

SECURE 2.0 Act Increases Age for Required Minimum Distributions

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PRACTICES Employee Benefits and Executive Compensation, Retirement Plans

As we previously noted [here](#), the SECURE 2.0 Act increases the statutory age by which required minimum distributions must begin from tax-qualified retirement plans.

The SECURE 2.0 Act change only applies to participants who turn age 72 after December 31, 2022. It does not change the required minimum distributions for those participants who turned age 72 in 2022 or an earlier year.

Under the distribution requirements of the first SECURE Act enacted on December 20, 2019, most participants are required to receive minimum distributions by April 1 of the year next following the later of (i) the year in which the participant turns age 72 or (ii) the year in which the participant terminates employment. Participants who are “five-percent owners” are required to receive minimum distributions starting by April 1 of the year next following the year in which the participant turns 72 regardless of their employment status.

Under the SECURE 2.0 Act, the required minimum distribution age is increased from 72 to 73 for participants who were born in the years 1951 through 1959 (*i.e.*, an individual “who attains age 72 after December 31, 2022, and age 73 before January 1, 2033”). Further, the required minimum distribution age is further increased from age 73 to 75 for participants who were born in 1959 or later (*i.e.*, an individual “who attains age 74 after December 31, 2032). Presumably, the incongruity for individuals born in 1959 (who both attained age 73 before January 1, 2033, and attained age 74 after December 31, 2032) will be corrected by a future technical amendment.

Although the SECURE 2.0 Act raises the statutory minimum distribution age, retirement plans may incorporate a minimum distribution age that is earlier than the statutory requirement. Consequently, a plan sponsor is not required to amend the plan to increase the required minimum distribution age because of SECURE 2.0 Act. However, if a plan sponsor elects not to increase the required minimum distribution age, it should be aware that the tax treatment of a distribution made at the earlier plan deadline may be different than if the distribution is made at the later statutory deadline, including eligibility of the distribution for rollover. In addition, plan administrators of plans that do not increase the required minimum distribution age should be aware that missed distributions that occur after the plan deadline but before the statutory deadline may result in an operational failure to follow the plan’s terms but not a violation of the minimum distribution requirements of the Internal Revenue Code, which may require a different correction under the IRS’s Employee Plans Compliance Resolution System.

Plan sponsors should start thinking now about whether to increase the required minimum distribution age requirement and should consult with the plan’s third party administrator or recordkeeper to ensure that any decisions that are made regarding required minimum distribution timing will be compatible with the service provider’s platform. Once a decision has been made, the plan sponsor must ensure that, if applicable, the plan documents are timely amended. The plan administrator must accurately communicate to participants any change in distribution requirements

and ensure that the plan is administered in compliance with the plan sponsor's decision for all relevant periods, including those periods during which the requirements have changed but which precede the formal adoption of a plan amendment.