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summary of some of the most notable changes ...

Daniel F. Rahill • Feb. 01, 2023

Three years after the Setting Every Community Up for Retirement Enhancement (SECURE) Act was enacted, SECURE Act 2.0 (the Act) was passed into law on December 26, 2022. It is designed to improve the current and future state of retiree income, and furthers the SECURE Act's significant changes for expanding coverage, increasing retirement savings, and simplifying and clarifying retirement plan rules.

While the law contains nearly one-hundred new retirement provisions, following is

age to begin taking RMDs is 72, so individuals will have an additional year to delay taking a mandatory withdrawal of deferred savings from their retirement accounts.

Bear in mind that if you turned 72 in 2022 or earlier, you will need to continue taking RMDs as scheduled. If you will turn 72 in 2023 and have already scheduled your withdrawal, you may want to consider updating your withdrawal plan. You can either schedule it for December 31, 2024, or delay taking the distribution until no later than April 1, 2025. Remember, if you delay your first RMD to April 1, 2025, you will need to take two RMDs in one tax year: the first by April 1, 2025, to satisfy your required withdrawal for 2024, and the second by December 31, 2025, which would satisfy your required withdrawal for 2025.

Reduced RMD Penalties

Starting in 2023, the steep penalty for failing to take an RMD will decrease to 25% of the RMD amount not taken, from 50% currently. The penalty will be further reduced to 10% for IRA owners if the account owner withdraws the RMD amount previously not taken and submits a corrected tax return in a timely manner.

Additional RMD Changes

Starting in 2024, Roth accounts in employer retirement plans will be exempt from the RMD requirements. In addition, beginning immediately, for in-plan annuity payments that exceed the participant's RMD amount, the excess annuity payment can be applied to the following year's RMD.

More Options for Qualified Charitable Distributions as RMDs

Beginning in 2023, people who are age 70½ and older may elect as part of their QCD limit a one-time gift up to $50,000, adjusted annually for inflation, to a charitable remainder trust, a charitable remainder annuity trust, or a charitable gift annuity.

This is an expansion of the type of charity, or charities, which can receive a QCD.

older in 2023 is currently $7,500.

There is one caveat, however. If you earn more than $145,000 in the prior calendar year, all catch-up contributions at age 50 or older will need to be made to a Roth account in after-tax dollars. Individuals earning $145,000 or less, adjusted for inflation going forward, will be exempt from this Roth requirement.

In addition, the $1,000 IRA catch-up contribution limit for people age 50 and over will be indexed to inflation starting in 2024, meaning it could increase every year based on federally-determined cost-of-living increases.

For Those Years Away From Retirement

Automatic Enrollment and Plan Portability

The Act requires businesses adopting new 401(k) and 403(b) plans to automatically enroll eligible employees, starting at a contribution rate of at least 3%, starting in 2025. It also permits retirement plan service providers to offer plan sponsors automatic portability services, transferring an employee's low balance retirement accounts to a new plan when they change jobs. The change could be especially useful for lower-balance savers who typically cash out their retirement plans when they leave jobs, rather than continue saving in another eligible retirement plan.

Emergency Savings

Defined contribution retirement plans would be able to add an emergency savings account that is a designated Roth account eligible to accept participant contributions for non-highly compensated employees starting in 2024. Contributions would be limited to $2,500 annually (or lower, as set by the employer) and the first four withdrawals in a year would be tax- and penalty-free. Depending on plan rules, contributions may be eligible for an employer match. In addition to giving participants penalty-free access to funds, an emergency savings fund could

After 15 years, 529 plan assets can be rolled over to a Roth IRA for the beneficiary, subject to annual Roth contribution limits and an aggregate lifetime limit of $35,000. Rollovers cannot exceed the aggregate before the 5-year period ending on the date of the distribution. The rollover is treated as a contribution towards the annual Roth IRA contribution limit.

For Employers and Sole Proprietors

Modified Credit for Small-Employer Pension Plan Startup Costs

Beginning January 1, 2023, the Act provides an increase to the small employer pension credit for all or a portion of employer contributions to small employer pensions for the first five employer tax years beginning with the one that includes the plan's start date. The credit has increased from 50% of administrative costs up to $5,000 to 100% for employers that have 50 or fewer employees, with a per-employee cap of $1,000.

The amount of the credit would be increased by the applicable percentage of employer contributions on behalf of employees: 100% in the first and second tax years, 75% in the third, 50% in the fourth, and 25% in the fifth.

Employers with 50 or fewer employees are eligible for 100% of the credit, which then phases out for employers with between 51 and 100 employees. No credit is allowed for employer contributions on behalf of an employee who makes more than $100,000, adjusted for inflation after 2023.

Small Financial Incentives for Plan Contributions

The Act allows employers to provide *de minimis* financial incentives – that are not paid for with plan assets – to employees who elect to have their employer make contributions pursuant to a salary reduction agreement.

Starter 401(k) Plans and Safe-Harbor 403(b) Plans

amount equal to the applicable qualified percentage of compensation, unless the employee elects otherwise.

All employees of the employer must be eligible to participate in the arrangement, provided they meet the age and service time requirements. The qualified percentage is determined under the terms of the arrangement, but must not be less than 3% or more than 15%, and it must be applied uniformly.

These are deferral only plans, and employers may not make matching or non-elective contributions to starter 401(k) deferral-only arrangements. An employee's elective contributions for a calendar year may not exceed $6,000, adjusted for cost of living, with up to $1,000 of catch-up contributions permitted for employees who attain age 50 by the end of the tax year.

Similar rules apply to safe-harbor 403(b) plans for tax-exempt employers that do not already maintain a qualified plan.

The change will be effective for distributions made after December 31, 2023.

Improving Coverage for Part-Time Workers

Currently, 401(k) plans generally have to permit long-term part-time employees to make elective deferrals if the employee had worked at least 500 hours per year with the employer for at least three consecutive years and had met the minimum age requirement of 21 by the end of the three-consecutive-year period. The Act reduces this three-year requirement to two years, effective for plan years beginning in 2025.

Retroactive First-Year Elective Deferrals for Sole Proprietors

The Act allows sole proprietors (i.e., an individual who owns the entire interest in an unincorporated trade or business and who is the only employee of that trade or business) to make an elective deferral under a 401(k) plan. The deferral must be made

time for plan providers to offer this feature and for payroll systems to be updated accordingly. Contributions to a Roth retirement plan are made after-tax, and hence, earnings can grow tax-free.

Bear in mind, however, that unlike Roth IRAs, RMDs from an employer-sponsored plan are required for Roth accounts until tax year 2024.

While SECURE 2.0 provides increased opportunities to save for retirement, everyone's financial situation is different. As always, consult your financial advisor or tax professional to understand how SECURE 2.0 changes apply to you. Investors and employers alike, should discuss with their Wintrust Wealth Advisor the applicable provisions of the law that pertain to them.

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