

SECURE ACT 2.0 | KEY PROVISIONS AND EFFECTIVE DATES

PROVISION	DESCRIPTION
Effective Date: Immediately Upon Enactment (December 29, 2022)	
Excise Tax Reduction for RMD Failures	<p>Reduces the excise tax for failure to take RMDs from 50% to 25%</p> <p>If RMD failure is timely corrected, excise tax is reduced from 25% to 10% subject to certain conditions</p>
Incentives for Contributing to Plan	<p>Allows participants to receive de minimis financial incentives (i.e., gift cards) for making contributions</p> <p>Incentives cannot be paid from plan assets</p>
403(b) Plan Investments	<p>Tax Code now allows 403(b) plans with custodial accounts to invest in collective investment trusts</p> <p>Securities laws that prohibit such investments were not updated</p>
457(b) Plan First-Day of the Month Rule	<p>Allows deferral elections to be made at any time prior to the date the compensation being deferred is available</p>
Qualified Birth or Adoption Distribution Repayment	<p>Qualified birth or adoption distributions are required to be repaid within three years of distribution to qualify as a rollover</p>
Terminal Illness 10% Early Withdrawal Penalty	<p>Allows in-service withdrawals to terminally ill individuals subject to certain conditions</p> <p>10% early withdrawal penalty does not apply</p>
Hardship Distribution Self-Certification	<p>Plan administrator may rely on employee self-certification for:</p> <p>Taking hardship withdrawal, confirming the withdrawal is not in excess of amount required to satisfy need and that the employee has no alternative means to satisfy need</p>
Qualified Federally Declared Disaster Area Distributions	<p>Allows qualified disaster recovery distributions of up to \$22,000</p> <p>10% early withdrawal penalty does not apply</p> <p>Distribution amounts can be repaid to plan over three-year period from date of distribution</p> <p>Employers can provide for higher maximum loan amount and increased repayment period for qualified individuals</p>

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RMD Rules for Special Needs Trust	Allows special needs trust established for beneficiary with disability to designate charitable organization as remainder beneficiary (clarification of SECURE Act of 2019)
Annual Audits for Group of Plans	Group of plans with common features can file single Form 5500 but trust-level audit not required except for plans within group with 100 or more participants (clarification of SECURE Act of 2019)
Cash Balance Backloading Relief	Allows cash balance plans with variable interest credit rates to use reasonable projected crediting rate but rate cannot be in excess of 6%
Treatment of Employer Matching or Non-Elective Contribution as Roth Contribution	Participants may elect to designate employer matching or non-elective contributions as Roth contributions
Recovery of Overpayments Relief	Employers are not required to recoup inadvertent overpayments or make plan whole subject to certain conditions
EPCRS Expansion	Allows more types of errors to be self-corrected within reasonable time after error identified EPCRS must be updated within two years of enactment

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Effective Date: Plan Years (or Tax Years) Beginning After December 31, 2022	
Required Minimum Distributions	<p>Age used to determine required beginning date for RMDs increases from age 72 to:</p> <p>Age 73 on January 1, 2023 (for individuals who attain age 72 after December 31, 2022, and age 73 before January 1, 2033), and age 75 on January 1, 2033 (for individuals who attain age 74 after December 31, 2032)</p>
Plan Notices to Unenrolled Participants	<p>Employers no longer required to provide certain ERISA and Code defined contribution plan notices to unenrolled participants</p> <p>Must still provide an annual notice of participant's eligibility and identify any applicable election deadlines and provide any document requested by participant</p>
Pooled Employer Plans Modification	<p>Allows pooled employer plans to designate any named fiduciary (except a participating employer) as entity responsible for contribution collections rather than requiring designation of a trustee</p>
Multiple Employer 403(b) Plan	<p>Allows certain 403(b) plans to operate as multiple employer plans or pooled employer plans and provides relief from the "one bad apple" rule</p>

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Effective Date: Plan Years (or Tax Years) Beginning After December 31, 2023	
Safe harbor for corrections of employee elective deferral failures	<p>Allows a grace period to correct reasonable errors in administering automatic enrollment and automatic escalation provisions.</p> <p>Errors must be corrected prior to 9 ½ months after the end of the plan year in which the mistakes were made</p>
Treatment of Student Loan Payments as Elective Deferrals for Matching Contribution Purposes	Employers may treat qualified student loan repayments as elective deferrals and make matching contributions on behalf of participants making repayments
Catch-Up Contributions Treated as Roth Contributions	All catch-up contributions are subject to mandatory Roth tax treatment (i.e., made on after-tax basis) for participants with wages for preceding year in excess of \$145,000 (annually indexed for inflation)
Emergency Expenses 10% Early Withdrawal Penalty	<p>Allows in-service withdrawal for certain personal or family emergency expenses which are unforeseeable or create immediate financial need</p> <p>10% early withdrawal penalty does not apply</p> <p>Only one distribution allowed per year of up to \$1,000</p> <p>Participant has option to repay distribution within three years; no additional emergency distribution allowed during three years unless repayment occurs</p>
Emergency Savings Accounts	Employers may offer emergency savings accounts to Non-HCEs as part of the defined contribution plan subject to certain requirements
Automatic Rollover Limit	Employers may transfer former employee account from retirement plan to IRA if account balance is at least \$1,000 and no more than \$7,000
Domestic Abuse 10% Early Withdrawal Penalty	<p>Allows in-service withdrawal of the lesser of \$10,000 (indexed for inflation) or 50% of participant's vested account in case of domestic abuse</p> <p>10% early withdrawal penalty does not apply</p> <p>Participant can self-certify</p> <p>Participant can repay withdrawal over three years</p>

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Plan Amendments to Increase Benefit Accruals	Allows discretionary plan amendments that increase participant benefits (except matching contribution increases) to be adopted by the employer's tax return due date
Surviving Spouse RMD Election	Allows surviving spouse to elect to be treated as the deceased employee for RMD purposes
Defined Benefit Annual Funding Notice	Requires additional information regarding plan funding status in existing defined benefit plan notices
403(b) Plan Hardship Withdrawal	Aligns hardship distribution rules for 403(b) plans with rules for 401(k) plans by allowing QNECs, qualified matching contributions and earnings to be distributed and not requiring loans to be taken before hardship distribution
Roth Plan Distribution Rules	Aligns RMDs rules for Roth accounts in employer plans with Roth IRA rules causing Roth accounts in employer plans to be exempt from pre-death RMD rules

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Effective Date: Plan Years (or Tax Years) Beginning After December 31, 2024	
Expanding Automatic Enrollment and Automatic Escalation	<p>New plans must meet the requirements of an eligible automatic enrollment arrangement (EACA).</p> <p>Automatic enrollment contributions must be at least 3% and not more than 10% with a 1% automatic increase each year up to at least 10% but not more than 15% (except for plan years ending before 1/1/2025, the maximum percentage is 10% for non-safe harbor plans)</p> <p>Automatic Increase to be effective on the first day of each plan year after a completed year of participation</p> <p>Must allow permissible withdrawals within 90 days of first contribution</p> <p>Contributions must be invested in QDIA if no investment election is made</p>
Higher Catch-Up Limit	<p>Catch-up limit is increased to greater of \$10,000 or 50% more than the regular catch-up amount in 2024 for individuals who attain ages 60, 61, 62, and 63</p> <p>Statutory dollar amounts are indexed for inflation starting in 2026</p>
Improving Coverage for Part-Time Workers	<p>Plan must generally permit employee to make elective deferrals if employee has worked at least 500 hours per year with the employer for at least two consecutive years (instead of three years as required by SECURE Act of 2019) and has met the minimum age requirement (age 21) by the end of the two-consecutive year period</p> <p>12-month periods beginning before January 1, 2021, are not taken into account in determining whether employee has completed three consecutive years of service and are disregarded for vesting purposes (clarification of SECURE Act of 2019)</p>

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Effective Date: Unknown Future Effective Date or Effective for Plan Years (or Tax Years) Beginning After December 31, 2025	
Long-term Care Contracts 10% Early Withdrawal Penalty	Allows in-service withdrawal of up to \$2,500 per year for certain long-term care contract premium payments 10% early withdrawal penalty does not apply
Participant Statements	Defined contribution plans must provide at least one paper statement per calendar year unless participant elects otherwise Defined benefit plans must provide at least one paper statement every three years unless participant elects otherwise
Defined Benefit Plan Lump-Sum Window Distributions	Employers must provide certain comparative information to participants regarding lump-sum window distribution elections at least 90 days before distribution decision period Employers must provide reporting to DOL and PBGC regarding lump-sum window offer