Second Quarter 2023

The Details Matter – SECURE 2.0 Act

SECURE 2.0 Act of 2022, signed into law on December 29, 2022, is designed to substantially improve retirement savings options. The Act contains 92 new provisions to promote savings, boost incentives for businesses to offer retirement accounts, and offer more flexibility to those saving for retirement. A few of the more actionable items are mentioned below. Before you act to take advantage of provisions of the Act, however, you need to read the details and verify the dates provisions of the Act become effective. They range from immediately to 10 years.

1. $35,000 in unused contributions and gains in a 529 plan can be rolled over to a Roth IRA in the 529 plan beneficiary's name.

- This provision affects distributions from 529 plans after Dec. 31, 2023.
- The 529 plan must have been maintained for 15 years prior to distribution to the Roth IRA.
- The amount converted can't exceed the aggregate amount contributed to the 529 plan (plus earnings attributable) before the five-year period ending on the date of the distribution.
- The amount, when added to any eligible regular traditional and Roth IRA contribution made for the 529 plan's beneficiary for the year, can't exceed the IRA contribution limit in effect for the year.
- The transfer must be directly from the 529 plan to the Roth IRA (trustee to trustee).

Account stuffing in the five years before distribution is ineffective. The annual distribution from the 529 plan is limited to the individual's contribution limit in effect that year, less all other contributions to IRA and Roth IRA's during the year. If the rollover is the only IRA contribution, the individual is limited to rolling over $6,500, plus $1,500 if over age 50, under current contribution limits.

2. Increased age for Minimum Required Distributions

- 73 as of Jan. 1, 2023,
- 75 as of Jan. 1, 2033 – 10 years later

3. Lower penalty for missing Required Minimum Distributions

- Effective Jan. 1, 2023, the excise tax of 50% if an individual fails to take their RMD from a retirement plan, is reduced to 25%.
- The excise tax is further reduced to 10%, if the individual: (1) receives all their past-due RMDs; and, (2) files a tax return paying such tax before receiving notice of assessment of the RMD excise tax and within two years after the year of the missed RMD.

4. Elimination of RMD for Roth 401(k) and 403(b) plans

- Starting in 2024, no minimum distributions will be required from Roth accounts in workplace retirement plans.

5. Starter 401k Plan, effective 2024

- Permits an employer that does not sponsor a retirement plan to offer a starter 401(k) plan (or safe harbor 403(b) plan).
- Requires that all employees be default enrolled in the plan at a 3% to 15% of compensation deferral rate.
- No employer contributions permitted.
- The limit on annual deferrals is $6,000 with an additional $1,000 in catch-up contributions beginning at age 50. Indexed after 2024. (This is below the current IRA limit)
- No ADP or top-heavy testing required. Can exclude union, non-resident aliens, and age/service excludable.
- Employers of any size are eligible to adopt a Starter 401(k) or 403(b) plan, provided they do not offer any other retirement plan.

6. Automatic Retirement Plan Enrollment, effective 2025

- Beginning in 2025, employers are required to automatically enroll eligible employees in new 401(k) or 403(b) plans with a participation amount of at least 3% but no more than 10%.
- The contribution escalates at the rate of 1% per year up to a minimum of 10% and a maximum of 15%.
- Employees can opt out of the plan if they wish.
- Small businesses (with 10 or fewer employees), new businesses (fewer than three years old), church plans, and government plans are exempted from the provision.

7. Easier access to retirement funds

- Starting in 2024, up to $1,000 can be withdrawn from a retirement account for personal or family emergencies. Funds must be replaced within the next three years before a similar withdrawal can be made.
- Starting in 2024, survivors of domestic abuse may withdraw the lesser of $10,000 or 50% of their retirement account without penalty.
- Effective with passage of SECURE 2.0 Act, victims of a qualified, federally declared natural disaster may withdraw up to $22,000 from their retirement account without penalty. Withdrawal is treated as gross income over three years without penalty.
- Effective 2024, employers can set up a separate emergency savings fund alongside their retirement accounts for non-highly compensated employees (who make under $150,000 in 2023) to set aside up to $2,500 per participant.

These are just a few of the changes created by the SECURE 2.0 Act. Among the other 80+ other changes, you might find of interest is the increased amount individuals can move to a qualified longevity annuity contract. One provision encourages people over age 70 ½ to make distributions from their IRA directly to qualifying charities (a QCD) up to $100,000 per year. A one-time $50,000 Qualified Charitable Distribution can be directed to either a charitable remainder trust or a charitable gift annuity. SIMPLE and SEP Retirement plans are now Roth permitted.

Before you act to take advantage of any of the provisions noted above or other benefits of the Act, work with a qualified professional advisor. There are a considerable number of details in the SECURE Act and those details matter a great deal.

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