

WEALTH MANAGEMENT NEWSLETTER

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WHAT'S IN THE SECURE 2.0 ACT THAT COULD AFFECT YOU?

Who doesn't enjoy tying up year-end loose ends? The original SECURE Act was signed into law on December 20th, 2019. Its "sequel," **the SECURE 2.0 Act**, was similarly enacted at year-end on December 29th, 2022. Both pieces of legislation seek to reform how Americans prepare for retirement while juggling current spending needs. How, when, or will each of us retire? How can government incentives, regulations, and safety nets help more people safely do so—or at least not get in the way? These are questions we've been asking as a nation for decades, across shifting socioeconomic climates. Throughout, a hard truth remains:

Employers and the government play a role in helping you save for and spend in retirement, but much of the preparation ultimately falls on you.

That's America for you. The good news is, you get to call your own shots. The bad news is, you have to. Neither the original SECURE Act nor SECURE 2.0 has fundamentally changed this reality. SECURE 2.0 has, however, added far more motivational carrots than punishing sticks. Its guiding goal is right there in the name: Setting Every Community Up for Retirement Enhancement (SECURE). Following is an overview of its key components. . *We've noted with each provision when it's slated to take effect.*

SAVING MORE, SAVING BETTER: INDIVIDUAL SAVERS

First, key provisions include several updates to encourage individual savers:

- **Expanded Auto-Enrollment Requirements (2025):** Because you're more likely to save more if you're automatically added to your company retirement plan program, auto-enrollment will be required for additional new retirement plans. Even with auto-enrollment, you can still opt out individually. Also, the Act has made a number of exceptions to the rules, including, as described here, "employers less than 3 years old, church plans, governmental plans, SIMPLE plans, and employers with 10 or fewer employees."
- **Higher Catch-Up Contributions (2024–2025):** To accelerate retirement saving as you approach retirement age, SECURE 2.0 Act has increased annual "catch-up" contribution allowances for many retirement accounts (i.e., extra amounts allowed beyond the standard contribution limits); and, importantly, tied future increases to inflation. However, in many instances, the updates also require high-wage-earners (\$145,000/year or higher) to direct their catch-up contributions to after-tax Roth accounts.
- **Faster Plan Participation for Part-Time Employees (2024):** If you're a long-term, part-time employee, the SECURE Act of 2019 made it possible for you to participate in your employer's retirement plan. With SECURE 2.0, you'll be eligible to participate after 2 years instead of 3 years (after meeting other requirements).

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The SECURE 2.0 Act has numerous provisions that may be beneficial to you when planning for retirement. We have summarized some of the key updates that may have an impact on individual savers.

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A NEW YEAR

2023 has arrived and what better time to make sure your portfolio is positioned for your long-term goals. Having a financial plan can help alleviate worries of the day-to-day market.

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- **Saver's Match for Low-Income Savers (2027):** A Saver's Credit for low-income families will be replaced by a more accessible Saver's Match for those whose income levels qualify. While the credit offsets income on a tax form, the match will be a direct contribution into your retirement account, of up to \$1,000 in government-paid matching funds.
- **An Expanded Contribution Window for Sole Proprietors (2024):** If you're a sole proprietor, you'll be able to establish a Solo 401(k) through the current year's federal income tax filing date, and still fund it with prior-year contributions.
- **Potential Tax Error "Do Overs" (2025):** To err is human, and often unintentional. As such, SECURE 2.0 has directed the IRS to apply an existing Employer Plans Compliance Resolutions System (EPCRS) to employer-sponsored plans and to IRAs. The details are to be developed, but as described here, the intent is to set up a system in which "most inadvertent failures to comply with tax-qualification rules would be eligible for self-correction."
- **Finding Former Plans (2024):** It can be hard for company plan sponsors to keep in touch with former employees—and vice-versa. SECURE 2.0 has tasked the Dept. of Labor with hosting a national "lost and found" database to help you search for plan administrator contact information for former employees' plans, in case you've left any retirement savings behind.
- **More Flexible Use of Annuities (Varied):** Without going into detail, SECURE 2.0 includes several sweeteners for annuity contracts, especially those held in qualified accounts.

SAVING MORE, SAVING BETTER: EMPLOYERS

There also are provisions to help employers offer effective retirement plan programs:

- **Better Retirement Plan Start-Up Incentives (2023):** Small businesses can take retirement plan start-up credits to offset up to 100% of their plan start-up costs (versus a prior 50% cap). Also, businesses with no retirement plan can apply for start-up credits if they join a Multiple Employer Plan (MEP)—and this one applies retroactively to 2020.
- **A New "Starter 401(k)" Plan (2024):** The Starter 401(k) provides small businesses that lack a 401(k) plan a simpler path to establishing one. Features will include streamlined regulatory and reporting requirements; auto-enrollment for all employees starting at 3% of their pay; a \$6,000 annual contribution limit, rising with inflation; and a deferral-only structure, meaning the plan does NOT permit matching employer contributions.
- **Expanded SIMPLE Plan Contributions (2024):** Under certain conditions, SECURE 2.0 allows for additional employer contributions to, and higher participant contribution limits for SIMPLE IRA plans.
- **New Household Employee Plans (2023):** Families can establish SEP IRA plans for their household employees, such as nannies or housekeepers.
- **Small Perks (2023):** Until now, employers were prohibited from offering even small incentives to encourage employees to step up their retirement savings. Now, de minimis perks are okay, such as a gift card when a participant increases their deferral amount.

SPENDING TODAY, SAVING FOR TOMORROW

It can be hard to save for your future retirement when current expenses loom large. We advise proceeding with caution before using retirement savings for any other purposes, but SECURE 2.0 does include several new provisions to help families strike a balance.

- **Student Loan Payments Count as Elective Deferrals (2024):** If you're paying off student debt and trying to save for retirement, your student loan payments will qualify as elective deferrals in your company plan. This means, whether you contribute to your company retirement plan or you make student loan payments, your employer can use either to make matching contributions to your retirement account.
- **Transferring 529 Plan Assets to a Roth IRA (2024):** This one is subject to a number of qualifying hurdles, but SECURE 2.0 establishes a path for families to transfer up to \$35,000 of untapped 529 college saving plan assets into the beneficiary's Roth IRA. With proper planning, this may help families "seed" their children's or grandchildren's retirement savings with their unspent college savings.
- **New Emergency Saving Accounts Linked to Employer Plans (2024):** SECURE 2.0 has established a new employer-sponsored emergency savings account, which would be linked to your retirement plan account. Unless you are a "highly compensated employee" (as defined by the Act), you can use the account to save up to \$2,500, with your contributions counting toward matching funds going into your main retirement plan account.
- **Relaxed Emergency Plan Withdrawals (2024):** SECURE 2.0 relaxes the ability to take a modest emergency withdrawal out of your retirement plan. Essentially, as long as you self-certify that you need the money, you can take up to \$1,000 in a calendar year, without incurring the usual 10% penalty for early withdrawal. Once you've taken an emergency withdrawal, there are several hurdles before you're eligible to take another one.
- **Additional Exceptions to the 10% Retirement Plan Withdrawal Penalty (Varied):** SECURE 2.0 has established new exceptions to the 10% penalty otherwise incurred if you tap various retirement accounts too soon. For example, there are several new types of public safety workers who can access their company retirement plans penalty-free after age 50. Various exceptions are also carved out if you're terminally ill or a domestic abuse victim, or if you use the assets to pay for long-term care insurance. The Act also has modified how retirement plan assets are to be used for Qualified Disaster Recovery Distributions. Many of the new exceptions are fairly specific, so check the fine print before you proceed.

- **Relaxed Emergency Loans from Retirement Plans (2023):** If you end up living in a Federally declared disaster area, SECURE 2.0 also increases your ability to borrow up to 100% of your vested plan balance up to \$100,000, with a more generous pay-back window.
- **Expanded Eligibility for ABLE Accounts (2026):** ABLE accounts help disabled individuals save for disability expenses, while still collecting disability benefits. Before, you had to be disabled before age 26 to establish an ABLE account. That age cap increases to 46.
- **A Tax Break for Disabled First Responders (2027):** If you are a first responder collecting on a service-connected disability, at least a portion of your disability payments will remain tax-free, even once you reach full retirement age and begin taking a retirement pension.

ALL THINGS ROTH

Tax planning for your retirement savings is also important. To help with that, you can typically choose between two account types as you save for retirement: *Traditional* IRA or employer-sponsored plans, or *Roth* versions of the same.

Either way, your retirement savings grow tax-free while they're in your accounts. The main difference is whether you pay income taxes at the beginning or end of the process. For Roth accounts, you typically pay taxes up front, funding the account with after-tax dollars. Traditional retirement accounts are typically funded with pre-tax dollars, and you pay taxes on withdrawals.

That's the intent, anyway. To fill in a few missing links, the SECURE 2.0 Act:

- Eliminates Required Minimum Distributions for employer-sponsored Roth accounts, such as Roth 401(k)s and Roth 403(b)s, to align with individual Roth practices (2024)
- Establishes Roth versions of SEP and SIMPLE IRAs (2023)
- Lets employers make contributions to traditional and Roth retirement accounts (2023)
- Lets families potentially move 529 plan assets into a Roth IRA (2024 – as described above)

There's one thing that's not changed, although there's been talk that it might: There are still no restrictions on "backdoor Roth conversions" and similar strategies some families have been using to boost their tax-efficient retirement resources.

SPEAKING OF RMDs

Not surprisingly, the government would prefer you eventually start spending your tax-sheltered retirement savings, or at least pay taxes on the income. That's why there are rules regarding when you must start taking Required Minimum Distributions (RMDs) out of your retirement accounts. That said, both SECURE Acts have relaxed and refined some of those RMD rules.

- **Extended RMD Dates (2023):** the original SECURE Act postponed when you must start taking taxable RMDs from your retirement account—from 70 ½ to 72. The SECURE 2.0 Act extends that deadline further. If you were born between 1951–1959, you can now wait until age 73. If you were born after that, it's age 75.

- **Reduced Penalties (2023):** If you fail to take an RMD, the penalty is reduced from a whopping 50% of the distribution to a slightly more palatable 25%. Also, the penalty may be further reduced to 10% if you fix the error within a prescribed correction window.
- **Aligned RMD Rules for Personal and Employer-based Roth Accounts (2024):** As mentioned above, RMDs have been eliminated from employer-based Roth accounts. If you've already been taking them, you should be able to stop doing so in 2024.
- **Enhanced RMDs for Surviving Spouses (2024):** If you are a widow or widower inheriting your spouse's retirement plan assets, you will be able to elect to determine your RMD date as if you were your spouse. This provision can work well if your spouse was younger than you. As described here: "RMDs for the [older] surviving spouse would be delayed until the deceased spouse would have reached the age at which RMDs begin."

AN ADDENDUM FOR CHARITABLE DONORS

One good thing hasn't changed with SECURE 2.0: Even though RMD dates have been extended as described, you can still make Qualified Charitable Distributions (QCDs) out of your retirement accounts beginning at age 70 ½, and the income is still excluded from your taxable adjusted gross income, as well as from Social Security tax and Medicare surcharge calculations. Plus, beginning in 2024, the maximum QCD you can make (currently \$100,000) will increase with inflation. Also, with quite a few caveats, you will have a one-time opportunity to use a QCD to fund certain charitable trusts or annuities.

NEXT STEPS

How else can we help you incorporate SECURE 2.0 Act updates into your personal financial plans? The landscape is filled with rabbit holes down which we did not venture, with caveats and conditions to be explored. And there are a few provisions we didn't touch on here. As such, before you proceed, we hope you'll consult with us and possibly others (such as your estate planning attorney) to discuss the details specific to you. Come what may in the years ahead, we look forward to serving as your guide through the ever-evolving field of retirement planning. Please don't hesitate to reach out to us today with your questions and comments.

Reference Materials and Additional Reading:

- Congress.gov, H.R.2617 - Consolidated Appropriations Act, 2023 (containing Division T – Secure 2.0 Act of 2022), December 29, 2022.
- Kitces.com, "SECURE Act 2.0: Later RMDs, 529-to-Roth Rollovers, And Other Tax Planning Opportunities," Jeffrey Levine, December 28, 2022.
- The Street, "How Will SECURE 2.0 Affect You?" Echo Huang, December 29, 2022
- The National Law Review, "SECURE 2.0 Act of 2022 Arrives: (Another) Landmark Retirement Package," December 23, 2022.
- U.S. House Ways & Means Committee, "The Securing a Strong Retirement Act of 2021."
- ASPPA, "It's Official: SECURE 2.0 Enacted into Law," Ted Godbout, December 30, 2022.



A NEW YEAR

Many of us start a new year with a certain amount of anxiety coupled with anticipation and hope. Nobody knows what the future will hold. We can make all kinds of plans, but there are no guarantees on the outcomes.

Similarly, there are no guarantees on what the future will hold for the financial markets. No one can predict on a consistent basis what will happen. Will we still be dealing with inflation, COVID, and the war in Ukraine? These are just carryover concerns. What else might come up in 2023?

Not accounting for life-changing events, based upon your risk aversion and plans for your future, we have attempted to build a portfolio that would fulfill your needs for the long-term. Because you have a portfolio that is diversified and based upon your wants and desires, you shouldn't dwell upon what is going on daily in the market.

We are often asked "when would be a good time to invest?" No one actually knows with any certainty the optimal time to invest. However, we usually say that anytime is probably the right time to invest. The market will fluctuate both higher and lower over time, and we can help you take advantage of those fluctuations through rebalancing the investments within your portfolio. Rebalancing provides the basis for selling "high" and buying "low" during fluctuations in the market. We use this formula for a successful investment experience over the long-term.

So no matter what goes on in the market on a daily basis during 2023, don't let it weigh on your mind. Your portfolio was designed specifically for you to be able to stick with your financial plan. However, if you do experience a life-changing event, please consult with us. We will be glad to help you determine if any adjustments to your financial plan and investment portfolio need to be made under those circumstances.

Best wishes to you and your family in 2023!

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