

SUMMARY OF KEY PROVISIONS OF SECURE 2.0

Plan Design Feature	Current Law	New SECURE 2.0 Provisions	Effective Date
ELIGIBILITY AND ENROLLMENT			
Notices to Unenrolled Employees	If an employee is eligible to participate in a defined contribution plan, all legally required notices must be provided to that employee on an ongoing basis, even if the employee never enrolls or receives a contribution.	If a new employee receives a summary plan description and any other notices related to initial eligibility under the plan, but does not enroll or receive a contribution, the plan only has to provide that employee with a single annual reminder notice about the plan. All other notices must be available to the employee, but only have to be provided upon request.	Plan years beginning after December 31, 2022
Required Automatic Enrollment and Escalation	401(k) and 403(b) plans <u>may</u> , but are not required to, use automatic enrollment and escalation features.	New 401(k) and salary reduction 403(b) plans – meaning those adopted on or after December 29, 2022 – <u>must</u> include automatic enrollment (of at least 3%) and automatic escalation (of at least 1% per year, up to a minimum of 10% and a maximum of 15%). Participants who are automatically enrolled will have 90 days to elect to withdraw those automatic deferrals. Government and church plans are exempt, as are plans sponsored by businesses in existence for less than 3 years and those normally employing 10 or fewer employees.	Plan years beginning after December 31, 2024
Participation Requirements for Part-Time Employees	The SECURE Act introduced a new requirement that part-time employees with at least 500 hours of service for 3 consecutive years be permitted to make elective deferrals to an employer's 401(k) plan.	SECURE 2.0 shortens the eligibility service requirement for part-time employees from 3 years to 2 years. The eligibility requirements for part-time employees now also apply to salary reduction 403(b) plans that are subject to ERISA.	Plan years beginning after December 31, 2024

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CONTRIBUTIONS			
Increased Limit and Required Roth Treatment for Catch-Up Contributions	Participants who are age 50 or older may make additional pre-tax and/or Roth contributions to a 401(k) or 403(b) plan known as “catch-up contributions.” The catch-up contribution limit is generally subject to annual cost-of-living adjustments, and is \$7,500 for 2023.	The catch-up contribution limit for 401(k) and 403(b) plans is increased for participants who are age 60 – 63 to the greater of (i) \$10,000, or (ii) 150% of the regular catch-up contribution limit, subject to future cost-of-living adjustments. In addition, catch-up contributions made by participants whose prior year wages exceed \$145,000 (as indexed) <u>must</u> be treated as Roth contributions.	The required Roth treatment for catch-up contributions is effective January 1, 2024. The increased limit for catch-up contributions is effective January 1, 2025.
Optional Employer Matching Contributions on Student Loan Payments	Employers generally are <u>not</u> permitted to make matching contributions to a 401(k) or 403(b) plan for employees paying off student loans instead of contributing to the plan.	Employers are permitted to make matching contributions to a 401(k) or 403(b) plan based on an employee’s student loan payments, provided certain requirements are met. Special discrimination testing rules apply.	Permitted for plan years beginning after December 31, 2023
Optional Roth Treatment for Employer Matching and Nonelective Contributions	Employer matching and nonelective contributions to a 401(k) or 403(b) plan may <u>not</u> be contributed on a Roth basis (although they may later be converted to Roth treatment).	401(k) and 403(b) plans may allow participants to elect to have their employer matching and/or nonelective contributions contributed on a Roth basis, as long as those contributions are immediately vested.	Immediate – permitted for employer contributions made after December 29, 2022
Saver’s Credit Changed to Saver’s Match	Low- and moderate-income taxpayers are provided with a tax credit equal to a percentage (10% to 50%, depending on adjusted gross income) of the first \$2,000 (\$4,000 for joint filers) they contribute to an IRA or employer-sponsored retirement plan. This tax credit is commonly known as the “Saver’s Credit.”	The Saver’s Credit is changed to a Saver’s Match, which is a contribution made by the federal government directly to the taxpayer’s IRA or employer-sponsored retirement plan.	January 1, 2027

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IN-SERVICE WITHDRAWALS AND LOANS			
<p>In-Service Withdrawals for Emergency Expenses and Domestic Abuse Victims</p>	<p>Prior to age 59½, in-service withdrawals of 401(k) and 403(b) deferrals are generally limited to hardship withdrawals that are subject to a 10% penalty tax in addition to ordinary income tax.</p>	<p>401(k) and 403(b) plans may allow participants to take (i) up to \$1,000 in withdrawals every 3 years for personal or family emergency expenses, and (ii) withdrawals of up to \$10,000 (or 50% of the participant's vested balance, if less) if the participant is a victim of domestic violence. These distributions are <u>not</u> subject to the 10% early withdrawal penalty and may be repaid to the plan within 3 years.</p> <p>Personal or family emergency withdrawals may be taken more frequently if the participant repays or contributes the prior withdrawal amount.</p>	<p>January 1, 2024</p>
<p>Permanent Relief Provisions for Qualified Federal Disasters</p>	<p>On an <i>ad hoc</i> basis, the IRS has acted administratively to allow in-service distributions from 401(k) and 403(b) plans and granted other tax relief for federally declared disasters. However, there were no permanent statutory provisions covering these events.</p>	<p>401(k) and 403(b) plans may allow participants impacted by a qualified federally declared disaster (i) to take distributions of up to \$22,000 (with repayment rights and no 10% early withdrawal penalty tax), and (ii) to take higher loan amounts with longer repayment periods.</p>	<p>This provision applies retroactively to disasters occurring on or after January 26, 2021.</p>
<p>Self-Certification for Hardship Withdrawals</p>	<p>IRS regulations allow a plan administrator to rely on a participant's self-certification that other funds were not available to satisfy a financial hardship. The regulations did not address self-certification of the existence of a hardship, although in recent years the IRS has informally accepted this practice.</p>	<p>Plan administrators may generally rely on a participant's self-certification as to both the existence of a hardship and the lack of other available funds. SECURE 2.0 also broadly embraces participant self-certification for distributions in many other contexts.</p>	<p>Immediate – plan years beginning after December 29, 2022</p>

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In-Plan Emergency Savings Accounts	In-service withdrawals are generally limited to specific financial hardships.	<p>401(k) and 403(b) plans may allow non-highly compensated employees to make Roth contributions to an emergency savings account within the plan via affirmative election or automatic enrollment. The account must be invested in a capital-preservation fund, and participants may take monthly withdrawals from the account.</p> <p>The balance in the account attributable to employee contributions must be capped at \$2,500 (as adjusted for inflation).</p> <p>Employers may match employee contributions to the emergency savings account at the same rate as other matching contributions under the plan. However, the matching contributions may not themselves be deposited into the emergency savings account.</p> <p>Upon the employee's termination, the emergency savings account may be transferred to an IRA or paid to the participant.</p>	Plan years beginning after December 31, 2023
DISTRIBUTIONS			
Increased Required Minimum Distribution Age	The SECURE Act changed the required minimum distribution rules so that distributions to terminated participants must begin after the participant reaches age 72, instead of age 70½.	The required minimum distribution age is again increased to (i) age 73 for participants who reach age 72 on or after January 1, 2023, and (ii) age 75 for participants who reach age 74 on or after January 1, 2033.	Immediate – January 1, 2023
Elimination of Pre-Death Required Minimum Distributions for Roth Accounts	Roth accounts in 401(k) and 403(b) plans are subject to pre-death required minimum distribution rules. However, these rules do not apply to Roth IRAs.	The pre-death required minimum distribution rules will no longer apply to Roth accounts in 401(k) or 403(b) plans, establishing consistent rules for IRAs and qualified plans.	January 1, 2024
Increased Cash-Out Limit for Small Accounts	Qualified retirement plans may distribute a terminated participant's benefit without the participant's consent if the value of the benefit is \$5,000 or less.	The \$5,000 cash-out threshold is increased to \$7,000.	January 1, 2024

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MISCELLANEOUS			
“Retirement Savings Lost and Found” Database	None	The DOL is required to create an online database of qualified retirement plans that allows individuals to search for the contact information of any plan in which the individual may have a benefit (either as a former participant or as a beneficiary). Plans are required to submit information to the DOL to include in the database.	Directs the DOL to establish the database by December 29, 2024 (<i>i.e.</i> , within 2 years of SECURE 2.0’s enactment)
Self-Correction of Plan Errors	<p>The IRS correction program for qualified retirement plans – the Employee Plans Compliance Resolution System (“EPCRS”) – allows plan sponsors to self-correct plan errors (<i>i.e.</i>, without IRS reporting, fees, or approval) only in certain fairly limited circumstances.</p> <p>Under the current version of EPCRS, self-correction is generally available only to correct (i) insignificant operational errors, and (ii) significant operational errors that are corrected within 3 years after the plan year in which the error occurred.</p>	<p>EPCRS is expanded to allow plan sponsors to self-correct all operational errors that occur despite the plan having reasonable compliance practices and procedures in place.</p> <p>To be eligible for self-correction, the error (i) must be corrected within a “reasonable period” after being identified by the plan sponsor, and (ii) cannot be identified by the IRS before the plan sponsor has started correcting the error.</p>	Immediate – December 29, 2022
Required Timing for Plan Amendments	Plan amendments for SECURE 2.0 are not required to be adopted until the last day of the first plan year that begins on or after January 1, 2025 (January 1, 2027, for collectively bargained plans).		