

SECURE 2.0

THE WHAT'S AND WHEN'S OF SECURE 2.0

There are a LOT of retirement provisions in the SECURE 2.0 Act of 2022 - and we've got a new resource - a list of which ones will take effect when.

The Government Affairs team here has developed this table providing descriptions and effective dates for the key provisions contained in the SECURE 2.0 Act of 2022, which was enacted Dec. 29, 2022, as part of the Consolidated Appropriations Act, 2023 (P.L. 117-328).

Dec. 29, 2022, will now serve as the date of enactment (DOE), which matters as several provisions become effective immediately, while others become effective in 2023 or later years.

Our chart is organized in the order the provisions become effective, starting with those already in effect or that have retroactive effective dates. In addition, PYB stands for "plan years beginning," and TYB stands for "taxable years beginning." Note that this table is not all the law's provisions, but it does include the most significant ones related to retirement.

| SECURE 2.0 Section | Provision | Description | General Effective Date |
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| 501 | SECURE Act Technical Corrections | Amends SECURE section 103 (adds notice requirement to 401(m) for a QACA with matching contributions); SECURE section 112 (can exclude LTPT from ACP test and this adds SH and QACA); in LTPT changes "arrangement" to "plan" (no effect); in LTPT minor correction to EE going to full-time); SECURE 116 (modifies 4973(b) excise tax to exclude from tax nondeductible difficulty of care payments); Clerical amendments fix QBADs and incorrect reference for 403(b), adjust references for requirements for plans that put safe harbor in other plan. | 2020 |
| 111 | Tax Credit: Small Employer Pension Plan Start-up Credit for Adopting MEP | Clarifies that the start-up credit is available if an employer is adopting its first plan by joining an existing MEP. | 2020, TYB |
| 331 | Natural Disasters | Provides permanent rules relating to the use of retirement funds in the case of qualified disaster. Distributions are limited to \$22,000 per disaster (rather than the usual \$100K). May be repaid in 3-year period after distributions. Income inclusion spread over 3 years. Additionally, amounts distributed prior to the disaster to purchase a home would be permitted to be recontributed, and an employer would be permitted to provide for a larger amount be borrowed from a plan by affected individuals and for additional time for repayment of plan loans owed by affected individuals. | 2021 |

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| Provisions Starting in 2022 | | | |
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| 122 | Unclaimed Savers Bond | Amend USC Title 31 to require Treasury to share certain information relating to the registered owners of matured and unredeemed savings bonds with the States to enable the States to locate the owners in accordance with the States' standards for recovery of abandoned property. | 2022 |
| 128 | 403(b): Allowed to Invest in CITs | Allows employers with 403(b) plans, including public schools and tax-exempt organizations, to structure their retirement plans as collective investment trusts. NOTE: the proposal is applicable to amounts invested after enactment-but practically not (yet) available under legislation to address securities law. | 2022 |
| 202 | RMDs: Qualifying Longevity Annuity Contracts (QLACs) Modifications | Allows individuals to buy QLACs to satisfy all of their RMD requirement up to \$200,000 (indexed after 2024). The current cap applicable to QLACs is the lesser of 25% of the account balance or \$125,000. Clarifies that survivor benefits may be paid in the case of divorce and permits up to 90-day free-look period. Good faith reliance prior to regulations. | 2022 |
| 204 | RMDs: Modification in Calculation for Partial Annuitization | If a tax-preferred retirement account also holds an annuity, present law requires that the account be bifurcated between the portion of the account holding the annuity and the rest of the account for purposes of applying the RMD rules. This treatment may result in higher minimum distributions than would have been required if the account did not hold an annuity. The provision would permit the account owner to elect to aggregate distributions from both portions of the account for purposes of determining minimum distributions. Good faith reliance until regulations issued. | 2022 |
| 301 | EPCRS: Recovery of Retirement Plan Overpayments | Restricts plan sponsors from recovering certain excess payments from a participant after a three-year period when the individual did not cause the overpayment. | 2022 |
| 305 | EPCRS: Expansion | Expands EPCRS to allow self-correction of inadvertent significant plan errors without deadline (as long as before examination and within a reasonable period after discovery). Self-corrected loans treated as meeting requirements of VFCP. DOL may impose reporting. Waiver of 60-day rollover for reasons beyond control of account owner. It also allows the IRS to waive the excise tax for RMDs when an IRA owner self-corrects the error within 180 days. | 2022 |
| 308 | Public Safety/ Military: Firefighter Distributions | Expands the age-50 exception for qualified public safety employees to apply to distributions from a qualified retirement plan or section 403(b) plan to an employee who provides firefighting services. | 2022 |
| 311 | Distributions: Repayment of QBAD Limited to 3 years | Limits recontribution of qualified birth or adoption distribution (QBAD) to the three-year period beginning on the day after the distribution date. For QBAD already made, deadline is 12-31-2025. | 2022 |

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| 313 | IRAs: Tax Penalties Statute of Limitations Clarification | Starts the statute of limitations on assessments on IRA penalties when the taxpayer files his or her individual tax return. | 2022 |
| 326 | Distributions: Terminally Ill Exemption | Provides an exception to the 10% early distribution tax for distribution to a terminally ill individual. Must provide evidence required by plan administrator. May be repaid. | 2022 |
| 329 | Public Safety/ Military: PS Officers with 25 years of Service Eligible for 10% Penalty Exemption | Extend the exception from 10% penalty to public safety officers with at least 25 years of service with the employer sponsoring the plan (current exemption is age 50 regardless of service). | 2022 |
| 330 | Public Safety/ Military: Corrections Officers Eligible for 10% Penalty Exemption | Extends the public safety officer exception to the 10% early distribution tax to corrections officers who are employees of state and local governments. Effective after date of enactment. | 2022 |
| 333 | IRAs: Elimination of Penalty | Exempts excess contributions to IRA (and earnings) that are timely returned from the 10% tax on early distributions. | 2022 |
| 335 | DB: Mortality Tables | Generally requires that for purposes of the minimum funding rules, a pension plan is not required to assume mortality improvements at any age greater than 0.78%. Effective after date of enactment. | 2022 |
| 345 | Group of Plans (GoPs) | Any 103(a)(3)(C) audit applies only to large plans. | 2022 |
| 604 | Optional Treatment of ER Contributions as Roth contributions | 401(a) plan, 403(b) plan, or a governmental 457(b) plan may permit an employee to designate matching or nonelective contributions as designated Roth contributions. | 2022 |
| 606 | DB: 401(h) Accounts | Extends the sunset for using assets from an overfunded pension plan to pay retiree health and life insurance benefits. The sunset would be 2025 and this extends it to 2032; and it permits transfers to pay retiree health and life insurance benefits provided the transfer is no more than 1.75% of plan assets and the plan is at least 110% funded. Effective after date of enactment. | 2022 |
| Provisions Starting in 2023 | | | |
| 107 | RMDs: New Required Beginning Dates | The required beginning date for RMDs is age 73 beginning in 2023, and age 75 beginning in 2033. Hard cut-off; based on birthday (age 72 before 2023 = age 72; turn age 73 before 2033 = age 73; age 74 after 2032 = age 75). | 2023 |
| 201 | RMDs: Remove RMD Requirements for Certain Life Annuities | Allows individuals to satisfy the RMD requirements by purchasing a fixed annuity with a circumscribed set of features, such as increasing no more than 5% per year or providing for a death benefit equal to the amounts paid for the annuity minus prior payments. | 2023 |

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| 302 | RMDs: Reduction in Retirement Plan Excise Taxes | Reduces the excise tax for failure to take an RMD to 25% from 50%, and further reduces the excise tax to 10% for taxpayers who take the required RMD before an IRS audit or (if earlier) the second year after the year in which the excise tax is imposed. | 2023 |
| 105 | PEP: Pooled Employer Plans (PEP) Modification | Permits PEP to designate a named fiduciary (other than an employer in the plan) to be responsible for collecting contributions. Other fiduciary required to implement written contribution collection procedures that are reasonable, diligent, and systematic. Prior to change, duty to collect and hold assets had to be a trustee approved under 408(a)(2). | 2023, PYB |
| 106 | 403(b): MEPS | 403(b) plans, other than church plans, may form MEPS. No inference for church plans. Provides unified plan relief if MEP satisfies requirements similar to 413(e) (the PEP rules). Governmental plan gets relief even if commonality requirements are not met. Treasury in consultation with DOL must provide education and outreach on fiduciary duties. | 2023, PYB |
| 113 | 401(k)s: Small Immediate Financial Incentives for Contributing to a Retirement Plan | Allows de minimis financial incentives in 401(k)s and 403(b)s for employees "who elect to have [deferrals made]." Cannot be paid for by the plan. De minimis not defined. | 2023, PYB |
| 312 | Distributions: EE Certification of Deemed Hardship Conditions | In determining whether a distribution is due to an employee hardship, plan administrator of a 401(k), 403(b), or 457(b) plan may rely on the employee's certification that the distribution is on account of an eligible hardship/emergency, not in excess of amount needed, and no alternative means to satisfy need. Treasury may restrict in regs for actual knowledge. | 2023, PYB |
| 317 | 401(k): Retroactive First-year Elective Deferrals for Sole Proprietors | Sole owner of an unincorporated trade or business, who is the only employee of such trade or business, may treat any elective deferral to a 401(k) plan made before the tax return due date (determined without regard to any extensions) as having been made before the end of the plan's first plan year. Applies only to the first plan year in which the section 401(k) plan is established. | 2023, PYB |
| 320 | R&D: Eliminate Plan Requirements for Unenrolled Participants | Allows plans to provide much more limited information to employees who are not contributing to a plan and that have no balance in the plan. Must have provided an SPD, any required eligibility notices, and an annual notice. | 2023, PYB |
| 348 | DB: Cash Balance Testing | For 411(b) accrual rule tests, may use a reasonable projection of interest crediting rates; capped at 6%. | 2023, PYB |
| 102 | Tax Credit: Small Employer Pension Plan Start-up Credit Modification | Establishes a new credit and expands an existing credit. Startup credit increased to 100% for companies with 50 or fewer employees. The existing cap of \$5,000 per employer is retained. The new credit offsets up to \$1,000 of employer contributions per employee in the first year, phased down gradually over 5 years. Applies to companies with 100 or fewer employees, however, it is phased out for those with more than 50 employees. No credit for contributions to any employee making more than \$100k (indexed after 2023). NOTE: no deduction for employer contributions qualifying for credit. | 2023, TYB |

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| 112 | Public Safety/ Military: Small Employer Retirement Plan Eligibility Credit for Military Spouses | Tax credit to small employers (using SEP definition of under 100 EEs) who offer nonhighly compensated employee (NHCE) military spouses a retirement plan with enhanced eligibility rules and an accelerated vesting schedule. The credit of up to \$500 per military spouse would apply for first 3 years of participation (\$200 for eligibility; \$300 for ER contributions). | 2023, TYB |
| 306 | 457(b): Eliminate "First Day of the Month" Requirement for Governmental Plans | Plan may permit participants in 457(b) plans to change their contribution election at any time. | 2023, TYB |
| 307 | Distributions: Qualified Charitable Distribution Rule Modifications | Indexes the annual \$100,000 exclusion limit after 2022. Allows a one-time \$50,000 distribution from an IRA to a split-interest entity. | 2023, TYB |
| 322 | IRAs: Limiting Cessation of IRA Treatment to Portion of Account Involved in a PT | The provision modifies the disqualification rule that applies when an IRA owner or beneficiary engages in a prohibited transaction so that only the IRA that is used in the prohibited transaction is treated as distributed to the individual. | 2023, TYB |
| 601 | SIMPLE and SEP: Roth Permitted | Under the provision, a SEP and a SIMPLE IRA are permitted to be designated as Roth IRAs. | 2023, TYB |
| Provisions Starting in 2024 | | | |
| 115 | Distributions: Personal Emergency | One distribution will be permissible per year of up to \$1,000 (or account in excess of \$1,000 if less), with the OPTION to repay the distribution within 3 years. No further emergency distribution would be permissible during the 3-year repayment period unless recontribution occurs. Exemption from 10% penalty. May rely on participant certification absent actual knowledge. | 2024 |
| 120 | Distributions: Auto-Portability | Prohibited transaction exemption for service provider providing automatic portability services, such as automatic transfer of a participant's default IRA (established in connection with a distribution from a former employer's plan) into the participant's new employer's retirement plan, unless the participant elects otherwise. | 2024 |
| 126 | IRAs: Long-term Tuition to Roth | Tax and penalty-free rollovers from 529 accounts to Roth IRAs, under certain conditions. Beneficiaries of 529 accounts permitted to rollover up to \$35,000 (lifetime limit). Subject to Roth IRA annual contribution limits, and the 529 account must have been open for more than 15 years. | 2024 |
| 303 | Retirement Savings Lost and Found | Requires the DOL to establish an online searchable database with information on the location of unclaimed vested benefits of missing, lost, and non-responsive participants and beneficiaries in ERISA plans. Information reporting required for plan years beginning at least 2 years after enactment. | 2024 |
| 304 | Distributions: Cashout Limit | Increases limit from \$5,000 to \$7,000. | 2024 |

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| 314 | Distributions: Penalty-free Withdrawals for Domestic Abuse Victims | Plans may permit withdrawal in the case of an eligible distribution to a domestic abuse victim. Lesser of \$10,000 (indexed) or 50% of balance. Applies to plans not subject to IRC Section 417. Withdrawal is exempt from 10% penalty. May be recontributed to applicable eligible retirement plans, subject to certain requirements. | 2024 |
| 323 | Distributions: Substantially Equal Periodic Payments | Clarification of substantially equal periodic payment rule. The exception from the 10% early distribution tax for substantially equal periodic payments will continue to apply if the case of a rollover of the account, an exchange of an annuity providing the payments, or an annuity that satisfies the RMD rules. No inference on rules prior to enactment. | 2024 |
| 327 | RMDs: Surviving Spouse Elections | Surviving spouse election to be treated as employee. Allows a surviving spouse to elect to be treated as the deceased employee for purposes of RMDs. | 2024 |
| 350 | EPCRS: Safe Harbor for Corrections of Employee Elective Deferral Failures | Allows employers to correct inadvertent auto-enrollment errors within 9½ months after the end of the year in which the error occurs without making up missed deferrals. | 2024 |
| 110 | Student Loan Matching Program | Permits employers to match student loan payments under 401(k), 403(b), SIMPLE, and 457(b) plan as if those payments were elective deferrals. May rely on EE certification re: payment amount. <ul style="list-style-type: none"> • ER contribution treated as a match. • Can test ADP separately for those receiving loan match (repayment not treated as deferral). | 2024, PYB |
| 121 | Starter 401(k) | 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. Could exclude union, non-resident aliens, and age/service excludable. 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. No ADP or top-heavy testing required. Future technical correction: Text doesn't match summary/intent. Summary says limits will match IRA limits, but the text limits deferrals to \$6,000 rather than picking up the increased IRA limits for future years. | 2024, PYB |
| 127 | Emergency Savings Accounts | Employers may offer NHCEs pension-linked (despite wording, this applies to defined contribution plans) emergency savings accounts and may automatically opt employees into these accounts at no more than 3% of their salary. Accounts are capped at \$2,500 (or lower as set by the employer). Contributions are made post-tax, and are treated as elective deferrals for purposes of retirement matching contributions. Once the cap is reached, the contributions may be stopped or continue as Roth deferrals. First 4 withdrawals may not be subject to fees. May subject account to "reasonable restrictions." If plan matches deferrals, must count contributions to ESA in same way for purposes of match. May employ reasonable procedures regarding match to prevent match from exceeding intended amount. At termination, may take distribution or roll into Roth. | 2024, PYB |

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| 310 | Top Heavy: Modification for EEs Who Don't Meet Age and Service Requirements | Employees who do not meet the minimum age and service requirements under the Code may be ignored in determining whether plan satisfies the top-heavy minimum contribution requirement. | 2024, PYB |
| 315 | Family Attribution Rule Fixes | Disregards community property rules for ownership under controlled group (CG) and affiliated service group (ASG). Spouse not attributed options of a minor child. Disaggregates businesses if the only common ownership link is attribution of parental ownership to a child. A change in CG/ASG status is treated as 410(b)(6)(C) transaction. | 2024, PYB |
| 316 | Plan Amendments: Allow More Time to Add Discretionary Plan Amendments to Increase Benefits | May amend plan to increase benefits accrued under the plan as of any date in the preceding plan year (other than increasing the amount of matching contributions) as long as it would not otherwise cause the plan to fail to meet any of qualification requirements and the amendment is adopted before the time prescribed by law for filing the return of the employer for a taxable year (including extensions) during which the amendment is effective. | 2024, PYB |
| 332 | SIMPLE: Adopt 401(k) Mid-Year | Employers allowed to replace simple retirement accounts with safe harbor 401(k) plans during a year. Allows an employer to replace a Simple IRA plan with a simple 401(k) plan or other 401(k) plan that requires mandatory employer contributions during a plan year. Limits pro-rated based on days in effect. Rollovers into 401(a) or 403(b) plan not subject to 2-year penalty tax. | 2024, PYB |
| 343 | DB: Annual Funding Notices | Change to content requirements. | 2024, PYB |
| 349 | DB: Variable Rate Premium | No indexing of variable rate premium after 2023; flat \$52. | 2024, PYB |
| 602 | 403(b): Hardship Rules for 403(b) Plans | Conforms the hardship distribution rules for section 403(b) plans to those of section 401(k) plans. In addition to elective deferrals, may distribute, on account of an employee's hardship, qualified nonelective contributions, qualified matching contributions, and earnings on any of these contributions (including on elective deferrals). | 2024, PYB |
| 108 | IRAs: Indexing IRA Catch-up Limit | Catch-up contribution limit to IRAs for those aged 50 and over (currently \$1,000) will be indexed to inflation after 2023 (base is 2022; intervals of \$100). | 2024, TYB |
| 116 | SIMPLE: Additional Employer Contributions | SIMPLE plans require employer contributions of either 2% of compensation or 3% of employee elective deferral contributions. This provision permits an employer to make additional contributions up to the lesser of 10% of compensation (limited by 401(a)(17)) or \$5,000 (indexed after 2024). | 2024, TYB |

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| 117 | SIMPLE: Increase Limits | This provision increases the annual deferral limits to 110% of the 2024 limit on deferrals (indexed after 2024) in the case of an employer with no more than 25 employees. An employer with 26 to 100 employees would be permitted to provide these higher deferral limits, but only if the employer either provides a 4% matching contribution or a 3% employer contribution. Employer cannot have had plan within 3 years. Effective after 2023. Treasury must provide report on SIMPLE Plans. | 2024, TYB |
| 325 | RMDs: Roth Accounts | Roth RMD parity with IRAs. No pre-death RMDs from Roth accounts in qualified plans (which is currently the rule only for Roth IRAs). | 2024, TYB |
| 603 | Catch-up Contributions: Required to be Roth | Catch-ups under a 401(k), 403(b) plan, or governmental 457(b) plan must be designated Roth contributions for employees with > \$145k (indexed) in wages in prior year (and <= \$145k must have Roth option for catch ups). Treasury may issue regulations regarding changing election if compensation is determined to exceed threshold after election is made. Silent on recharacterization. Note: The ARA recently identified a significant technical error in this section that will likely need a technical correction. Specifically, according to wording in the current legislation, beginning in 2024, no participants will be able to make catch-up contributions (pre-tax or Roth). | 2024, TYB |
| Provisions Starting in 2025 | | | |
| 334 | Distributions: LTC Premiums | Permits DC plans to distribute up to \$2,500 (indexed) per year for the payment of premiums for certain specified long-term care insurance. Distributions from plans and IRAs to pay such premiums would be exempt from the additional 10% tax on early distributions. Participant must file premium statement with plan; insurer with Treasury. Treasury must maintain website of certified LTC providers. | 2025 |
| 501 | Plan Amendments to Conform with SECURE 2.0 | This provision allows plan amendments made pursuant to this Act to be made by the end of 2025 (2027 in the case of governmental plans) as long as the plan operates in accordance with such amendments as of the effective date of a bill requirement or amendment. Also extends SECURE 1.0 and CARES. | 2025, Dec 31 |
| 101 | Automatic Enrollment: Required | All new 401(k) and 403(b) plans adopted after 12/29/22 except businesses with fewer than 10 employees, new businesses less than 3 years old, and churches and governments -- must (beginning 1/1/25) automatically enroll participants at 3%-10% and increase the rate by 1% per year to at least 10%, but no more than 15%. Employees would have at least 90 days to opt out and take a distribution of any automatic deferrals. Must have Eligible Automatic Contribution Arrangements (EACAs) withdrawal provision. Does not apply to SIMPLE plans (they're IRAs), but does apply to adoption of a MEP after enactment date (based on employers adoption, not effective date of MEP). | 2025, PYB |
| 125 | Long-Term Part-Time (LTPT) Worker Definition Modification | Requires part-time workers who work at least 500 hours per year for two years to be eligible to make employee contributions to an employer's DC plan. Adds provision to ERISA, covering 403(b) plans. Such provision ignores service for vesting and eligibility prior to 2023. Changes 401(k) provision, to exclude vesting service prior to 2021. Effective 2025PY, but vesting change and top heavy exemption fix effective as if included in the enactment of section 112 of SECURE Act. | 2025, PYB |

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| 109 | Catch-up Contributions: Limit Increase at Certain Ages | Raises catch-up contributions to greater of \$10,000 or 150% of regular catchup limit in 2024 for years in which the participant would attain age 60 through 63 (\$5,000 or 150% of 2025 limit for SIMPLE plans). Indexed after 2025. | 2025, PYB |
| Provisions Starting in 2026 | | | |
| 338 | R&D: Paper Statement Mandate | Requires at least one quarterly benefit statement to be delivered on paper unless the participant opts-out of the paper requirement. The paper disclosure requirement is once every 3 years for defined benefit plans. No paper required for wired-at-work or those who opt out of paper. | 2026, PYB |
| 103 | Saver's Match: Enhancement of Saver's Credit | Refundable Saver's Match. The credit would be a match of 50% of up to \$2,000 in IRA or retirement plan contributions (less distributions to participant (or spouse if married, filing jointly) in past 3 years + period before return is file) - irrespective of tax liability. The match is phased out between \$41,000 and \$71,000 in the case of joint returns (\$20,500 to \$35,500 for single and married filing separate; \$30,750 to \$53,250 for head of household). Thresholds are indexed after 2027. Must go into retirement vehicle unless match is <\$100. Contribution/match treated as elective deferral (but doesn't count toward limits). Subject to distribution restrictions applicable to deferrals except can't withdraw for hardship. Detailed rules on recapture of early distributions (within prior 2 years). Separate accounting in plan because not included in top-heavy and special distribution rules. | 2027, TYB |
| 309 | Public Safety/ Military: First Responder Retirement Plan Disability Payment Exclusion | Disability payments to first responders from retirement plans will be excluded from income after reaching retirement age. | 2027, TYB |
| 114 | Employee Ownership: Deferral of Tax for Certain Sales of Employer Stock to Employee Stock Ownership Plan Sponsored by S Corporation | Deferral of tax for certain sales of employer stock to ESOPs. Permits the owner of employer stock issued by an S corporation to defer 10% of long-term capital gain from the sale of that stock to an ESOP. | 2028 |
| 123 | Employee Ownership: Certain Securities Treated as Publicly Traded in Case of Employee Stock Ownership Plans | Allows certain non-exchange traded securities to qualify as "publicly traded employer securities," making it easier for them to offer ESOPs. | 2028, PYB |