SECURE Act 2.0

On December 29, 2022, President Joe Biden signed the "SECURE 2.0 Act of 2022" (the "Act") into law as part of the $1.7 trillion 2023 omnibus spending bill. Over the next three years, the Act will expand upon the "Setting Every Community Up for Retirement Enhancement" (SECURE) Act of 2019, bringing a second round of sweeping legislative reforms to both employer-sponsored plans and individual retirement planning. A few of the Act's more notable changes are as follows:

INDIVIDUAL RETIREMENT PLANNING CONSIDERATIONS:

Increased Required Minimum Distribution (RMD) Age

The Act raises the age at which individuals must begin taking retirement account distributions. The new age requirements are as follows:

Birth Year	Impact of Secure 2.0
<1951	No impact; take RMDs as usual
1951-1959	RMD age moved from 72 to 73
1960+	RMD age moved from 72 to 75

Reduced RMD Penalty

The penalty for missed or incomplete RMDs will decrease from 50% to 25% of the undistributed amount, with a further reduction down to 10% if the error is remedied promptly.

Qualified Charitable Distribution (QCD) Changes

Starting in 2024, the maximum QCD of $100,000 will be indexed for inflation. Individuals will also have a one-time opportunity, beginning in 2023, to fund a charitable remainder trust or a charitable gift annuity using a QCD.

Note: The RMD change does not impact the age at which you may begin making QCDs from retirement accounts (it stays at 70½).

529 Plan - Roth Conversion Option

Starting in 2024, individuals will have limited ability to move 529 plan funds directly into a Roth IRA in the 529 plan beneficiary's name. To do this, the 529 plan must have existed for 15 years, contributions within past five years are not eligible to be moved, and the IRA annual contribution limit applies, as does an individual lifetime maximum of $35,000. This process is not, however, subject to the income limitations that apply to individual Roth contributions.

New RMD Option for Surviving Spouses

As of Jan. 1, 2024, a surviving spouse who inherits a retirement account from a deceased spouse will have the option to be treated as the deceased spouse, meaning they may elect to delay RMDs until the age at which their deceased spouse would have had to start taking them.

More Flexible Emergency Access to Retirement Plan Funds

People will now be given more flexibility to withdraw retirement funds before age 59½ without a 10% penalty. New exceptions include qualified disaster recoveries, individuals with terminal illnesses, victims of domestic abuse, personal or family emergency expenses (capped at $1,000/year), or long-term care insurance payments.

SIMPLE and SEP IRA Roth Contribution Options

As of Jan. 1, 2023, individuals may contribute to Roth SIMPLE and SEP IRA accounts, which could previously only be funded with pre-tax dollars.

EMPLOYER RETIREMENT PLANNING CONSIDERATIONS:

SECURE 2.0 expands upon SECURE 1.0's main goal for sponsors of 401(k), 403(b) and SIMPLE retirement plans: enabling more employees to save more money for retirement.

Below are some of the more notable retirement plan/plan design features (required and optional), including their effective dates.

New Catch-up Contribution Requirements

- As of Jan. 1, 2025, people ages 60-63 can make an additional catch-up contribution of either $10,000 or 150% of the age 50+ catch-up amount indexed for inflation, whichever is greater.
- As of Jan. 1, 2024, catch-up contributions of people age 50+ who made more than $145,000 in the previous tax year (indexed for inflation) must be designated as Roth (after tax) contributions.

Small Business Tax Credit Available

Effective immediately, small businesses with fewer than 50 employees are eligible for up to $50,000 in tax credits for a newly established plan. Up to 100% of startup costs may be credited and there are additional first year credit incentives as well.

Employer Student Loan Matching Option

Starting Jan. 1, 2024, employers will be able to match qualified student loan payments as elective deferrals.

Emergency Personal Expense Distribution Requirement

As of Jan. 1, 2024, participants will be able to take one withdrawal per calendar year up to $1,000 for immediate and necessary emergency expenses without the 10% penalty. Only one withdrawal can be outstanding at a time, and the amount may be repaid within three years. Until it is repaid, no further emergency withdrawals are allowed within that three-year period.

Emergency Savings Account Option

As of Jan. 1, 2024, employers can give non-highly compensated employees the option to contribute up to $2,500 annually to a Roth-based emergency fund, and employers can also match those contributions. Employees can make four withdrawals per plan year free of any fees or charges, and amounts are portable to a new employer's plan.

Mandatory Cash-out Distribution Level Raised

As of Jan. 1, 2024, the dollar amount under which an employer can force a terminated employee to take a distribution changes from "less than $5,000" to "less than $7,000."

Option for Employer Matching Contributions to be Made as Roth

As of Jan. 1, 2023, employers have the option to designate matching and qualified non-elective employer contributions as Roth, as long as the participant is fully vested in such Roth contributions.

Roths in Retirement Plans No Longer Subject to RMDs

As of Jan. 1, 2024, the designated Roth account in a retirement plan will not be subject to an RMD during a participant's lifetime. This includes those who have already begun to take RMDs from a retirement plan Roth account.

New Auto-Enrollment and Contribution Requirements

All new 401(k) and 403(b) plans established after January 1, 2025 will require employers to automatically enroll employees at an employer-determined rate of 3 to 10%. Employers will also be required to offer auto-escalation at a rate of 1% per year up to 15%.

Timing of Plan Amendments Changed

All non-governmental plans must be amended by the end of the 2025 Plan Year (SECURE 1.0 and CARES Act amendment requirements have also been moved to match this deadline). For governmental and church plans, the deadline is 2027.