

Employee Benefit Plans Alert

Secure Act 2.0 – First Look at the Changes Affecting Retirement Plans

By Louis F. LiBrandi, Principal

The long-awaited legislation intended to improve retirement plan savings opportunities for American workers was recently signed into law as part of the Consolidated Appropriations Act of 2023.

The Securing a Strong Retirement Act of 2022 (Secure Act 2.0) contains provisions that were included in three different Bills that were passed in 2022. The Secure Act 2.0 is over 400 pages, and it is anticipated further regulations to be issued to assist plan sponsors, administrators, and participants to better understand the various technical and significant changes.

Terms

The provisions included in the Secure Act 2.0 are either retroactive, **or** are effective with the date of enactment, **or** are effective in later plan years. Currently most plan documents will not be required to be amended for the Secure Act 2.0 until the end of the 2025 plan year.

We anticipate providing further details on the many changes made by the Secure Act 2.0 in future Employee Benefit Alerts.

Below is a listing of several of the enhancements, options, and requirements and the plan year when it becomes effective.

- **Auto enrollment.** A newly established 401(k) or 403(b) plan must automatically enroll eligible employees as plan participants. The initial automatic enrollment amount is at least 3%, and the percentage is increased each year by 1%, up to at least 10%, and the employer has the option to continue increasing the contribution rate up to a maximum of 15%. This requirement becomes effective for plan years beginning after December 31, 2024.
- **Coverage for part-time workers for 401(k) and 403(b) plans** that are subject to ERISA. The Secure Act 2.0 modifies the 2019 Secure Act provision regarding the access to a retirement plan for long-term part-time workers by reducing the service requirement to two consecutive years of service with 500 or more hours in each year. Employers are allowed to disregard eligibility and vesting pre-2021 service. This requirement is effective for plan years beginning after December 31, 2024.
- **Catch-up contributions.** The annual amount is raised to \$10,000 for 401(k), 403(b) and 457(b) plans. The catch-up contributions will only apply to ages 60 through 63. The new dollar limit will be effective starting in 2025 and will be indexed for inflation beginning in 2026. Additionally, effective for plan years beginning after 2023 all catch-up contributions must be made as a Roth (after-tax) basis. An exception applies for employees who have compensation of \$145,000 or less.
- **Multiple Employer Plans (MEPs).** Permits 403(b) plan sponsors to join under a single plan (i.e., MEP or PEP). Effective for plan years beginning after December 31, 2022.
- **Hardship withdrawals.** Effective after December 31, 2022, an employer may rely on an employee's self-certification that they have experienced an event that qualifies as a financial hardship. Changes specific to 403(b) plans include a participant no longer must take a plan loan prior to requesting a hardship distribution, and a participant may request a hardship distribution

from certain employer contributions. Previously a hardship amount could only be satisfied from salary deferral amounts.

- **Cash-out amount increased.** The maximum cash-out amount is increased from \$5,000 to \$7,000 effective for distributions made after 2023.
- **Required Minimum Distributions (RMD) modifications.** Recent prior legislation raised the required minimum distribution age to 72. Beginning January 1, 2023, the Secure Act 2.0 increases the required minimum distribution age to 73. The age increases to 74 beginning in 2030 and then 75 beginning in 2033. The tax penalty of 50% of the difference of the RMD and the actual distributions the individual received is lowered to 25%. The penalty can be reduced to 10% if an IRS correction process is used. This provision is effective from the date of enactment. Lastly, the Secure Act 2.0 removes the requirement to take RMDs of Roth portions of qualified retirement plans. This rule mirrors the rule applicable to IRA Roth participants, who were already exempt from taking RMDs from their Roth IRAs. This rule is effective for tax years beginning January 1, 2024.
- **Pooled Employer Plans (PEPs).** ERISA was amended to require a PEP to designate a named fiduciary (other than the employer) to be the responsible party for gathering plan contributions and to implement collection procedures.

There are a number of other changes contained in the Secure Act 2.0 in addition to the ones discussed in this summary. Other changes made by Secure Act 2.0 will be provided in a separate Employee Benefits Alert. We would be pleased to discuss these matters with you and how they may impact your plan administration and operations.

Contact Us

The Employee Benefit Services Group at PKF O'Connor Davies is available to assist employers with all aspects of employee benefit plan compliance. For more information, please contact your client services partner or either of the following:

Timothy J. Desmond, CPA
Partner-in-Charge
Employee Benefit Services
tjdesmond@pkfod.com | 551.249.1728

Louis F. LiBrandi, EA, CEBS, ChFC, TGPC
Principal
Employee Benefit Services Group
lbrandi@pkfod.com | 646.449.6327

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