

# 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 a 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).

We now know, for example, that 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
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

# SECURE 2.0

Provisions Starting in 2022			
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.  <b>NOTE:</b> 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 would also allow the IRS to waive the excise tax for required minimum distributions 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 QBAD distribution to the three-year period beginning on the day after the distribution date. For QBAD already made, deadline is 12-31-2025	2022

# SECURE 2.0

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
<b>Provisions Starting in 2023</b>			
107	RMDs: New Required Beginning Dates	The required beginning date for required minimum distributions (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 required minimum distribution (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

# SECURE 2.0

302	RMDs: Reduction in Retirement Plan Excise Taxes	Reduces the excise tax for failure to take a required minimum distribution (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 would be 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

# SECURE 2.0

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 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
<b>Provisions Starting in 2024</b>			
115	Distributions: Personal Emergency	One distribution would 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

# SECURE 2.0

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 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 in the case of a rollover of the account, an exchange of an annuity providing the payments, or an annuity that satisfies the required minimum distribution 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"> <li>• ER contribution treated as a match.</li> <li>• Can test ADP separately for those receiving loan match (repayment not treated as deferral).</li> </ul>	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 re: match to prevent match from exceeding intended amount. At termination, may take distribution or roll into Roth.	2024, PYB

# SECURE 2.0

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 CG and 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) would 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 would permit 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

# SECURE 2.0

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 Ps with > \$145k (indexed) in wages in prior year (and <= \$145k must have Roth option for catch ups). Treasury may issue regulations re: changing election if comp is determined to exceed threshold after election is made. Silent on recharacterization.	2024, TYB
<b>Provisions Starting in 2025</b>			
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 bill 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 one percent 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 for at least 500 hours per year for two years to be eligible to make employee contributions to an employer's defined contribution retirement 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



# SECURE 2.0

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
<b>Provisions Starting in 2026</b>			
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 would 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