SETTING EVERY COMMUNITY UP FOR RETIREMENT ENHANCEMENT (SECURE) ACT 2.0

On December 29, 2022, the SECURE Act 2.0 was signed into law. The SECURE Act 2.0 includes a number of retirement savings and employee benefit changes. The summary below was prepared by Prime Retirement Solutions, LLC. to explain some of the relevant retirement plan changes and when they are effective.

Effective January 1, 2023

- Required Minimum Distributions (RMD)
  - Under the original SECURE Act some plan participants were to receive required minimum distributions by April 1 following the year the participant attains age 72. The SECURE Act 2.0 changes the RMD age from 72 to 73.
  - The RMD age will be increased from age 73 to age 75 in 2033.
  - Penalty for failure to receive an RMD was reduced from 50% to 25%.

- Modification of Tax Credit for Small Business Plan Startup Costs
  - Previously, the 3-year small business startup credit was 50% of administrative costs, up to an annual cap of $5,000. The SECURE Act 2.0 increases the startup credit from 50% to 100% for employers with up to 50 employees.
  - Except in the case of defined benefit plans, an additional credit is provided. The amount of the additional credit generally will be a percentage of the amount contributed by the employer on behalf of employees, up to a per-employee cap of $1,000. This full additional credit is limited to employers with 50 or fewer employees and phased out for employers with between 51 and 100 employees. The applicable percentage is 100 percent in the first and second years, 75 percent in the third year, 50 percent in the fourth year, 25 percent in the fifth year – and no credit for tax years thereafter.

- Optional Treatment of Employer Matching or Nonelective Contributions as Roth
  - Previously, a retirement plan can only provide company contributions as pre-tax contributions.
  - Under the SECURE Act 2.0, matching contributions or nonelective contributions can be provided on a Roth basis if the participant is 100% vested.

- Participant Notices
  - The SECURE Act 2.0 eliminates the requirement to furnish some notices to participants who have not elected to make 401k contributions to the plan.
  - The SECURE Act 2.0 will require that these unenrolled participants still receive the current Summary Plan Description, an annual notice reminding them of the ability to participate in the plan, and any otherwise required plan document requested at any time by the unenrolled employee.

- PBGC Covered Plan Variable Rate Premium set at $52
  - Cash balance and defined benefit plans covered by the Pension Benefit Guaranty Corporation must pay annual premiums to the PBGC.
  - A portion of the premium is subject to a variable rate which previously increased annually based on cost-of-living increases.
  - The SECURE 2.0 Act sets the variable rate at $52 per $1,000 in unfunded vested benefits with no future increases.

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- Employee Plans Compliance Resolution System (EPCRS)
  - This IRS program has been expanded to include self-correction for inadvertent failures.
  - Certain correction methods related to failures in an automatic enrollment plan set to expire have been retained as part of the EPCRS revenue procedure.

Effective January 1, 2024

- Catch-Up Contributions to be Roth Contributions for Certain Employees
  - Currently, anyone age 50 or older can contribute a catch-up contribution of $7,500 to a 401(k) plan as pre-tax or Roth.
  - Under the SECURE Act 2.0, if a participant's wages in the prior year paid by the employer sponsoring the plan was more than $145,000, the participant may only contribute the catch-up as a Roth contribution.

- RMD on Roth Accounts
  - Currently, Roth accounts in a 401(k) or 403(b) plan are subject to the RMD rules.
  - Under the SECURE Act 2.0, Roth accounts will be excluded from RMDs.

- Student Loan Payments Treated as 401(k) Contributions for Purposes of Matching Contributions
  - This is intended to assist employees who may not be able to save for retirement because they are overwhelmed with student debt and thus are missing out on matching contributions from retirement plans.
  - Employers are allowed to make matching contributions under a 401(k) or 403(b) plan with respect to "qualified student loan payments."
  - A qualified student loan payment is defined as any indebtedness incurred by the employee solely to pay qualified higher education expenses.

- Withdrawal for Emergency Personal Expenses
  - Plans may permit one withdrawal per calendar year up to $1,000 for an unforeseeable or immediate financial need relating to necessary personal emergency expenses.
  - This distribution is exempt from the 10% premature penalty.
  - The distribution may be repaid within 3 years and a subsequent distribution cannot be made until the repayment is completed.

- Increase in Force Outs and Automatic Portability Provision
  - Currently, a retirement plan benefit of less than $5,000 for a terminated participant can be automatically cashed out / transferred to an IRA.
  - Under the SECURE Act 2.0 the $5,000 cash out limit will be increased to $7,000.
  - In addition, the SECURE Act 2.0 paves the way for retirement plans and recordkeepers to offer automatic portability provisions for amounts transferred to a default IRA. These automatic portability provisions will enable amounts transferred to the default IRA to be automatically

transferred into the retirement plan of the employee's new employer without the employee needing to take any action.

Effective January 1, 2024 continued

- Ownership Attribution Rules
  - Currently the law requires that ownership of a business be attributable to certain members of the stockholder's family for determining common ownership in a business for controlled group purposes.
  - The SECURE Act 2.0 will eliminate the stock attribution rules for spouses who own separate and unrelated business who reside in community property states.
  - It will also be eliminated in cases where the ownership would have been attributable to a minor child when the parents own separate and unrelated businesses.

- Retroactive Amendments to Increase Plan Benefits
  - Currently amendments to increase benefits for a profit sharing plan must be signed by the end of the plan year for which the amendment is effective. This timing is also subject to the plan's existing provisions.
  - Amendments to increase benefits for a cash balance or defined benefit plan must currently be adopted no later than March 15 of the year following the year of the increased benefit.
  - Under the SECURE Act 2.0 the deadline for a benefit increase amendment for both plan types is the due date of the sponsoring company's tax return, including extensions, for the year during which the increases are effective.

Effective January 1, 2025

- Long-Term Part-Time Employees (only applies to 401(k) plans)
  - Retirement plans have been allowed to exclude employees who work less than 1,000 hours during a plan year.
  - Under the SECURE Act and the SECURE Act 2.0, 401(k) plans will be required to cover long-term part-time employees (LTPT).
  - A LTPT employee as defined under the SECURE Act 2.0 is an employee who works two consecutive 12 month periods with more than 500 hours of service in each year. This is a reduction from the three consecutive 12 month periods required by the original SECURE Act.
  - The plan can still include a minimum age requirement for the LTPT employee which cannot exceed age 21.
  - LTPT employees must be allowed to make 401(k) salary deferrals to the plan, but the company is not required to provide any company contributions.
  - Service prior to January 1, 2023 is excluded to determine the two consecutive years of at least 500 hours.

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Effective January 1, 2025 continued

- Increased Catch-Up Limits
  - Currently, anyone age 50 or older can contribute a catch-up contribution of $7,500 to a 401(k) plan.
  - The SECURE Act 2.0 increased the catch-up limit for participants who are ages 60 to 63 to the greater of $10,000 or 50% more than the regular age 50 catch-up amount in 2025 (as indexed for inflation).

- Expanding Automatic Enrollment
  - The Secure Act 2.0 requires 401(k) and 403(b) plans to automatically enroll participants in the plans upon becoming eligible.
  - Employees may opt out of automatic enrollment.
  - The initial automatic enrollment percentage must be at least 3% but not more than 10%.
  - Each year after initial enrollment the percentage must be increased by 1% until it reaches at least 10% but cannot exceed 15%.
  - Plans established before the enactment of the SECURE Act 2.0 (December 29, 2022) are grandfathered and do not need to comply with this rule.
  - There is an exception for small businesses with 10 or fewer employees and businesses that have been in business for less than 3 years.

- *Note: Although the SECURE Act 2.0 became law, the IRS will need to provide much needed guidance over the next several months to dictate how these new provisions and changes will actually operate. We will keep you advised as we learn more and as such guidance is issued.*