CANDOR ASSET ADVISORS

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Secure Act 2.0 Highlights – How It May Impact Your Retirement Accounts, 529s, Qualified Charitable Distributions

Setting Every Community Up for Retirement Enhancement Act of 2019 (Secure 2.0) was signed into law by President Biden in December 2022. Below we outline some of the key provisions:

529 Plans

- After 15 years, 529 plan assets can be rolled over to a Roth IRA tax and penalty free for the beneficiary subject to annual Roth contribution limits and an aggregate lifetime limit of $35,000. The rollover is treated as a contribution toward the annual Roth IRA contribution limit. Any 529 plan contributions made in the previous five years, and any earnings attributed to those contributions, are not eligible to be rolled into a Roth IRA. These provisions come into effect in 2024[i].

Changes to Retirement Account Contribution Limits and Rules

- SIMPLE IRAs can now accept Roth contributions. SEP Roth IRAs can now accept employee and employer SEP Roth contributions. These provisions go into effect after 12/31/22[ii].
- Employers can permit plan participants to receive vested employer matching contributions or vested employer non-elective contributions on a Roth (after tax basis) rather than a pre-tax basis. This provision treats employer contributions as Roth contributions. To take advantage of this provision, plan participants elect a Roth, pay taxes up front and later take out matching contributions or non-elective contributions and any earnings as tax-free. This provision is effective as of 1/1/23[iii].
- IRA savers over age 50 will be able to make catch up contributions of $1,000 + IRS cost-of-living adjustments (COLA). The provision becomes effective for taxable years beginning after 12/31/23[iv].
- For SIMPLE IRAs, the age 50+ catch-up contribution limit has been increased by 10% after 12/31/23[v].
- For SIMPLE IRA or 401k plans with 26 to 100 employees, employees are allowed to provide higher deferral limits if the employer provides a 4% matching contribution or a 3% employer contribution after 12/31/23[vi].
- Employee catch up contributions must be made with after tax (Roth dollars) for employees making more than $145,000 per year adjusted for inflation. Employees making less than $145,000 are permitted to make catch-up contributions on a pre-tax or after-tax (Roth) basis. These provisions become effective after 12/31/23[vii].
- 401k, 403b and 457 plan participants aged 60-63 will be able to make larger catch-up contributions beginning after 12/31/24. The maximum contribution will be raised to the greater of $10,000 or 150% of the "standard" catch up amount for that year[viii].
- For SIMPLE plans, the catch-up contribution limit increases from $3,500 to $5,000 indexed to inflation. The provisions go into effect after 12/31/24[ix].
- The new law reduces the length of service for part-time, long-term employees (those who are 21+ years of age and performed at least 500 hours of service in consecutive years) to be included in the plan from three years to two years. Plan sponsors are not required to match elective deferrals made by part-time long-term employees. These provisions also apply to ERISA covered 403b plans. These provisions become effective 1/1/25[x].
- Beginning in 2025, employers are required to automatically enroll eligible employees in new 401k and 403b plans with a participation amount of at least 3% but no more than 10% of compensation. Each year thereafter, that amount is increased by 1% until it reaches at least 10% but not more than 15%. Employees can opt out of plans if they wish. Small businesses (<10 employees), new businesses (<3 years old) church plans and government plans are exempt from the provision. All current 401k plans are grandfathered, which means that employers sponsoring existing 401k plans are not required to add automatic enrollment[xi],[xii].

Expanded Access to Retirement Funds

- Victims of a qualified, federally declared natural disaster can withdraw up to $22,000 from their retirement account without penalty. The withdrawal is treated as gross income over three years without penalty. This provision became effective for disasters on or after January 26th 2021[xiii],[xiv].
- The Secure Act 2.0 eliminates the early 10% distribution penalty for a withdrawal made by a terminally ill individual (certified by a physician to die in 84 months or less) under age 59.5. This provision is effective as of 1/1/23[xv].
- Participants under age 59.5 may access up to $1,000 (once per year) from retirement savings for emergency personal or family expenses without having to pay the 10% early withdrawal penalty. Tax payers can repay the withdrawal within three years; however no further emergency withdrawals are permitted during this period unless repayment occurs. This provision becomes effective 1/1/24[xvi].
- Employees can set up Roth emergency savings accounts for up 3% with a $2,500 cap per participant. Employer matching is also capped at $2,500 annually on an inflation adjusted basis. The first four withdrawals per year from emergency savings accounts will be tax free and penalty free. These provisions are effective 1/1/24[xvii], [xviii].
- Survivors of domestic abuse under age 59.5 can withdrawal the lesser of $10,000 or 50% of their retirement account without penalty starting 1/1/24. The withdrawal must occur within one year after an individual became a victim of abuse. Plan participants can repay the withdrawn amount over three years and will be refunded income taxes on the repaid amount[xix].
- Effective in 2026, for individuals under age 59.5; withdrawals of up to $2,500 per year can be made to pay premiums for certain types of long-term care contracts and not be subject to early withdrawal penalties[xx].

Retirement Plan Annuity Provisions

- Individuals can now move up to $200,000 (adjusted for inflation) to qualified longevity annuity contracts (QLAC). QCLA begin payments on or before age 85. QLAC premium rules have been eliminated. Some provisions of the act apply to QLACs purchased or received after 7/2/14 while others became effective in late December 2022[xxi].

Matching Student Loan Payments

- Starting 1/1/24, employers will be permitted to make matching contributions to retirement plans based upon employee's student loan payments for 401k, 403b, 457b plans or SIMPLE IRAs. Matching contributions on student loan payments must vest under the same schedule as other matching contributions under the plan. Additional employer compliance provisions apply[xxii],[xxiii].

New Required Minimum Distribution (RMD) Rules

- The required minimum distribution start age increased to age 73 for terminated individuals and 5%+ owners turning 72 after 12/31/22 and before 1/1/2033. The RMD start age increases to age 75 for individuals turning age 74 after 12/31/23. If you turned age 72 in 2022 or earlier, you need to continue taking RMDs as scheduled[xxiv].
- The penalty for failure to take an RMD falls from 50% to 25% or 10% (for IRAs if you correct it in a timely manner). The provision is effective for taxable years beginning after 12/31/22[xxv].
- Living owners of Roth 401ks are no longer required to take required minimum distributions. This provision takes effect for taxable years beginning after 12/31/23[xxvi].

Qualified Charitable Distributions (QCDs)

- Beginning in 2023, people who are age 70.5 and older may elect as part of their QCD limit a one-time gift up to $50,000, adjusted annually for inflation, to a charitable remainder unitrust, a charitable remainder annuity trust or charitable gift annuity. The amount can count toward the annual RMD, if applicable. The gift must come directly from your IRA by the end of the calendar year to qualified charities[xxvii].
- Under current law, individuals age 70-1/2 and older can direct up to $100,000 in distributions per year from a traditional IRA to qualified 501(c)(3) charitable organizations. Effective in 2024, a new provision will allow the maximum contribution amount to increase based on the inflation rate[xxviii].

Other Employer Retirement Plan Provisions

- There are other new employer retirement plan administrator provisions to know about[xxix].

Disclosures

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Endnotes

[i], [xv], [xx], [xxviii] What the Secure Act 2.0 means for your retirement savings | U.S. Bank (usbank.com)

[ii], [xiv], [xxiii], [xxvi] SECURE 2.0 Act—Cheat Sheet | T. Rowe Price (troweprice.com)

[iii], [x], [xi], [xvi], [xvii], [xix], [xxii], [xxiv], [xxix] First Look at the Secure Act 2.0 - The CPA Journal

[iv], [v], [vi], [vii], [viii], [ix], [xii], [xiii], SECURE 2.0 Act of 2022 (investopedia.com)

[xvii], [xxi], [xxv], [xxvii] Secure Act 2.0 | What the new legislation could mean for you (fidelity.com)