SECURE ACT 2.0 HIGHLIGHTS

What is the SECURE Act?

As school and work adjourned for the holidays in late December, some of Congress' most substantial efforts of the year were underway as its members sought to pass a 2023 fiscal year spending bill. Ultimately, they succeeded, with a $1.7 trillion package being signed into law by President Biden on December 27. Among other measures, the legislation contains the Setting Every Community Up for Retirement Enhancement (SECURE) Act 2.0, a group of retirement reforms intended to expand and increase retirement savings.

The Act, which builds on prior legislation passed in 2019, includes a wide range of provisions to help both older and younger workers, including further increasing the age at which required minimum distributions (RMDs) must be made and enabling employers to "match" student loan payments with retirement plan contributions.

Here are key SECURE Act 2.0 provisions to note and review with a financial advisor as you plan for 2023 and beyond.

CHANGES MAKING IT EASIER TO SAVE

- **Increased tax credits for low-income savers:** Starting in 2027, low-income savers could receive a tax credit of 50% of their retirement contributions, up to $2,000.
- **Student Loan Matching:** Starting in 2024, employers could match student loan payments with plan contributions. The provision would not be limited to governmental debt and could be applied to any loan taken for higher education expenses.
- **College-Savings Account Rollover:** Leftover 529 account savings could be rolled over into a Roth IRA without penalty, provided the rollover amounts fall within IRA limits and the 529 is at least 15 years old.

CHANGES TO RETIREMENT

- **RMDs:** The age for required minimum distributions is 72. It would be increased to 73 in 2023 and 75 in 2033. In addition, it reduces or eliminates the excise tax imposed for not taking RMDs.
- **Catch-up Contributions:** For those aged 60 through 63 (effective for tax years after 2024), catch-up contribution maximums would be increased to $10k or 150% of the regular catch-up amount for those aged 50 and older, whichever is greater. The new catch-up limit for SIMPLE plans is $5k. For tax years beginning after 2023, all catch-up contributions are subject to Roth rules, rather than the plan in which the individual participates.
- **Qualified Longevity Annuity Contracts:** Under current rules, the lesser of 25% of a retirement account or $135k can be allocated to a QLAC. Under SECURE 2.0, the 25% consideration would be repealed, and the cap raised to $200k. The bill also clarifies that QLACs with spousal survivor rights can still be paid in case of divorce.

SPECIAL SITUATION WITHDRAWLS

- **Penalty-Free Emergency Withdrawals In Certain Situations:** Penalty-free distributions are allowed for "unforeseeable or immediate financial needs relating to necessary personal or family emergency expenses" up to $1,000. Only one distribution may be made every three years or one per year if the distribution is repaid within three years. Penalty-free withdrawals are also allowed for small amounts for individuals who need the funds in cases of domestic abuse or terminal illness.
- **Hardship Withdrawals:** Participants could withdraw up to $22,000 to pay for expenses related to a natural disaster, which would be taxed as gross income over three years without additional penalty. Survivors of domestic abuse could also withdraw the lesser of $10,000 or 50% of their retirement account without penalty upon self-certifying as a survivor of domestic abuse.
- **Emerging Saving Accounts Deferral Allowed:** If the retirement plan allows, non-highly compensated employees can defer up to the lesser of 3% of compensation or $2,500 (post-tax) to an emergency savings account.

CHARITABLE DISTRIBUTIONS

- **Qualified charitable distribution (QCD) expansion:** Starting this year, 2023, as part of their QCD limit, individuals age 70 ½ and older may make a one-time, $50,000 distribution to charities through charitable gift annuities, charitable remainder unitrusts and charitable remainder annuity trusts. This amount counts toward your RMD, if applicable. Also beginning this year, the annual IRA charitable distribution limit of $100,000 will be indexed for inflation, meaning it may increase every year, based on cost-of-living adjustments.

CHANGES TO QUALIFIED PLANS

- **Auto enrollment:** Starting in 2025, upon becoming eligible, employers will automatically enroll eligible employees in employer-sponsored 401(k) and 403(b) plans (however, employees will be allowed to opt out of coverage). The initial automatic enrollment amount is at least 3% but not more than 10%, automatically adjusting each year thereafter by 1% until reaching at least 10%, but not more than 15%.
- **Auto-portability:** A plan provider could transfer a participant's retirement savings from a previous employer to their new one, unless the participant elects otherwise.
- **Lost and Found:** The Department of Labor would have two years to create an online database of plans so that employees and employers could find missing retirement accounts and match them to their corresponding sponsor and participant.
- **Roth matches:** Beginning this year, 2023, employer-sponsored plans can provide plan participants the option to receive matching contributions on a Roth (after-tax) basis. Under previous law, matching in employer-sponsored plans was allowed only on a pre-tax basis.
- **403(b) Improvements:** 403(b) plans could use collective investment trusts and participate in multiple and pooled employer plans.
- **Automatic Rollovers Rule Change:** Currently, plans may automatically distribute small accounts of less than $5,000 to terminated participants. If the distribution is greater than $1,000, the plan must roll the account into an IRA. Effective 12 months from enactment, the new rule permits transfer of default IRAs into the participant's new employer's plan, unless the participant affirmatively elects otherwise. The limit for automatic rollovers also increases from $5,000 to $7,000.
- **De-Minimus Incentives for Participation Are Allowed:** Employers may offer de minimis financial incentives, such as low-dollar gift cards, to boost participation in retirement plans. Plan assets cannot be used to purchase these incentives.
- **Part-time employees:** For plan years beginning in 2025, part-timers would have to be enrolled in their employer's 401(k) after two years, instead of the current three.

These are just some of the key provisions from the legislation's 300-plus pages. To understand if and how these changes apply to your situation — and for help with next steps — please reach out to us. We work closely with our clients' accountants, attorneys and other advisors to help optimize financial plans, and this new legislation provides the opportunity to uncover new opportunities together.

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