

Recent SECURE 2.0 Guidance Regarding Corrections for Automatic Enrollment Failures

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PRACTICES Employee Benefits and Executive Compensation

As we previously reported, on December 20, 2023, the IRS issued Notice 2024-02 (the **“Notice”**), which provided guidance on several provisions of the SECURE 2.0 Act for retirement plans. This article is the fourth in a series of articles on recent SECURE 2.0 Act guidance and covers the expansion of available corrections to certain automatic enrollment failures.

The SECURE 2.0 Act codified a safe harbor for correcting reasonable administrative errors in implementing automatic enrollment and automatic escalation failures, which was previously available under the IRS’s Employee Plans Compliance Resolution System. An employer who begins implementing the correct deferrals by the safe harbor deadline and satisfies the notice requirement must contribute any missed matching contributions to the affected employee’s account by the corrective allocation deadline but is not obligated to make a qualified nonelective contribution with respect to the missed elective deferrals.

The general safe harbor deadline is the first payment of compensation on or after the last day of the nine-and-a-half-month period following the end of the plan year in which the implementation error occurred. However, if the employee notified the employer of the error, then the error must be corrected by the first payment on or after the last day of the month in which the notification was made if earlier than the general safe harbor deadline. The error must be corrected for all similarly situated participants in a nondiscriminatory manner, and notice of the error must be given to affected employees within 45 days after the date the error is corrected.

In the Notice, the IRS clarified that the above safe harbor only applies to implementation failures for which the above correction date falls after December 31, 2023, and that the safe harbor is an available correction method even if the affected employee terminates employment.

The IRS clarified employers have up to six months after the month in which the correct elective deferrals begin to make a corrective allocation of matching contributions. If there are certain automatic contribution errors that started on or before December 31, 2023, employers have until the end of the third plan year following the year in which the error occurred to make a corrective allocation of matching contributions.

The Notice is available [here](#). For further information regarding this provision and the SECURE 2.0 Act in general, please refer to our recent prior blog posts linked below. In our next article, we plan to discuss guidance regarding plan-linked emergency savings accounts.

- [Recent SECURE 2.0 Guidance Regarding Automatic Enrollment Features](#)
- [Recent SECURE 2.0 Guidance Regarding Optional Treatment of Employer Matching or Nonelective Contributions as Roth Contributions](#)
- [Recent SECURE 2.0 Act Guidance Regarding Small Immediate Financial Incentives and Penalty-Free Withdrawals for Terminal Illness](#)

