The SECURE 2.0 Act of 2022

The SECURE 2.0 Act of 2022 ("SECURE 2.0") was passed by Congress and signed into law by President Biden on December 29th, 2022. The law contains many provisions designed to expand retirement savings and coverage and simplify retirement plan rules.

Some of the provisions are effective immediately, or in 2023, while other provisions are effective in 2024 and later years. Some provisions require regulations and guidance that will be issued in the future.

Below are the highlights of retirement plan provisions of this legislation that impact participants in retirement plans.

SECURE 2.0 Key Provisions and Retirement Plan Highlights

Increase in Age for Required Minimum Distributions

The Required Minimum Distribution age has been increased to age 73 beginning in January 1, 2023 and age 75 starting on January 1, 2033.

Higher Catch Up Limits for Age 60, 61, 62 and 63

Catch-up contributions limits have increased for participants age 60 - 63 to the greater of (i) $10,000, or (ii) 150% of the regular 2024 catch-up amount, indexed for inflation. *This provision is effective for tax years beginning after December 31, 2024.*

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Withdrawals for Certain Emergency Expenses

The 10% excise tax applicable to early distributions from retirement plans will be waived for withdrawals for unforeseeable emergency expenses. This will apply to one distribution of up to $1,000 annually. Participants will also have the option to repay the distribution within three years. Only one distribution per three-year repayment period is permitted if a distribution has not been fully repaid. *This provision is effective for distributions made after December 31, 2023*.

Treatment of Student Loan Payments as Elective Deferrals for Matching Contributions 401(k), 403(b), 457(b) governmental, and SIMPLE IRA plans

Qualified student loan payments may be treated as elective deferrals and qualify for employer matching contributions. Plans subject to Actual Deferral Percentage testing may separately test employees who receive matching contributions based on student loan repayments. *This provision is effective for plan years beginning after December 31, 2023*.

Expanded Coverage for Long-Term Part-Time Workers

Employees who work 500 or more hours per year for two consecutive years must be eligible to participate in a retirement plan. SECURE 2.0 also extends these rules to 403(b) plans. *This provision is effective for plan years beginning after December 31, 2024. Keep in mind that the existing "three year rule" for 401(k) plans for long-term part-time workers that is in place under the current law will allow employees who meet the applicable requirements to be eligible for participation as early as January 1, 2024*.

Emergency Savings Accounts (Sidecar Accounts)

Employers may automatically enroll Non-Highly Compensated Employees into emergency savings accounts linked to their retirement plan account to make after-tax Roth contributions up to 3% of salary with a $2,500 maximum (indexed). *This provision is effective for plan years beginning after December 31, 2023*.

Employee Certification of Hardship Distribution Conditions

Participants may self-certify that they have met the qualifications for a hardship withdrawal. This significantly lessens the administrative burden for plan sponsors. *This provision is effective for plan years beginning after the date of enactment of SECURE 2.0*.

Retroactive First Year Elective Deferrals for Sole Proprietors

Sole proprietors may make retroactive deferral contributions to new 401(k) plans for the first year of the plan, up to the date of the employees' tax return filing due date (determined without regard to any extension). *This provision is effective for plan years beginning after the date of enactment of SECURE 2.0*.

Hardship Withdrawal Rules for 403(b) Plans

403(b) plan hardship withdrawal rules will be the same as 401(k) plan rules. *This provision takes effect for plan years beginning after December 31, 2023*.