SECURE 2.0 Act of 2022

What this legislation means for company sponsored retirement plans and their employees

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SECURE 2.0 Act of 2022

Largest piece of retirement legislation in decades.

Enhanced tax credits for new smaller plans

Can help smaller companies provide their employees access to a retirement plan

What's changed?

Start-up Cost Credit

- Companies with up to 50 employees, start-up tax credit increased to 100% of qualified cost, up to $5,000 per year (for 3 years)
- Companies with 51 – 100 employees eligible for SECURE Act 1.0 credit which is 50% of qualified cost up to $5,000 per year (for 3 years)

Employer Contribution Tax Credit

- Companies with up to 50 employees, 100% tax credit for employer contributions up to $1,000 per employee making <$100k for years 1 & 2 then phased out by 25% over the next 3 years
- Companies with 51 – 100 employees the credit is reduced by 2% for each employee in excess of 50
- No deduction for amounts credited
- Effective January 1, 2023

What you should think about

If you do not have a retirement plan currently and have fewer than 50 employees, SECURE 2.0 provides substantial benefits for starting a 401(k) plan including a $5,000 tax credit for three years to cover administrative fees making most plans zero cost to small employers. Additionally, tax credits will be offered for employer contributions resulting in substantial savings to your company for providing contributions.

Starter 401(k) plans

Can help companies provide their employees access to a retirement plan

What's changed?	What you should think about
• Deferral only 401(k) safe harbor plan for employers with no other Qualified Plans • No ADP or top-heavy testing • Contributions capped at IRA limits plus eligible catch-ups • Auto-enrollment required—at least 3% • Effective January 1, 2024	If you have not started a retirement plan because of their complexity the starter 401(k) plan may be an option for you. This option is a deferral only plan that does not require a match and does not require discrimination testing. Because of this new design, a plan does not have to worry about complexities such as discrimination testing or high earners having to receive money back from a plan.

Automatic enrollment required for new plans

Can help employees start saving for retirement

What's changed?	What you should think about
• At least 3% (10% max) **auto-enrollment** with 1% **auto-contribution increase** up to 10% (15% max) • Plans adopted prior to **enactment date** are exempt • Plans adopted after date of enactment have until January 1, 2025 to implement • Small businesses with <10 employees or in business <3 years are exempt • SIMPLE plans are exempt	You will need to automatically enroll employees in your retirement plan starting with at least 3% of their salary. These contributions will continue to increase annually up to 10% which can help them reach their retirement savings goal sooner.

Pooled employer plans (PEPs) and multiple employer plans (MEPs)

Can help smaller companies provide their employees access to a retirement plan

What's changed?	What you should think about
Eligibility for 403(b) plans to participate in a PEP Effective January 1, 2023	This type of plan allows smaller plans to combine their plans into a larger plan to reduce administrative burdens and achieve breakpoints from investment expenses due to size and scale of the plan oftentimes resulting in lower overall fees.
Start-up tax credits available for plans joining MEPs and PEPs	There are significant tax credits for companies joining MEPs and PEPs that last for three years. This type of plan design has become popular to help smaller plans achieve efficiencies of scale by pooling several plans together.

Student loan matching program

Can help employees save for retirement while paying off student loan debt

What's changed?	What you should think about
Treats student loan payments as elective deferrals for the purposes of matching contributions to a retirement plan. Employers are permitted to make matching contributions with respect to "qualified student loan payments." For purposes of the nondiscrimination test applicable to elective contributions, the new bill permits a plan to test separately the employees who receive matching contributions on student loan repayments. • ADP testing disaggregation provision • Effective January 1, 2024	84% of employees across all ages state that the main reason they are not able to save for retirement is because of student loan debt.* This provision encourages employees to pay off student loans while also saving for retirement.

*TIAA and MIT Age Lab.

Roth changes

Can help employees catch-up on their retirement savings

What's changed?	What you should think about
Catch-up contributions (age 50 and older) for participants with compensation in excess of $145,000 must be made as Roth • Does not apply to SIMPLEs • Two-year administrative transition period until 1/1/2026 (originally effective January 1, 2024)	Does your plan allow Roth contributions? If not, your plan will need to be amended to support Roth catch-up contributions.
Optional Roth treatment of employer matching or non-elective contributions • Employer may permit an employee to designate matching or non-elective contributions as Roth • Effective December 30, 2022	An employer may now allow employees to designate whether the company's match or profit-sharing contribution will be treated as a Roth contribution meaning that the contribution will be taxed up front and grow tax free from that moment on.
Plan sponsors of SIMPLE and SEP plans permitted to allow employees to treat employee and employer contributions as Roth contributions • Effective January 1, 2023	Previously only pretax contributions were allowed. Roth contributions can be advantageous for younger employees and those in low tax brackets.

New long-term part-time (LTPT) worker definition

Can help part-time employees save for retirement

What's changed?	What you should think about
• 500 service hours per year for **two** consecutive years (reduced from three) eligible to participate • Required to inform qualifying employees when they become eligible but are not required to automatically enroll employees or provide employer contributions • May exclude qualifying employees from testing • Effective January 1, 2025	This rule has the potential to affect companies that employ a lot of part-time workers. This rule reduces the eligibility requirement for participation from 1,000 hours of service in one year to 500 hours for two consecutive years. This could have a substantial impact on the overall costs of your retirement plan.

Miscellaneous

What's changed?	What you should think about
Small financial incentives for participation in workplace retirement plans Effective January 1, 2023	Items such as low dollar gift cards, promotional items, etc. can now be given to employees to encourage participation in a workplace plan.
Involuntary cash out limit of terminated participants • Increased the dollar threshold for small amount force out distributions from $5,000 to $7,000 • Effective January 1, 2024	Optional provision can help reduce plan cost and administrative burden of providing mandatory notices to these participants
Eliminating unnecessary plan requirements related to unenrolled participants • Permitted to exclude unenrolled participants from certain ongoing required notices with the exception of their initial eligibility and plan notice documentation • Required to send annual reminder notice of the participant's eligibility to participate in the plan and any applicable election deadlines • Effective January 1, 2023	Can help reduce administrative burden and cost associated with mailing notices

Withdrawals

Withdrawals

Can help make it easier for employees to access funds in their retirement accounts

What's changed?	What you should think about
Distributions for any personal or family emergency expenses • Allows penalty-free distribution up to $1,000 per year • Participant has the option to repay the distribution within 3 years • No further emergency distributions are permissible during the 3 year repayment period unless direct repayment occurs or aggregate elective deferrals are contributed to the plan in at least the amount that was distributed and not repaid • Effective January 1, 2024	This optional provision allows withdrawals from the retirement plan to help employees pay for an emergency expense. This provision could increase withdrawals from your retirement plans as well as require administrative processes to facilitate repayments.
Employers can rely on employee certification of hardship distribution conditions • Effective January 1, 2023	This optional provision allows employees to self certify that deemed hardship withdrawal conditions have been meet. Could streamline the administrative process.
Penalty-free withdrawals allowed for domestic abuse victims • Up to the lesser of $10,000 or 50% of the individual's account • May be repaid over three years and IRS will refund income taxes paid • Effective January 1, 2024	This optional provision would allow employees to self certify that they experienced domestic abuse to withdraw funds.

Withdrawals

Can help make it easier for employees to access funds in their retirement accounts

What's changed?	What you should think about
Pension-Linked Emergency Savings Accounts (PLESA) • Plan sponsors adopting PLESAs may auto-enroll at no more than 3% of pay with a $2,500 cap • Highly Compensated Employees (HCEs) cannot participate • Contributions are after-tax • Participants must be allowed to withdraw at least once monthly and no withdrawal charges or fees may be assessed on the first four withdrawals in a given year • Contributions must be matched like regular 401(k) contributions but employer contributions to the PLESA are not allowed • Effective January 1, 2024	This optional provision allows employees to establish an emergency savings account within the retirement plan. As an employer, you should think about the matching requirements as well as the frequent withdrawal requests that will come because of this provision. Employers should make sure their recordkeeping partner is adequately prepared for these request.
Permanent rules for natural disasters • Automatically allows penalty-free withdrawals for affected taxpayers up to $22,000 • Increases loan limit to $100,000 • Effective after January 26, 2021	This optional provision is retroactive. Because of this lookback provision, many employees will qualify for this withdrawal or loan from their plan. Employers should make sure their plan and recordkeeping partner is adequately prepared for these requests.

Individual level legislation

Individual level legislation

What's changed?	What you should think about
Increased Required Minimum Distribution (RMD) age • The new age for taking the first RMD is the April 1st after the calendar year individuals reach age 73 • Starting in 2033 the age goes up to 75	As an employer, you should think about the best way of communicating this message to your employees that allows them to properly prepare for the newly required minimum distributions.
Higher catch-up limit to apply at ages 60 – 63 • All plan types except SIMPLE = greater of $10,000 or 150% of the regular age 50 catch-up amount • SIMPLE plans = greater of $5,000 or 150% of the regular age 50 catch-up amount • Effective January 1, 2025	As an employer, you should consider communicating this message to your employees.
529 College Savings to Roth IRA rollovers • Rollovers go to beneficiary • Allows for lifetime rollovers up to $35,000 (indexed) • Effective January 1, 2024	As an employer, you should think about the best way to communicate this new provision to employees who may have remaining balances in their 529 accounts.

Implementation timeline

UBS

What **should I have done** by December 31, 2023?

Mandatory provisions

New long time part-time employee requirement

- Ensure you are tracking part-time worker hours
- 500 hours per year for **two** consecutive years starting 1/01/2025 must be eligible to defer into retirement plan (no employer contributions required, not included in testing)

What **could I have been doing** since jan 1, 2023?

Optional provisions

- Employer may rely on employee self certification of hardship distributions (effective for plan years beginning on or after 1/1/2023)
- Eliminate certain disclosures for eligible, non-enrolled participants
- Permanent rules for natural disasters
  - If added to plan, automatically allows penalty-free withdrawals up to $22,000 for individuals impacted by a disaster
  - Permits higher loan limits ($100,000 or 100%)
  - May apply prospectively or retroactively to disasters occurring on or after 1/26/2021
- Plan sponsor may allow participants to elect employer contributions to be designated as ROTH
- Small financial incentives for contributions

What **may** I do starting January 1, 2024

Optional provisions

- Student Loan Matching Program
- Distributions for Emergency Expenses
  - Up to $1,000 allowed per year for emergencies; self-certified; amount must be repaid prior to taking subsequent distribution in next 3 years
- Pension-Linked Emergency Savings Accounts
  - If adopted, may auto-enroll at 3% and match contributions to the account (match dollars go to 401(k) account); $2,500 max in account; HCEs not allowed to contribute
- Cash out of terminated small balances increased from $5,000 to $7,000
- Penalty-free withdrawals up to $10,000 for domestic abuse victims
- Adopt discretionary amendment up until tax return date of prior year
- Auto-portability services authorized

Thank you for attending!

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