



## SECURE 2.0 Act Summary of Provisions by Effective Date<sup>1</sup>

### 2023 Mandatory Provisions (\*subject to the terms of the plan)

Provision	New Law										
<p><b>Required Minimum Distributions (RMDs)</b> – Increase in age for required beginning date for mandatory distributions</p>	<p>The SECURE Act of 2019 (“SECURE 1.0”) increased the required minimum distribution (“RMD”) age to 72. SECURE 2.0 further increases the required minimum distribution age to 73 starting in 2023 and to 75 starting in 2033. RMD age is increased as follows: (i) 73 for a person who attains age 72 after December 31, 2022, and age 73 before January 1, 2033; (ii) 75 for an individual who attains age 74 after December 31, 2032.</p> <table border="1" data-bbox="597 877 1117 1037"> <thead> <tr> <th>DOB</th> <th>RMD Age</th> </tr> </thead> <tbody> <tr> <td>Before July 1, 1949</td> <td>Based on 70 ½</td> </tr> <tr> <td>7/1/1949 – 12/31/1950</td> <td>Based on 72</td> </tr> <tr> <td>1/1/1951 – 12/31/1959</td> <td>Based on 73</td> </tr> <tr> <td>After 12/31/1959</td> <td>Based on 75</td> </tr> </tbody> </table>	DOB	RMD Age	Before July 1, 1949	Based on 70 ½	7/1/1949 – 12/31/1950	Based on 72	1/1/1951 – 12/31/1959	Based on 73	After 12/31/1959	Based on 75
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<p><b>RMD</b> – Reduction in excise tax for Required Minimum Distribution Failure</p>	<p>Existing law imposes an excise tax on an individual if the amount distributed to an individual during a taxable year is less than the RMD under the plan for that year. Prior to December 29, 2022 the excise tax was equal to 50% of the shortfall (that is, 50% of the amount by which the RMD exceeds the actual distribution). SECURE 2.0 reduces the excise tax rate from 50% to 25%, and further reduces the rate to 10% if the individual corrects the shortfall during a two-year correction window.</p>										
<p><b>Qualified Birth and Adoption Distributions (QBADs)</b> – Repayment of QBADs limited to three years.</p>	<p>SECURE 1.0 allows for a withdrawal of up to \$5,000 for eligible childcare and adoption expenses not subject to the 10% early withdrawal tax. These amounts may be repaid back to an eligible retirement plan that accepts rollover contributions, by making one or more repayments that in an aggregate amount do not exceed the amount of such distribution. Slavic pre-approved plan document does not currently allow for QBADs. However, special considerations are required due to the protected benefits status of this distribution.</p> <p>SECURE 2.0 limits the repayment of QBADs to three years beginning on the day after distribution is received. Distributions received before enactment (December 29, 2022) must be repaid before January 1, 2026.</p>										

### 2023 Optional Provisions

<sup>1</sup> The draft SECURE 2.0 Technical Corrections Bill may impact certain provisions upon enactment.

Provision	New Law
<b>Roth Employer Contributions</b> - Rothification of employer matching and nonelective contributions	Defined contribution plans, like a 401(k) plan, may provide participants with the option to elect for some or all of the matching or nonelective employer contributions made to them under the plan to be characterized as Roth contributions at the time they are contributed to the plan, but only if the contributions are fully vested at the time they are made. Plans that do not currently permit employee Roth contributions may implement Roth matching and non-elective contributions without offering employee Roth contributions.
<b>Hardship Distribution</b> - Reliance on employee certifying that deemed Hardship Distribution conditions are met	<p>SECURE 2.0 provides that, under certain circumstances, employees are permitted to self-certify that (1) they have had an event that constitutes a hardship for purposes of taking a hardship withdrawal, (2) the distribution is not in excess of the amount required to satisfy the financial need, and (3) the employee has no alternative means reasonably available to satisfy the financial need.</p> <p>IRS can issue regulations addressing when plan administrator has contrary knowledge and cases of employee misrepresentation.</p>
<b>Terminal Illness Distribution</b> - Exemptions from early distribution penalty tax for individuals with terminal illness	Exception to the 10% early withdrawal penalty for distributions to individuals (otherwise eligible for a distribution) whose physician certifies that they have an illness or condition that is reasonably expected to result in death in 84 months or less. Repayment allowed (similar to QBADs). In general, there is no limit on the amount the individual is permitted to receive. If a plan does not permit terminal illness distributions and a participant receives an otherwise permissible in-service distribution that meets the requirements of both distributions, the participant may treat the distribution as a terminal illness distribution on their federal income tax return.
<b>Permanent Disaster Relief Distribution</b>	SECURE 2.0 provides permanent special rules governing plan distributions and loans in cases of qualified federally declared disasters. In the event President declares a major federal disaster, those who live in the disaster area and sustained an economic loss can take a disaster recovery distribution. Distribution is limited to \$22,000 and is not subject to the 10% early withdrawal tax. Taxation can be spread over three years and can be repaid back to an eligible retirement plan that accepts rollover contributions. This provision is effective for disasters occurring on or after January 26, 2021.
<b>Small Financial Incentives to Participants for Contributing to a Plan</b>	This provision permits employers to offer de minimis financial incentives (for example, low-dollar gift cards), not paid for with plan assets, to encourage employees to participate in workplace retirement plans. The incentive cannot exceed \$250 in value and should only be provided to employees who do not have a deferral election in effect at the time the incentive is offered.
<b>Unenrolled Participants</b> - Eliminating unnecessary notice requirements for unenrolled participants	Under prior rules, employees who are eligible but choose not to participate in a plan ("unenrolled participants") were required to receive numerous plan notices and disclosures. SECURE 2.0 eliminated the need to provide certain IRS and DOL notices and disclosures to unenrolled participants, other than an annual reminder notice and documents requested by unenrolled participants. An unenrolled participant must still receive an SPD and other notices related to initial eligibility to participate. An unenrolled participant is a participant who is eligible to participate but has not enrolled in the plan and does not have a balance in the plan.

## 2023 Optional Provisions (Cont.)

Provision	New Law
<p><b>Small Employer Plan Start-up Costs</b> – Modification of credit for small employer pension plan start-up costs</p>	<p>SECURE 2.0 modifies the small employer retirement plan start-up credit as follows:</p> <ol style="list-style-type: none"> <li>1. For employers with up to 50 employees the tax credit is increased to 100% of qualified start-up costs, but the credit is still capped at \$5,000 and available for the employer’s first 3 taxable years administering the plan.</li> <li>2. Additional new tax credit for employer contributions. The credit will be a set percentage of the amount contributed by the employer for employees up to a per-employee cap of \$1,000 (no credit for any employee in prior year whose FICA wages exceeded \$100,000 (indexed)). The set percentage is 100% for the year the plan is established and the following year, 75% for the third year, 50% for the fourth year, 25% for the fifth year, and 0% thereafter. The full amount of the new tax credit would be available to employers with 50 or fewer employees but phases out for employers with 51 to 100 employees. This new tax credit is not available to defined benefit plans. This credit is separate from the start-up costs credit discussed above. Employers can be eligible for both.</li> </ol>
<p><b>Small Employer Plan Start-Up Costs for adopters of MEPs and PEPs</b></p>	<p>The start-up tax credit is available for three years to employers adopting their first plan by joining a MEP or PEP, starting with the year the employer joins the MEP or PEP, regardless of how long the MEP or PEP has been in existence. This tax credit provision is retroactive for taxable years beginning after December 31, 2019.</p>
<p><b>Sole Proprietor Elective Deferrals</b> – Retroactive sole proprietor deferrals</p>	<p>SECURE 1.0 allowed retroactive plan adoption up to the employer’s extended due date of tax return and only applied to employer nonelective contributions. SECURE 2.0 allows retroactive elective deferral elections but it is limited to unincorporated sole proprietors with no employees or single-member LLCs. A deferral election made after the end of the tax year, but by the filing deadline, is treated as made before the end of first plan year for a retroactively adopted plan. Not applicable to partners in a partnership (like lawyers, doctors, etc.). Not applicable to anyone with employees.</p>
<p><b>EPCRS</b> – Recovery of retirement plan overpayments</p>	<p>Previously, fiduciaries for plans that have mistakenly overpaid a participant had to take reasonable steps to recoup such overpayment. SECURE 2.0 does not require the plan sponsor to make up the overpayments under certain circumstances. In addition, if a plan seeks recovery of overpayments, certain restrictions and protections will apply (e.g., no recoupment of interest from participants). SECURE Act 2.0 also allows overpayments that have been rolled over and not repaid to continue to be treated as eligible rollover distributions.</p>
<p><b>EPCRS</b> – Safe harbor for correction of employee elective deferral failures in implementing automatic enrollment and escalation features</p>	<p>SECURE 2.0 codifies and makes permanent the safe harbor for correcting automatic enrollment failures, which was previously found in EPCRS. The safe harbor correction is 0% QNEC of deferral in auto enrollment/auto escalation plan if corrected within 9 ½ months after the end of plan year in which the failure occurred.</p>

## 2023 Optional Provisions (Cont.)

Provision	New Law
<p><b>EPCRS</b> - Expansion for self-corrections</p>	<p>Previously, EPCRS allowed self-correction of insignificant operational failures at any time, or in case of significant operational failures, within a 3-year period. SECURE 2.0 allows no time limit on self-correction of any "eligible inadvertent failures" that are significant or insignificant. A loan error that is an eligible inadvertent failure may be self-corrected under EPCRS. Plan cannot be under examination. Future guidance clarifying what errors are "eligible inadvertent failures" will be issued by the IRS within two years of SECURE 2.0's enactment.</p>

## 2024 Mandatory Provisions

Provision	New Law
<p><b>Long-Term Part-Time Employee LTPT (SECURE 1.0)</b> - Technical amendments</p>	<p>SECURE 1.0 allows long-term part-time employees who do not meet normal eligibility conditions to participate in their employer retirement plan once they have (i) reached age 21, and (ii) have worked at least 500 hours in three consecutive 12-month periods. For eligibility purposes years of service prior to 2021 are disregarded.</p> <p>SECURE 2.0 clarifies that years of service prior to 2021 are disregarded for determining a participant's vested account balance under the plan, LTPT participants can be excluded for nondiscrimination purposes including the safe harbor plan rules, and a LTPT participant is treated as full-time employee once they have reached the normal minimum age and service requirements (age 21 and 1,000 hours in a one year of service). First time a long-term part-time employee will be eligible for a plan under SECURE 1.0 is January 1, 2024.</p>
<p><b>Roth Catch-Up Contributions</b> – Roth only catch-up contributions for highly paid employees</p>	<p>Catch-up contributions must be made on a Roth basis except for participants whose prior year's FICA wages did not exceed \$145,000 (indexed) with the sponsoring employer. Plans that do not allow for Roth contributions cannot receive catch-up contributions except from participants whose wages did not exceed the \$145,000 threshold. While the effective date for this provision is January 1, 2024, the IRS will not begin enforcement until January 1, 2026.</p>
<p><b>Spousal/Child Attribution Fix</b> (control groups/affiliated service groups)</p>	<p>Disregards 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.</p>

## 2024 Optional Provisions

Provision	New Law
<p><b>Student Loan Repayments</b> – Treated as elective deferrals for purposes of matching contributions</p>	<p>Plan sponsors are able to make matching contributions to employees for certain "qualified student loan payments". Qualified Student Loan Payments are incurred on behalf of employee and for higher education expenses. Qualified Student Loan Payments are treated as regular elective deferrals. The match must be at the same rate and must vest in the same manner as the match on elective deferrals. Eligibility is limited to employees eligible to receive match on deferrals. These matching contributions are treated as regular matching contributions for ACP testing purposes. Plan can perform separate ADP test for those employees who get student loan match vs. those who do not. Employees must annually certify payments made on the loans. The plan administrator may rely on employee self-certification.</p>
<p><b>Emergency Savings Accounts (ESAs) Linked to Retirement Plans</b></p>	<p>Employers can allow non-highly compensated employees (NHCEs) to defer on a Roth basis to an emergency savings account inside their retirement plan. The account balance cannot exceed \$2,500 (indexed) or a lower limit set by employer. Participants must be allowed to take a withdrawal from the account at least once per month and no fee can be applied to the first four withdrawals each plan year. The withdrawal is not subject to the 10% early withdrawal penalty and is treated as a qualified Roth distribution (earnings are not taxed). Employee's contributions to the emergency savings account must be eligible for matching contributions at the same matching rate established under the plan for elective deferrals (but the matching contributions are not made to the emergency savings account). Contributions must be held in cash in an interest-bearing account or an investment product designed to preserve principal. Employers can eliminate this option at any time.</p>
<p><b>Emergency Withdrawals</b> – Penalty-free withdrawals for emergency expenses (different from Emergency Savings Accounts (ESAs))</p>	<p>Plans can allow one penalty-free withdrawal of up to \$1,000 per year for personal or family emergency. The plan administrator can rely on participant's self-certification of eligibility. The withdrawal can be repaid within 3 years. Only one withdrawal per three-year repayment period is permitted if the first withdrawal has not been repaid.</p>
<p><b>Domestic Abuse Withdrawals</b> – Penalty-free withdrawals for individual in case of domestic abuse</p>	<p>Plans can allow penalty-free withdrawals of up to the lesser of \$10,000 (indexed) or 50% of the participant's vested account balance to participants who have experienced domestic abuse. The withdrawal must be made within one year of date on which the participant experienced domestic abuse. The plan administrator can rely on the participant's self-certification. The participant can repay the withdrawal within three years.</p>
<p><b>Cash-Out (Force-Out) Limit Increased</b> – Updating dollar limit for mandatory distributions</p>	<p>Increases the maximum automatic involuntary cash-out (force-out) limit to \$7,000 from \$5,000 (not indexed).</p>

## 2024 Optional Provisions (Cont.)

Provision	New Law
<b>RMD</b> - No pre-death RMDs from Roth plans	Starting with RMDs required in 2024 (except RMDs due by April 1 for those reaching their RMD age in the prior year), pre-death RMDs are no longer required to be made from a designated Roth account maintained under a 401(k).
<b>Retroactive Amendments that Increase Participants' Benefits</b> - Discretionary amendments to increase participants' benefits in previous plan year	Allows for the employer to adopt a discretionary amendment after the end of the year and by the due date of filing the tax return to retroactively increase participants' benefits in the prior year, including but not limited to, adding or increasing nonelective contributions. The amendment is treated as adopted on the last day of the prior plan year.
<b>Top-Heavy Rules</b> - Application of top-heavy rules to defined contribution plans covering excludable employees	Allows a top-heavy plan that covers otherwise excludable employees (employees that do not satisfy the Internal Revenue Code's minimum age and service eligibility rules – age 21 and one year of service) – to perform separate top-heavy testing for excludable and non-excludable employees. This typically means otherwise excludable employees don't need to get the top-heavy minimum contribution.
<b>SIMPLE Accounts</b> - Mid-year conversion from SIMPLE IRA to Safe Harbor 401(k)	Under current law, employers must keep the SIMPLE IRA for an entire year. SECURE 2.0 permits an employer to elect to replace a SIMPLE IRA plan with a safe harbor 401(k) plan at any time during the year, as long as certain criteria are met. Deferral limit is prorated (by day) between SIMPLE IRA and 402(g) limit during the transition year. The two-year rollover limitation in SIMPLE IRAs converting to a 401(k) is waived, subject to certain requirements.
<b>Auto Portability Transactions</b> - Prohibited transaction exemption	SECURE 2.0 provides for a new prohibited transaction exemption for service providers who facilitate auto-portability transactions. Auto-portability transactions are those where a provider that holds involuntary cash outs in an IRA rolls the funds to the retirement plan sponsored by the IRA owner's new employer.

## 2025 Mandatory Provisions

Provision	New Law
<b>Long-Term Part-Time Employees</b> LTPT (SECURE 2.0)	SECURE 2.0 provides for a one-year reduction in period of service requirement for long-term part time employees. Plans must allow part-time workers to participate in the plan after working a minimum of 500 hours in two consecutive years. Pre-2023 service is disregarded for eligibility and pre 2021 service is disregarded for vesting. The first time a long-term part-time employee will be eligible for a plan under SECURE 2.0 is January 1, 2025.
<b>Mandatory Automatic Enrollment and Escalation for New Plans</b>	New 401(k) plans must adopt a special type of eligible automatic enrollment arrangement (EACA) that provides for: a deferral rate of at least 3% but not more than 10% during the first year, 1% auto escalation each plan year up to minimum of 10% and max of 15%, right to opt out, and right to withdraw deferrals within 90 days of automatic enrollment. Mandatory automatic enrollment does not apply to: plans adopted prior to enactment on December 29, 2022 (even if the effective date was after enactment), governmental, church, or SIMPLE-IRA plans, employers with fewer than 11 employees, and employers in business less than 3 years. Adopting employers who join an existing MEPs after December 29, 2022, and have not had a plan before will be required to adopt automatic enrollment. If a plan established after enactment merges with a plan established prior to enactment, the ongoing plan is generally subject to the mandatory automatic enrollment requirements unless an exception applies.
<b>Retirement Savings Lost &amp; Found Database</b>	DOL is required to establish this year an online searchable database to allow individuals to find contact information for retirement plan administrators and make a claim for benefits. Plan administrators of tax-qualified plans subject to ERISA vesting provisions – including 401(k) plans – will have to provide DOL with information about current and former participants. Database is intended to keep up with plan mergers, terminations, name or address changes, etc.

## 2025 Optional Provisions

Provision	New Law
<b>Catch-Up Contributions Amount Increase at Age 60- 63</b>	SECURE 2.0 Increases the limit on catch-up contributions for individuals age 60-63 to the greater of (i) \$10,000 or (ii) 150% of the regular catch-up amount for 2025. Both amounts are indexed after 2025.

## Provisions After 2025

Provision	New Law
<b>Requirement to Provide Paper Benefit Statements</b> – Effective 2026, mandatory	For a defined contribution plan, at least one statement must be provided on paper in written form for each calendar year, unless the plan follows the DOL's electronic delivery rules or the participant or beneficiary requests that the statements be provided electronically.
<b>Roth Catch-Up Contributions</b> – Roth only catch-up contributions for highly paid employees	Catch-up contributions must be made on a Roth basis except for participants whose prior year's FICA wages did not exceed \$145,000 (indexed) with the sponsoring employer. Plans that do not allow for Roth contributions cannot receive catch-up contributions except from participants whose wages did not exceed the \$145,000 threshold. While the effective date for this provision is January 1, 2024, the IRS will not begin enforcement until January 1, 2026.
Plan Document Amendments for SECURE 2.0	The deadline for plan document amendments that reflect changes made by SECURE and SECURE 2.0 is now December 31, 2026 (December 21, 2028, for collectively bargained plans, and December 31, 2029, for governmental plans).
<b>Saver's Match</b> – Effective 2027, optional	Replaces Saver's Credit with Saver's Match. The Saver's Credit for contributions to retirement plans will no longer be refunded in cash. Credits greater than \$100 will be deposited into taxpayer's 401(k) plan. The credit will equal 50% of contributions up to \$2,000 per person, with income-based phaseout and will be payable "as soon as practicable" after the individual properly claims the credit on his or her tax return.

*This material, relative to SECURE 2.0 ("Act") is being provided for educational purposes only. It should not be construed as providing legal or investment advice and is not designed to be complete in all material respects.*