on Student Loan Payments:** This bill codifies the ability of retirement plan sponsors to provide a company match based on student loan payments.

*Effective for plan years beginning after Dec. 31, 2023.*

**Reduction of Long-term Part-time Employee Period of Service:** SECURE ACT 1.0 required that long-term part-time employees be included in retirement plans for salary deferral purposes if the employee works 500 hours in a consecutive three-year period. SECURE 2.0 reduced the years from three years to two years and extended this requirement to 403(b) plans.

*Generally effective for plan years beginning after Dec. 31, 2024.*

**MEPs and PEPs for 403(b) Plans:** Expands SECURE Act 1.0 provisions to include Pooled Employer Plans (PEPs) and officially opens MEPs to 403(b)s.

*Effective for plan years beginning after Dec. 31, 2022.*

**Retirement Plan Lost and Found:** Requires the Department of Labor (DOL) to create a searchable database where retirement plan participants can look for “lost” retirement plan assets.

*Must be completed within two years after the enactment of SECURE 2.0.*

**Prohibited Transaction Exemption (PTE) for Compensation Received in Connection with Automatic Rollovers to New Employer's Plan:** Directs the DOL to create a new PTE permitting small balances to be cashed out to a new employer's plan for terminated participants.

*Effective one year after the date of enactment of SECURE 2.0.*

**Starter 401(k):** Creates a new deferral-only 401(k) plan.

*Effective for plan years beginning after Dec. 31, 2023.*

**PEP Fiduciary:** Amends the PEP rules to allow the plan to designate any named fiduciary, except for a participating employer, to be responsible for contributions collection.

*Effective for plan years beginning after Dec. 31, 2022.*

**Group Plan Audits:** Annual financial audits for "Group of Employer Plans" are not to be conducted on the trust level, but when required should be conducted at the employer level instead.

*Effective upon enactment of SECURE 2.0.*

**Changes Impacting Non-discrimination Testing:** Allows otherwise excludable employees, for example under age 21 and under a year of service, to be tested separately for top-heavy testing, and changes family attribution rules affecting controlled group determinations.

*Effective for plan years beginning after Dec. 31, 2023.*

**Start-up Costs Tax Credit:** Increase in the tax credits to cover 100% of the cost for start-up retirement plans with up to 50 people. The law clarifies the credit is also available to employers joining an existing plan, such as a MEP or PEP. The tax credit gradually decreases as follows: 1st year (100%), 2nd year (75%), 3rd year (50%), 4th year (25%), and thereafter (0%).

*Effective retroactively for plan years beginning after Dec. 31, 2019.*

**Expansion of the Employee Plans Compliance Resolution System (EPCRS):** Further codifies and expands EPCRS allowing eligible inadvertent failures to be corrected at any time with certain exceptions.

*Effective upon enactment of SECURE 2.0.*

**Paper Delivery of Statements:** One paper statement must be delivered per calendar year with an exception for plans who allow participants to opt in rather than opt out of e-delivery.

*Effective for plan years beginning after Dec. 31, 2025.*

**Emergency Savings:** Provides for an additional hardship-type withdrawal of up to \$1,000 per year for emergency savings as well as the addition of a "side-car" emergency savings account.

*Effective after Dec. 31, 2023.*

**Age for Required Minimum Distributions:** SECURE 2.0 has increased the age for Required Minimum Distributions (RMDs) to:

- Age 73 for a person who attains age 73 before Jan. 1, 2033
- Age 73 for a person who attains age 72 after Dec. 31, 2022
- Age 75 for an individual who attains age 74 after Dec. 31, 2032

*Effective for distributions made after Dec. 31, 2022.*

**Collective Investment Trusts (CITs) for 403(b) Plans:** Amends the Code to explicitly allow 403(b) plans with custodial accounts to invest in collective investment trusts. The federal securities law exemptions for investment in CITs by 403(b) plans were not included in SECURE 2.0.

*Effective upon enactment of SECURE 2.0.*

## Conclusion

SECURE 2.0 has made many changes to the laws that govern retirement plans. As the IRS continues to release more guidance, SRC will keep you abreast of these important changes. If you have any questions about SECURE 2.0, please feel free to contact us.

*\*This is not an exhaustive list of all provisions contained within SECURE 2.0. If you have questions, please reach out to Stones River Consulting at (615) 962-8250 or visit us online at SRC401k.com.*



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