Secure Act 2.0

WHAT MADE IT THROUGH?

redw Advisors & CPAs

AGENDA

- SECURE Act 2.0 Highlights
- Expanding Coverage and Increasing Retirement Savings
- Preservation of Income
- Simplification and Clarification of Retirement Plan Rules
- Revenue Provisions

Highlights

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CONTRIBUTIONS

- Employer match eligible for Roth treatment (sec. 604)
- Age 50+ catch-up contributions indexed to inflation starting 2024 (sec 108)
- “Super” Catch-up contributions ages 60-63 starting in 2025 (Sec. 109)
- High-wage earners are required to have their catch-up be Roth in 2024 (sec. 603)
- Employer match to repay student loan debt in 2024 (sec. 110)
- New SIMPLE and SEP Roth IRAs (sec. 601)
- De minimis financial incentives for contributing “Gift Cards” (sec. 113)

DISTRIBUTIONS

- 10% penalty Exceptions expanded to include (secs. 314,331,115,602)
  - Domestic Abuse, terminal illness, emergency, federal declared disasters
  - Secure Act provision on adoptions/birth distributions limited to 3-year payback (sec. 311)
  - Long term care premiums paid from retirement account (sec. 334)
- RMD ages increased (sec. 107)
  - Age 73 in 2023; Age 75 in 2033
- RMDs eliminated for Roth 401(k), Roth 403(b) plan accounts in 2024 (sec. 325)
- One-time election to qualified charitable distribution (sec. 307)
- Penalty-free rollovers from 529 to Roth IRAs (sec 126)

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NOT ADDRESSED

Back-Door Roth Contributions still in play

No limits on Roth Conversions

Clarification on inherited IRA Requirements

Restrictions on new types of investments purchased with IRA money (private equity)

Qualified Charitable Distributions still starts at age 70.5

How should the 10-Year Rule created by the original SECURE Act should be implemented for Non-Eligible Designated Beneficiaries.

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Expanding Coverage and Increasing Retirement Savings

Encourages Expanding Coverage

Increased tax credit for new small business plans [Sec. 102]

- Doubled from 50% of administrative costs to 100%; maintains $5,000 cap/yr.
- Added credit for up to $1,000 per employee for employer matching contributions – phased out over 5 years; a partial tax credit also available to businesses with 51-100 workers.

Auto-enrollment/Escalation [Sec. 101]

- New 401(k) and 403(b) plans to automatically enroll eligible workers (they can opt-out)
- Default employee contributions start at 3-10% with 1% annual increase until 10%; up to 15%
- Existing plans grandfathered; exemption for businesses with 10 or fewer employees, new businesses (less than 3 years old), church and government plans
- Effective for 2025 calendar year plans

'Starter' 401(k) or safe harbor 403(b) plans (Sec. 121)

Easier access to plans for part-time workers (Sec. 125)

Increases Savings

IRA 'catch-up' limits increased (Secs. 108, 109)

- **Age 50+ -- catch-up contributions indexed to inflation starting in 2024**, in $100 increments
- **Ages 60-63 – additional increase to $10,000** or 50% more than the regular catch-up amount in 2025 for individuals who have attained ages 60,61,62 and 63; **indexed for inflation** after 2025
- **SIMPLE IRA plan catch-ups also** increases to $5,000 or the 150% of amount in effect for 2025

LTC premiums paid from retirement accounts (Sec. 334)

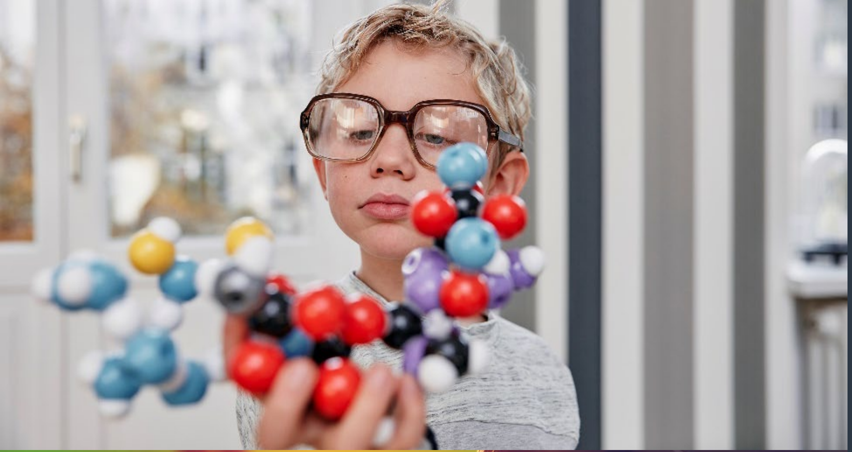
- **Up to $2,500 may be taken (per year) penalty-free from retirement accounts**

Gift card', de minimis financial incentives (Sec. 113)

Additional elective contributions & higher contribution limits for SIMPLE plans (Secs. 116 & 117)

Saver's Match directly to taxpayer's IRA or retirement plan (Sec. 103)

Receive Matching Contributions directly as "qualified student loan payments" (Sec. 110)



Unique Changes

Emergency Savings Accounts linked to individual account plans (sec. 127)

- According to Federal Reserve Report, almost half of Americans would struggle to cover unexpected $400 expense.
- Option to offer, pension-linked emergency savings
- Up to $2,500

529-to-Roth IRA transfers (sec. 126)

- Direct rollovers from 529 plan to Roth IR
- Beneficiary must have “compensation”
- The 529 plan must have been maintained for 15 years or longer
  - Unclear exactly how a change in the beneficiary will be treated
- Any contributions to the 529 plan within the last 5 years (and the earnings on those contributions) are ineligible to be moved to a Roth IRA
- Subject to IRA contribution limit, less any 'regular' traditional IRA or Roth IRA contributions, annually
- Roth IRA income limits do NOT apply!
- Maximum lifetime transfer to beneficiary is $35,000.

Birth Year	RMD Age
Before 1951	No Change
1951-1959	Now age 73
1960+	Now age 75

RMD Age Pushed Out!

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Required Begin Dates

Increase in age for required beginning date for mandatory distributions (Secs. 107)	• RMD starting age is pushed back to age 73 for those turning 73 between 2023 and 2032 • RMD starting age is pushed back to age 75 for those turning 73 in 2033 and future years
Spouses who remain the beneficiary of deceased spouse's account	• Starting age for RMDs (as a beneficiary) decedent's age 73/75 • Surviving spouse beneficiaries treated as inheriting from an owner before decedent's age 73/75 • Can elect to be treated as the deceased employee for purposes of RMD in 2024 (Sec. 327)
5-Year Rule for Non-Designated Beneficiaries	• Applies when an owner dies prior to April 1st of the year following the year that they reach age 73/75 (their Required Beginning Date)
Still working exception	• 5% ownership test shifted to plan year ending in year participant reaches age 73/75

Preservation of Income

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Title II – Preservation of Income

Remove required minimum distribution barriers of life annuities (sec. 201)

- The following benefits will not be deemed a violation of the minimum distribution rules:
  - Guaranteed increases of income payments of a flat percentage annually ≦ 5%
  - Lump sum payments, such as a commutation of the actuarial fair market value
  - Acceleration of payments otherwise payable within the next 12 months
  - Dividend-like payments to annuity owners
  - Return-Of-Premium (ROP) death benefits

Qualifying Longevity Annuity Contracts – QLACs (Sec. 202)

- Effective retroactively to QLAC establishment(2014)
  - Free-look period of up to 90 days OK
  - QLACs purchased by married couples payable over their joint lifetimes may continue to pay over their joint lifetimes after a divorce
- Effective immediately (enactment): Elimination of the 25% limit
  - 25%-of-account-value limitation repealed
  - Maximum lifetime QLAC premium limited increased to$200,000

Eliminating Penalty on Partial Annuitization (sec. 204)

- Allows aggregation of annuitized contracts for RMDs
- Can make election annually, likely make sense as an induvial gets older

Simplification and Clarification of Retirement Plan Rules

Reduced Penalty (sec. 302)

- Reduces the penalty for failure to take required minimum distributions from 50 to 25 percent
- Corrected in a timely manner, as defined under this Act, the excise tax on the failure is further reduced from 25 percent to 10 percent

Retirement Savings lost and found (sec. 303)

- a national online searchable lost and found database for Americans' retirement plans at the Department of Labor ("DOL").
- Within 2 years of enactment

Plan portability of accounts enhanced; cash-out limit increased (sec. 120 and 304)

- Employer can roll over former participant's account balance under $5,000 into new employer's plan (Sec. 120); portability provider must acknowledge fiduciary status
- Limit increased to $7,000 in 2024 (Sec. 304)

Self-Correction Program expanded (Sec. 305)

- Expands Plans Compliance Resolution System "EPCRS"
- More types of operational mistakes (e.g., plan loan errors) can be self-corrected.

One-time election to qualified charitable distribution (sec. 307)

- $50,000 IRA distribution to split-interest entity via charitable gift annuities, remainder unitrusts and remainder annuity trusts
- Effective 2023
- IRA charitable distribution limit of $100,000 indexed to inflation

Age 50 Exception for Public Safety Workers (sec. 308)

- Current law allowed employees terminating after age 55 to avoid 10% penalty; special rule for "qualified public safety employees" in governmental plans where age 50 substitutes for 55, however this only applied to public sector firefighters, but not private sector
- Section 308 extends the age 50 to private sector firefighters
- Section 330 extends to State and local government corrections employees
- Section 329 extends to public safety officers with at least 25 years of service with the employer sponsoring the plan

Application of top-heavy rules to defined contribution plans (Sec. 310)

- Employer can perform the top-heavy test separately on the non-excludable and excludable employees.
- Removes financial incentive to exclude employees from the 401(k) plan and increases coverage

Retroactive first year elective deferrals for sole proprietors (Sec. 317)

- The Secure Act allowed an employer to establish a new 401(k) plan after the end of the taxable year, but before the employer's tax filing date and treat the plan as having been established on the last day of the year, funded up to tax filing deadline.
- Section 317 allows these plans, when a sole proprietor or single member LLC, to receive employee contributions up to the date of the employee's tax return filing date for the initial year.
- Effective 2023

Terminal Illness Distribution (326)

- Waives 10% penalty on early distributions
- Definition of “terminal illness” is extremely broad
- Expected to result in death within 84 months (7 years)
- Repayable up to 3 years

Domestic Abuse Distribution (314)

- Self-certify and withdrawal lesser of $10,000, indexed for inflation, or 50% of account)
- Waives 10% penalty on early distributions
- Repayable over 3 years and refunded for income taxes on money repaid

Emergency Withdrawal Exception (sec. 115)

- Hardship/emergency exception to the 10% early withdrawal penalty
- Limited to a max of $1,000 per calendar year, but only if at least one condition is met
  - Prior emergency withdrawal fully repaid
  - Contributions/deferrals to the IRA/plan exceed past withdrawal
  - 3 or more years have passed since previous emergency withdrawal
- Broad definition: “unforeseeable or immediate financial needs relating to necessary personal or family emergency expenses”

Qualified disaster recovery distributions (sec. 331)

- Effective retroactive for disasters occurring on or after January 26, 2021, primary residence in Federal Disaster area
- Distributions must generally occur within 180 days of disaster
- Maximum lifetime distribution limited to $22,000, repayable up to 3 years
- Distribution income spread over 3 years (by default, can elect to include all in year of distribution)

Employers allowed to replace SIMPLE plans with Safe Harbor 401(k) plans during a year

- Effective 2023, can replace a SIMPLE IRA with a SIMPLE 401(k) or other 401(k) plan during the year

Transparency in plan fees and performance (sec. 318 and 340)

- Updates DOL's regulations that investments with a mix of assets classes be benchmarked against a blend of broad-based market indices
- Requires the DOL to review and report within 3 years on its fiduciary disclosure requirements in participant-directed individual account plan regulations

Recognition of tribal government domestic relations orders (sec. 339)

- Adds Tribal courts to the list of courts authorized under federal law to issue qualified domestic relations orders (QDROs)
- In marriage dissolutions splitting of retirement plans require a QDRO

Revenue Provisions

Roth SIMPLE and SEP IRAs (Sec. 601)

- allows employers to offer employees the ability to treat employee and employer SIMPLE or SEP contributions as Roth (in whole or in part).

High wage earners required to use Roth option for Catch-Up Contributions (sec. 603)

- provides all catch-up contributions to qualified retirement plans are subject to Roth tax treatment
- Exception for employees with compensation of $145,000 or less (indexed)
- Effective 2024
- No catch-up allowed for anyone in the plan if an age-eligible, high-wage-earner cannot make a catch-up b/c the plan does not have a Roth option

Hardship Withdrawals for 403(b) plans (sec. 602)

- All amounts are available for a hardship distribution, not just employee contributions (without earnings)
- Conforms 403 (b) rules to the 401(k) rules
- Effective 2024

Resources

H.R. 2617 "Consolidated Appropriations Act, 2023" (Congress.gov)
BILLS-117hr2617enr.pdf (congress.gov)
SECURE Act 2.0 provisions can be found in the middle of the 1,653-page bill at pp. 817-940

SECURE 2.0 Section-by-Section Summary (Senate Finance Committee)
https://www.finance.senate.gov/imo/media/doc/Secure%202.0_Section%20by%20Section%20Summary%2012-19-22%20FINAL.pdf

Various Blogs, Analyses (Compiled by National Association of Plan Advisors)
https://www.napa-net.org/secure-20

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Breathe. We've got this.

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