SECURE 2.0 Act Plan Sponsor Year-End Compliance: Participant Contributions and Distributions

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As we previously reported here, the SECURE 2.0 Act was signed into law on December 29, 2022. Although retirement plan amendments made pursuant to the SECURE 2.0 Act are generally not required to be made until on or before the last day of the first plan year beginning on or after January 1, 2025 (2027 in the case of governmental plans), plans must operate in accordance with such amendments as of the effective date of the statutory provisions.

Below is a summary of the SECURE 2.0 Act provisions applicable to participant contributions and distributions that will become effective on January 1, 2024. Next week, we will report on permissive plan sponsor design changes and plan correction-related provisions that will also become effective next year. For a full list of our articles concerning the SECURE 2.0 Act, including additional detail regarding the provisions summarized below, please refer to the links to our prior blog posts below.

- **Emergency savings accounts linked to individual account plans:** Plans may, but are not required to, provide emergency savings accounts as part of a defined contribution plan up to $2,500 for non-highly compensated employees with penalty-free withdrawals.
- **No pre-death Roth required minimum distributions:** There is no longer a requirement to make lifetime required minimum distributions from Roth designated accounts in employer retirement plans.
- **Surviving spouse election to be treated as employee:** Surviving spouses are permitted to elect to be treated as the deceased employee under the spouse's plan for purposes of the required minimum distribution rules.
- **Withdrawals for individual cases of domestic abuse:** Plans may, but are not required to, permit distributions to domestic abuse survivors equal to the lesser of $10,000, indexed for inflation, or 50% of the participant's account balance. Such distributions are exempt from the 10% penalty tax, and the participant has the option to repay the distribution back into the plan within three years.
- **Withdrawals for certain emergency expenses:** Plans may, but are not required to, permit distributions for certain emergency expenses, which are unforeseeable or for immediate financial needs relating to personal or family emergency expenses, up to $1,000 per year. Such distributions are exempt from the 10% penalty tax, and the participant has the option to repay the distribution back into the plan within three years.
- **Updating dollar limit for mandatory small benefit distributions:** Increases the maximum account balance or accrued benefit for which an employer can force a distribution from $5,000 to $7,000.

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On a positive note for plan sponsors, as we reported here, the IRS will delay enforcement of the SECURE 2.0 Act requirement that, starting next year, catch-up contributions to qualified retirement plans for employees with compensation greater than $145,000 (indexed for inflation) must be made on a Roth basis, and all other employees must be given the option to elect Roth treatment for catch-up contributions. In Notice 2023-62, the IRS explains that although this requirement goes into effect next year, the IRS will treat a plan as satisfying this requirement during a two-year administrative transition period even if the plan does not provide for designated Roth contributions.

For further information on the above provisions and the SECURE 2.0 Act in general, please refer to our prior blog posts linked below.

- IRS Issues Relief for Enforcement of Roth Catch-Up Contribution Requirement for Highly Paid Employees Under SECURE 2.0 Act
- IRS Transition Relief for Required Minimum Distributions Under SECURE 2.0 Act
- IRS Issues Interim Guidance on Expanded EPCRS
- SECURE 2.0 Act: Focus on Governmental 457(b) Plans
- SECURE 2.0 Act: Focus on 401(k) and 403(b) Plans – Changes to Plan Corrections Guidance
- SECURE 2.0 Act: Focus on 401(k) and 403(b) Plans – Plan Design Changes
- SECURE 2.0 Act: Focus on 401(k) and 403(b) Plans Distribution and Withdrawal Changes
- SECURE 2.0 Act: Focus on Pension Plans
- SECURE 2.0 Act: Permissive Plan Design Changes
- SECURE 2.0 Act Increases Age for Required Minimum Distributions
- SECURE 2.0 Act: Changes to Plan Corrections Guidance
- SECURE 2.0 is Here! What's Next for Plan Sponsors?
- Major Retirement Legislation Passed by Congress: SECURE 2.0 Act

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