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SECURE 2.0 Provisions with 2024 Implementation Dates

By **Kaitlyn Malkin** on December 22, 2023

This post summarizes provisions of SECURE 2.0 that retirement plans may need or want to implement for 2024. While no amendments are required for plans heading into 2024, plan operations may see some updates, especially if the plan sponsor wishes to implement some of the new optional features. We have provided an overview of many of these SECURE 2.0 provisions through our blog in the past, and this post provides a run-down of those features to remind you of these provisions.

2024 Required Plan Operation Changes

SECURE 2.0 requires plans to begin implementing the following provisions starting in 2024.

Long-Term, Part-Time Employee Eligibility and Vesting

SECURE 1.0 and SECURE 2.0 changed the eligibility and vesting requirements for long-term, part-time employees for 401(k) and 403(b) plans. For plan years beginning on or after January 1, 2024, 401(k) plans must allow employees who are credited with at least 500 hours of service in each of three consecutive 12-month periods and have attained age 21 to make elective deferrals to the plan, with service before January 1, 2021, disregarded for purposes of determining eligibility. For plan years beginning on or after January 1, 2025, only two consecutive 12-month periods with 500 hours of service worked will be required, with service before January 1, 2023, disregarded. Effective for plan years beginning after December 31, 2024, 403(b) plans will also be subject to these long-term, part-time employee rules. For details, see our blog post here.

Catch-up Contributions as Roth Contributions

Participants 50 or older may make catch-up contributions to their retirement plans on a pre-tax or Roth basis (if the plan permits Roth contributions). A retirement plan may permit a participant who would be 50 or older by the end of a taxable year to make additional catch-up contributions for that year without regard to otherwise applicable limits.

SECURE 2.0 provides that catch-up contributions for employees whose wages exceed $145,000 may be made only as Roth contributions. Most plans permit catch-up contributions, but many do not provide for Roth contributions.

The IRS announced a two-year administrative transition period for employers to comply with this Roth mandate for highly paid employees, extending the compliance deadline to December 31, 2025. For more information on this relief, see our blog post here.

Required Minimum Distribution Changes

Roth Required Minimum Distributions

Retirement plans must include required minimum distribution rules in the plan documents to maintain tax-qualified status. For taxable years beginning after December 31, 2023, the required minimum distribution rules will not apply to Roth accounts in 401(k) and other defined contribution plans. The required minimum distribution rules will continue to apply to pre-tax accounts.

Surviving Spouse Election to be Treated as Employee

For years beginning after December 31, 2023, a surviving spouse may elect to be treated as if they were the deceased employee for purposes of the required minimum distribution rules.

Optional SECURE 2.0 Provisions that Can be Implemented in 2024

SECURE 2.0 contains optional provisions that may benefit participants and be a valuable tool to ensure greater employee participation in retirement programs. The following elective provisions may be implemented starting in 2024.[1]

Matching Contributions for Student Loan Payments

For plan years starting after December 31, 2023, defined contribution plans may treat an employee's qualifying student loan repayments as elective deferrals or after-tax contributions for purposes of the plan's matching contribution. The provision allows employees to receive the employer match, even if the employee does not contribute to the plan. Qualified student loan payments must be for the repayment of a qualified education loan for higher education of the employee, the employee's spouse, or an individual who was the employee's dependent at the time the debt arose. Student loan payments may be treated as qualified student loan payments to the extent that those

[1] Plans are already able to implement a few optional provisions in SECURE 2.0, including adding a penalty-free withdrawal feature to allow terminally ill participants to obtain an early distribution up to the participant's entire vested account, depending on the terms of the plan; allowing plans to permit employees to designate employer contributions as Roth contributions; and permitting employers to provide de minimis financial incentives, not from plan assets, to employees to encourage participation in a qualified retirement plan through employee contributions.

payments combined with the employee's elective deferrals during a plan year do not exceed the annual limit on elective deferrals.

Currently, there is no generally applicable guidance on how to set up this provision in a plan document.

Emergency Savings Accounts Linked to Individual Account Plans

Effective for plan years after December 31, 2023, a sponsor of an individual account plan may include a pension-linked emergency savings account for non-highly compensated employees with a cap of up to $2,500 (as adjusted) to be funded with employee contributions. Employers may also provide an auto-enrollment feature at a rate of up to 3% of pay into these accounts. For more details, see our blog post here.

Penalty-Free Withdrawals

We recently published a blog on "New Options for Retirement Plan Distributions under SECURE 2.0," which discusses the new penalty-free distribution options a plan can make available.

Withdrawals for Certain Emergency Expenses

For plan years beginning after December 31, 2023, defined contribution plans may allow participants to take up to $1,000 of their vested account balance in a calendar year as an emergency personal expense distribution without a penalty for early withdrawals. An emergency personal expense distribution is meant to meet unforeseeable or immediate financial needs relating to necessary personal or family expenses.

If the participant wants to repay the distribution, it must be repaid within three years, beginning the day after the distribution was received. Additionally, an individual cannot take a subsequent emergency personal expense distribution until it is repaid or the aggregate amount of the participant's elective deferrals and employee contributions made to the plan after the previous distribution is at least equal to the amount of the previous distribution that has not been repaid. The plan administrator may rely on an employee's certification that their expense satisfies the applicable conditions.

Domestic Abuse Penalty-Free Withdrawal

For plan years beginning after December 31, 2023, a defined contribution plan may also allow withdrawals for domestic abuse victims up to the lesser of $10,000 or 50% of their vested account balance during a one-year period. If the participant wants to repay the amount withdrawn, repayment must be made within three years, beginning the day after the distribution was received. The plan may rely on the participant's self-certification that they qualify for the withdrawal.

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403(b) Hardship Withdrawal

For plan years beginning after December 31, 2023, 403(b) plans may allow distributions of qualified nonelective contributions, qualified matching contributions, and earnings on those contributions and elective deferrals in the event of a hardship. The plan may rely on the participant's self-certification that they qualify for the withdrawal.

Mandatory Cash-Out Limit Increase

Currently, retirement plans can automatically cash out the benefit of a vested participant who leaves service if the benefit is between $1,000 and $5,000 and roll that amount into an IRA. The limit is increasing to $7,000 for distributions made after December 31, 2023. This change may be beneficial to plans that have smaller accounts.

When Should Plan Amendments be Made for these SECURE 2.0 Changes?

IRS Notice 2024-2, published on December 20, 2023, has extended the already generous time periods for SECURE 2.0 amendments. Any elective or required change made operationally to a plan based on a SECURE 2.0 provision must be included in a plan amendment by:

1. December 31, 2026, for non-collectively bargained qualified plans and section 403(b) plans not maintained by a public school.
2. December 31, 2028, for collectively bargained qualified plans and collectively-bargained 403(b) plans.

Regardless of this extended amendment deadline, it may be advisable for plans that implement these provisions to make plan amendments close to the time the provision is implemented so that the details will not have to be reconstructed at a later date.

If you have any questions about implementing any of the SECURE 2.0 provisions, please do not hesitate to contact our Employee Benefits & Executive Compensation group.

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