SECURE 2.0 – What You Need to Know

An overview of SECURE 2.0's effect on Nonprofit Organizations

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Agenda

- Mandatory Plan Provisions
- Optional Plan Provisions
- Administrative Provisions
- Key Provisions
- Q&A Session

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Mandatory Plan Provisions

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Required Minimum Distributions

- SECURE 2.0 raised the age at which participants must take required minimum distributions from employer-sponsored retirement accounts.

- Beginning in 2023, the required minimum distribution age will increase from 72 to 73, and beginning in 2033, the age will increase to 75.

- Individuals who are currently taking required minimum distributions are not impacted by these changes.

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Required Minimum Distributions

- SECURE 2.0 also modifies the penalty for failing to take a required minimum distribution.
- As of 2023, the penalty was reduced from 50% to 25% of the required minimum distribution shortfall.
- The penalty can be reduced further to 10% if the individual corrects the failure in a timely manner.

Roth Status for Catch-up Contributions

- SECURE 2.0 requires catch-up contributions for individuals aged 50 and older to be made only on a Roth basis for individuals with compensation over $145,000 (indexed for inflation).
- The compensation limit is based on the individual's compensation paid by the controlled group in the preceding year.
- Plans will need to include a Roth feature to enable impacted participants to make catch-up contributions.
- Effective for taxable year beginning after December 31, 2023.

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Roth Status for Catch-up Contributions – Steps for Affected Plans

- A Roth deferral feature should be added, if necessary, so individuals over age 50 can continue to make catch-up contributions. Contact your plan service provider and payroll vendor about adding a Roth option.
- Notice should be provided to affected participants of the upcoming change.
- Work with payroll to confirm that Roth sources will be available for catch-ups.
- Act in a timely manner to have the changes in place before the rule takes effect.

Increased Catchup Limit for Individuals Ages 60-63

- SECURE 2.0 increased the catchup limit for Individuals Ages 60-63.
- The new limit is equal to the greater of (1) $10,000, or (2) 150% of the catch-up limit for individuals between ages 50-59.
- These dollar limits will be indexed for inflation beginning January 1, 2026.
- Effective for taxable years beginning after December 31, 2024.

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Increased Access to Retirement Plans for Part-Time Workers

- The original SECURE Act requires 401(k) plans (but not 403(b) plans) to allow part-time employees who complete at least 500 hours of service in each of three consecutive annual measuring periods to make elective deferrals (but not to receive employer contributions).
- SECURE 2.0 extends this requirement to 403(b) plans and shortens the waiting period by requiring at least 500 hours of service in each of two consecutive annual measuring periods.
- We are awaiting guidance from the IRS on whether this impacts 403(b) plans that exclude student employees. Some commentators believe this to be the case.
- The original SECURE Act requirement becomes effective with the 2024 plan year, based on service beginning in the 2021 plan year. The SECURE 2.0 requirement becomes effective with the 2025 plan year, based on service beginning in the 2023 plan year.

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Miscellaneous Mandatory Changes

- Automatic enrollment and deferral increases required for newly established retirement plans.
- Required minimum distributions eliminated completely for Roth accounts in employer-sponsored plans.

Optional Plan Provisions

Increase in Mandatory Distribution Threshold

- SECURE 2.0 increases the cash-out threshold for mandatory distributions to terminated participants from $5,000 to $7,000.

- This provision will impact plans that allow for mandatory distributions.

- Effective for distributions made after December 31, 2023.

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Multiple Employer and Pooled Employer 403(b) Plans

- SECURE 2.0 allows 403(b) plans to participate in multiple employer plans and pooled employer plans in plan years starting after December 31, 2022.

- This creates an opportunity for 403(b) to aggregate plan management services which may result in simpler and cheaper plan administration. However, employers would cede control over key plan features to the pooled plan provider.

- SECURE 2.0 creates an exception to the plan rule that a legal violation by one participating employer taints the plan for all employers. It also recognizes a "pooled plan provider" as a new type of status under ERISA.

- Effective for plan years beginning in 2023.

403(b) Hardship Withdrawals

- The Bipartisan Budget Act of 2018 liberalized the hardship withdrawal rules for 401(k) plans in certain respects, including allowing hardship withdrawals from earnings on elective deferrals, qualified nonelective contributions, and qualified matching contributions.
- SECURE 2.0 conforms the 403(b) hardship withdrawal rules to these provisions.
- Effective for plan years beginning after December 31, 2023.

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Treating Student Loan Payments as Elective Deferrals for Employer Matching Contributions

- SECURE 2.0 allows an employer to make matching contributions to 401(k), 403(b), and governmental 457(b) plans with respect to qualified student loan payments made by the employee.
- Payments must be made by an employee in repayment of a qualified education loan incurred by the employee to pay for qualified higher education expenses of the employee, a spouse, or a dependent.
- The annual deferral limit applies to elective deferrals and student loan payments on a combined basis.
- Effective for contributions made for plan years beginning after December 31, 2023.

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Withdrawals for Emergency Expenses

- SECURE 2.0 created a new distribution option for emergency expenses that create an immediate and unforeseeable financial need.
- Participants may withdraw up to $1,000 from their retirement account to pay these emergency expenses without incurring a 10% early withdrawal penalty.
- There is a three-year repayment window in which a contribution can be made to replace the funds.
- Effective for distributions made after December 31, 2023.

Pension-Linked Emergency Savings Accounts

- SECURE 2.0 allows employers to offer pension-linked emergency savings accounts to non-highly compensated employees.
- Employers can automatically enroll employees at no more than 3% compensation.
- Employee contributions are capped at $2,500 and are treated as Roth contributions.
- Distributions are exempt from the 10% penalty on early withdrawal.
- Effective for plan years beginning after December 31, 2023.

Treatment of Employer Matching Contributions and Nonelective Contributions as Roth Contributions

- SECURE 2.0 allows an employer to permit participants to elect to receive matching and nonelective contributions to 401(k), 403(b), and 457(b) plans.

- The contributions must be fully vested when made.

- Additional guidance is needed regarding tax withholding in connection with employer Roth contributions.

- Effective for contributions made after December 29, 2022.

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Use of Retirement Funds in Connection with Federally Declared Disasters

- SECURE 2.0 allows plans to provide automatic disaster-related distribution and loan relief to individuals when a federal disaster is declared.
- Affected individuals may take a distribution of up to $22,000 from their retirement plans.
- These distributions are counted as gross income over a three-year period, but they are not subject to the 10% additional tax set forth in IRS Code Section 72(t).
- These rules are effective for disasters occurring on or after January 26, 2021.

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Domestic Abuse Distributions

- SECURE 2.0 allows plans to permit participants who have suffered domestic abuse to take an in-service distribution that is exempt from the early withdrawal penalty.
- The distribution limit is the lesser of $10,000 or 50% of the participant's account balance.
- Distributions must be made within one year of the domestic abuse incident.
- Effective for plan years beginning after December 31, 2023.

De Minimis Financial Incentives for Contributing to a Plan

- SECURE 2.0 permits employers to offer de minimis financial incentives, such as low-dollar gift cards, to incentivize employee participation in 401(k) and 403(b) plans.
- The de minimis financial incentives cannot be paid for with plan assets.
- Additional guidance is needed to define “de minimis.”
- Effective for plan years beginning after December 29, 2022.

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Administrative Provisions

Recovery of Retirement Plan Overpayments

- SECURE 2.0 removed the requirement that 401(a), 403(a), 403(b), and governmental plan fiduciaries to recoup inadvertent overpayments.
- Additionally, inadvertent overpayments which were rolled over no longer need to be disgorged or reported as an ineligible rollover.
- Plan fiduciaries can still pursue some or all of the overpayment, subject to certain restrictions.
- Effective as of December 29, 2022.

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Expanded EPCRS System

- SECURE 2.0 introduced significant changes to the EPCRS self-correction framework.
- Plan sponsors can self-correct inadvertent “significant operational failures” at any time as long as the IRS has not identified the error before corrective actions are taken.
- The three-year window for making self-corrections of these failures has been eliminated.
- SECURE 2.0 states that the correction must occur within a reasonable period after the failure was identified.

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Expanded EPCRS System

- SECURE 2.0 also permits self-correction for inadvertent plan loan errors.

- Additionally, SECURE 2.0 made the safe harbors for employee elective deferral failures under automatic enrollment plans permanent if corrections were made within the requisite EPCRS timeframe.

- The IRS has a two-year period to issue new EPCRS guidance to reflect SECURE 2.0 changes.

- The EPCRS changes are effective as of December 29, 2022.

Self-Certification of Hardship Withdrawal Eligibility

- SECURE 2.0 enables participants to self-certify that they are eligible for a hardship withdrawal from their retirement plan.

- Participants no longer need to provide documentation that substantiates their eligibility.

- Self-certification is invalid if the employer has knowledge that the certification is incorrect.

- Effective for plan years after December 29, 2022.

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Limited Notices to Unenrolled Participants

- SECURE 2.0 limits the plan notices that must be provided to unenrolled participants.
- Plans only need to provide (1) a summary plan description, (2) annual notice reminding the participant of eligibility, and (3) any plan documents requested by the participant.
- SECURE 2.0 contemplates that the IRS will issue guidance with additional details.
- Effective for plan years beginning after December 31, 2023.

Plan Amendment Deadlines

- The deadline for plan amendments to reflect SECURE 2.0 is the last day of the 2025 plan year.
- The same deadline applies to compliance with the changes made in the SECURE Act.

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Key Provisions

Generally Effective 2023

Provision	Optional?
Vested employer contributions may be treated as Roth contributions	Optional
Employees may self-certify hardship distributions without documentation	Optional
RMD age increased from 72 to 73 starting in 2023, then to 75 in 2033	Mandatory
Elimination of certain notice requirements for unenrolled employees	Optional
New provisions for disaster withdrawals: higher loan limits, loan suspension, and a new distribution type	Optional

Generally Effective 2024

Provision	Optional?
Student loan payments may be treated as elective deferrals and matched	Optional
Catch-up contributions must be made on a Roth basis for participants over $145,000	Mandatory
Pension-linked emergency savings accounts	Optional
Penalty-free in-service withdrawals for emergency expenses	Optional
Penalty-free withdrawals for victims of domestic abuse	Optional
Cash-out limit increased to $7,000	Optional
RMDs eliminated completely for Roth accounts	Mandatory

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Generally Effective 2025

Provision	Optional?
Catch-up contribution limits increased for ages 60-63	Optional
Long-term part-time employee elective deferral eligibility expanded	Mandatory
Automatic enrollment and deferral increases required for new retirement plans	Mandatory
Creation of a "retirement savings lost and found" national database	Mandatory

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Generally Effective 2026

Provision	Optional?
Paper benefit statements may be required in certain instances	Mandatory

Generally Effective 2027

Provision	Optional?
Enhanced Savers Credit	Mandatory

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Q&A Session

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