Hemenway & Barnes LLP

Important Retirement Account Changes Under the SECURE 2.0 Act of 2022

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ALERT

On December 29, 2022, the SECURE 2.0 Act of 2022 (SECURE 2.0) was signed into law as part of the Consolidated Appropriations Act, 2023. SECURE 2.0 seeks to encourage saving for retirement. Here are a few of the important changes for:

- Those near retirement,
- Those not near retirement, and
- ALL those saving for retirement.

Relevant Changes for Those Near Retirement:

Increased RMD Age:

- Generally, almost every dollar withdrawn from a traditional retirement account must be reported as ordinary income on your tax return. Increasing the amount of time assets may remain in a retirement account allows for greater tax-deferred compounding of returns over time.
- Previously, retirement plan participants needed to begin taking "required minimum distributions" (RMDs) from their plans at age 72.
- Under SECURE 2.0, the age RMDs must begin is increased to age 73 *as of January 1, 2023*, and further increased to age 75 *as of January 1, 2033*.

Increased Catch-up Contribution Amounts:

- There is a limit on annual contributions to retirement plans but employees who have reached age 50 have been able to make catch-up contributions above the cap.
- With some exceptions, SECURE 2.0 increases the amount of these catch-up contributions for persons ages 60-63 to the greater of $10,000 or 150% of the regular catch-up contribution amount.
- This change is effective for taxable years beginning *after December 31, 2024*.

Reduction in Penalties for Missed RMDs:

- To the extent a retirement plan participant withdraws less than the full amount of the RMD, the penalty is now 25% of the missing payment (reduced from 50%).
- In addition, if the missed payment is corrected within a certain timeframe, the penalty is further reduced to 10%.
- This change is effective for taxable years beginning *after December 29, 2022*, so it applies now.

Relevant Changes for Those Not Near Retirement:

Automatic Enrollment:

- Currently, many employees do not participate in retirement plans offered by their employers. Automatic enrollment is intended to increase participation in employer sponsored retirement plans and, therefore, increase retirement savings.
- Under SECURE 2.0, employees will be automatically enrolled in certain types of new retirement plans for an amount between 3-10% of their compensation. The automatic enrollment amount will also increase by 1% each year until it reaches at least 10% of a participant's compensation (not to exceed 15%).
- Employees will have the ability to opt out of such automatic enrollment (or change their contributions levels).
- There are some exceptions to this automatic enrollment for new retirement plans, including for small businesses.
- This change is effective for plan years beginning *after December 31, 2024*.

Student Loan Payments and Matching Contributions:

- Previously, employees with student loan debt may not have felt able to contribute to any retirement plans offered by their employers. In such cases, employees were then also not receiving available matching contributions to retirement plans from their employers.
- Under SECURE 2.0, employers may make matching contributions to retirement plans for certain student loan payments made by employees.
- This change is effective for contributions made for plan years beginning *after December 31, 2023*.

Rollovers from 529 Plans:

- 529 Plans are a specialized type of investment account originally intended to help families save for college by allowing for tax-free growth of investments within the account and tax-free withdrawals for "qualified higher education" expenses (including tuition and fees, required supplies and equipment, and in some cases, room and board). Families concerned with "over-funding" 529 Plans may be hesitant to contribute to such accounts, since there are penalties or taxes for non-qualified withdrawals.
- To encourage contributions to 529 Plans, SECURE 2.0 permits beneficiaries of 529 Plans to rollover up to $35,000 during their lifetimes from their 529 Plans to their Roth Individual Retirement Arrangements (IRAs). Such rollovers are still limited by annual contribution limits. In addition, the 529 Plan must have been open for more than 15 years.
- This change is effective for distributions *after December 31, 2023*.

Relevant Changes for All Those Saving for Retirement:

Distributions to Charities:

- Currently, retirement plan owners who are at least age 70 ½ have the ability to give up to $100,000 per year to charities directly from their IRAs as qualified charitable distributions (QCDs). These QCDs count towards a plan owner's RMD and are not included in the plan owner's taxable income.
- SECURE 2.0 adjusts the $100,000 QCD limit for inflation starting in 2024. In addition, SECURE 2.0 permits a QCD of up to $50,000 per lifetime (not annually) to certain "life income" charitable vehicles, such as charitable gift annuities, charitable remainder unitrusts and charitable remainder annuity trusts.
- This change is effective for taxable years beginning *after December 29, 2022*, so it applies now.
- For more details on the expanded opportunities for charitable giving with retirement assets, see "Expanded Opportunities for Charitable Giving with Retirement Assets."

Distributions from Roth Accounts:

- Roth Accounts are retirement accounts where after-tax dollars are contributed to the accounts. As a result, distributions out of Roth Accounts are tax free and for Roth IRAs, RMDs are not required during the account owner's lifetime. However, prior to SECURE 2.0, owners of a Roth 401(k) or other Roth-designated accounts in an employer sponsored retirement plan were required to take RMD's during life.
- Under SECURE 2.0, pre-death RMDs are no longer required even for Roth 401(k)s or other accounts in employer sponsored retirement plans.
- In general, this change is effective for taxable years beginning *after December 31, 2023*.

Exceptions for Terminal Illness:

- Currently, a 10% penalty or tax applies to early withdrawals from retirement accounts.
- SECURE 2.0 creates an exception to this penalty for distributions to terminally ill participants.
- This change is effective for distributions made *after December 29, 2022*, so it applies now.

Contact Us

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