Legislative Update

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What You Need to Know About the SECURE 2.0 Act

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The Key Wealth Institute is a team of highly experienced professionals from across wealth management, dedicated to delivering commentary and financial advice. From strategies to manage your wealth to the latest political and industry news, the Key Wealth Institute provides proactive insights to help grow your wealth.

Just when you thought you had an up-to-date retirement plan solidified, accounting for all the changes of the Setting Every Community Up for Retirement (SECURE) Act of 2019, Congress wrapped up 2022 with the SECURE 2.0 Act.

President Joe Biden signed the 4,000-plus page bill into law on Dec. 29. Its 92 provisions affect consumers, businesses and plan sponsors. This article focuses on the key changes affecting consumers; the others will be addressed separately.

SECURE 2.0 builds on the 2019 act by improving access to retirement plans and expanding the paths for contributing to 401(k)s, Roths and IRAs. Unhappily for some, the updated legislation did not restore the so-called "Stretch IRA," which was eliminated in 2019. Noneligible designated beneficiaries of inherited retirement accounts are still required to be distributed over 10 years instead of over their lifetimes.

But the new legislation creates opportunities to save for millions of individuals at or near retirement age as well as those just entering the workforce. There are dozens of provisions that benefit specialized groups such as private-sector firefighters, military spouses, surviving spouses, disabled employees, students, domestic employees and victims of domestic abuse.

Some changes start this year, but do not panic: There should be plenty of time to get your tax return out of the way, then meet with your financial advisor to discuss how – or whether – you need to adjust your retirement strategies yet again.

Here are some of the highlights of SECURE 2.0:

- Big changes for required minimum distributions (RMDs). The age that you must begin making minimum withdrawals is increased from 72 to 73 immediately and increases again to 75 in 2033. Beginning in 2024, RMDs will no longer be required for Roth accounts in employer retirement plans.

- Catching up more quickly. Beginning in 2025, some employees in their early 60s will be able to make larger catch-up contributions to several kinds of retirement accounts, including your 401(k).

- New rules for student loan payments. Beginning in 2024, employers will be able to make matching contributions to workers' retirement accounts based on qualifying student loan payments.

- Rollovers from 529 accounts to Roth IRAs. Effective in 2024, 529 assets that meet certain requirements can be rolled over into a Roth IRA for the beneficiaries.

- Mandatory participation in employee retirement plans. Beginning in 2025, most new 401(k) and 403(b) plans will have to provide automatic enrollment for new employees. Employees can request to opt out and many small companies and government and church plans won't be affected.

- **Expansion of coverage of part-time workers.** Beginning in 2024, the act should increase the number of part-time employees eligible for employer 401(k) or 403(b) plans by reducing the work requirement to two consecutive years of 500 hours of service, down from the prior requirement of three years of 500 hours annually or one year of 1,000 hours.

- **More exceptions for early withdrawals.** Restrictions on distributions before age 59 1/2 will be loosened for many public safety workers, employees affected by disasters and domestic abuse victims, among others. This will provide many more penalty exceptions. However, amounts withdrawn will still be subject to income taxation.

- **An increase in qualified charitable distributions (QCD) amount.** Beginning in 2024, the maximum annual amount allowed for QCDs will be indexed for inflation instead of limited to $100,000. There also will be a one-time opportunity to use a QCD to fund several kinds of split-interest charitable trusts.

- **Emergency savings plans.** Employees who are not highly compensated will be eligible to participate in an Emergency Savings Account that will be linked to an existing employer retirement plan where funds can be withdrawn penalty-free during an emergency.

Here's a timeline for when these and other provisions of SECURE 2.0 take effect:

Effective in 2023

- The age for required minimum distributions increases from 72 to 73.
- Ability for SIMPLE IRAs to accept Roth contributions and employers to offer employees the ability to treat employee and employer SEP contributions as Roth (in whole or in part).
- Defined contribution plans can provide participants with the option of receiving matching contributions on a Roth basis.
- The penalty for failure to take RMDs will be reduced from 50% to 25% and will be further reduced to 10% if the failure is corrected promptly.
- Employers and plan providers can offer "de minimis financial incentives" like gift cards for employees to sign up for a plan.
- Public safety officers can exclude up to $3,000 of retirement benefits to pay for health insurance.
- New rules apply for annuities in employer-sponsored plans, including an increase to a maximum of $200,000 that can be used to purchase qualified longevity annuity contracts (QLACs) and the elimination of certain IRS barriers to the distribution of annuity benefits.
- Taxpayers will be able to use a qualified charitable distribution of up to $50,000 each to make a one-time distribution to a charitable split-interest trust, but there are numerous restrictions, so check with your financial advisors.
- Non-highly compensated employees will be able to contribute up to $2,500 annually to an "Emergency Savings Account" linked to an existing employer retirement plan that they can access for emergency use without penalty.

Effective in 2024

- Limits on catch-up contributions to Traditional and Roth IRAs will automatically begin to adjust for inflation in increments of $100.
- Catch-up contributions to qualified retirement plans for high-income taxpayers are subject to Roth tax treatment.
- No pre-death RMD requirement for Roth-related retirement accounts.
- Employers can begin treating student loan debt payments by employees as an elective salary deferral for matching contribution purposes and contribute the allowed amount to their retirement savings accounts.
- The maximum allowable qualified charitable distribution will be indexed for inflation.
- An exception for penalty-free distribution from a retirement account for some emergency expenses kicks in, but only one exception per year of not more than $1,000. The employee must submit the request in writing.
- Domestic abuse survivors will be able to withdraw up to $10,000 from a retirement account without an early-distribution penalty.
- Retirement plans known as Starter 401(k)s will be available for small businesses to offer employees that require all employees be default enrolled in the plan at a 3 to 15 percent of compensation deferral rate.

- Beneficiaries of certain 529 savings plans for education expenses can begin transferring unused funds, up to a lifetime maximum of $35,000, into their Roth IRA if the 529 account has been active for at least 15 years.
- Contribution and catch-up limits will be raised for SIMPLE IRA plans, available only to companies with 100 or fewer people. Companies with 25 or fewer employees can increase the limits by 10% when workers reach age 50. Companies with 26 to 100 employees will have to meet certain conditions to provide the increases.

Effective in 2025

- Companies that have been in existence for three or more years with 10 or more employees must begin automatic enrollment for new employees in the company-sponsored retirement plans. Contributions must be at a rate of at least 3% compensation, which will increase annually. Retirement plans started after Dec. 29, 2022, must increase their contribution percentages by at least 1% annually, up to at least 10% but no more than 15%.
- Coverage will be improved for part-time employees. Reduces the three-years of service rule to two years service of at least 500 hours of service to participate in a company's retirement plans.
- Catch-up contribution limits for retirement plans will be increased for employees in 401(k) or 403(b) plans who are aged 60 to 63. That limit will be increased from $6,500 to the greater of $10,000 or 150% of the catch up amount.

Effective in 2027

- Lower-income employees will be eligible for a federal Saver's Match contribution of up to $1,000 (50% of their contributions up to a max of $2,000) to their retirement savings accounts. The benefit is phased out at higher income levels and full-time students won't be eligible. This is an update from the government's current Saver's Credit program.

Effective in 2033

- The RMD age is increased to 75.

Many of these provisions are greatly detailed and contain numerous exceptions, income limits or other requirements. Again, contact your financial advisor to discuss which could benefit you.

About the Author

As the Director of Financial Planning for Key Private Bank, Tina is responsible for managing the Central Planning Team, as well as overseeing the National Advisory Committee, Monthly National Advisory Call and any financial planning literature developed internally and externally. She works with our Regional Directors of Planning to help facilitate our best thinking and advice delivery to clients.

Tina earned a B.S. in Bus. Admin. from the Univ. of Richmond and an M.Tax from Virginia Commonwealth Univ. She is a CFP® certificant, CPA/PFS, and is an AEP®. She is Treasurer of the Put-in-Bay Community Swim & Sail Program. Tina received the 2016 Exceptional Service Award from the Cleveland Estate Planning Council and the Circle of Excellence Award by Key Private Bank in 2016 and 2018.

Source: https://www.finance.senate.gov/imo/media/doc/Secure 2.0_Section by Section Summary 12-19-22 FINAL.pdf

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