SECURE ACT 2.0 SELECTED PROVISIONS

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 (PRS) to explain some of the relevant retirement plan changes and when they are effective.

Many of the changes are optional and many of the “required” changes will not apply to every retirement plan. We have made our recommendations about some of the provisions that apply to your plan, however if you have additional questions, please do not hesitate to contact us.

Please let us know if you are interested in any of the optional changes, or if you have any questions about any of the required changes.

2023 Optional Changes

- Employer Matching Contributions and Nonelective Contributions as Roth for 401(k) Plans
  - We cannot implement this change until we get IRS guidance.
  - Recordkeepers will also need to be able to accommodate the process.
  - Let us know if you would like more information about this optional change once guidance is available.

- Hardship Distribution Participant “Self-Certification”
  - Plans that provide for Hardship Withdrawals can now allow the employee to self-certify that the deemed hardship conditions have been met.
  - This reduces the burden of administration for the plan sponsor.

- Participant Notices Not Required for those Not Participating
  - This requires tracking who is eligible but not participating.
  - These participants still need to receive the Summary Plan Description and an annual notice reminding them that they can participate in the plan.

- Small Financial Incentives allowed to encourage plan enrollment.
  - For example giving a participant a gift card or promotional item for them to enroll in the 401(k) plan is now allowable.

2024 Required Changes

- Long Term Part Time Employees must be eligible for 401(k) contributions.
  - Employees with at least 500 hours of service for three consecutive years become eligible for deferrals as of January 1, 2024.
  - Employer contributions are not required for these employees.
  - Service is counted effective January 1, 2021 for this purpose.
  - Many plans track first year of service from date of hire, then shift to plan year.
    - This can accelerate eligibility because a year can be “double counted.”

- 401(k) Catch-Up Contributions must be Roth for Employees who earn more than $145,000 in W-2 salary in the prior year.
    - Payroll will need to make this change.
    - 401(k) plans that do not provide for Roth will need to be amended to provide catch up contributions for employees who earn more than this dollar limit in the prior year.

- Top Heavy Rules for 401(k) and Profit Sharing Plans
    - Employees with less than 1 year of service/age 21 are excluded from required Top Heavy Minimum contributions.
    - This allows for reduced eligibility so that employees can make 401(k) contributions earlier without a required employer contribution. The plan can still require a year of service for eligibility for employer matching or nonelective contributions.
    - If Long Term Part Time Employees are a concern, a potential solution is to handle this with reduced eligibility for 401(k) contributions only for all new hires.

2024 Optional Changes

- The $5,000 involuntary cash-out limit can be increased from $5,000 to $7,000.
    - Terminated participants who don't elect to take their benefit payment are forced out of the plan if their vested benefit is less than the limit.
    - For plans that use the $5,000 force out limit instead of the $1,000 force out limit, we recommend the increase to $7,000.

- Student Loan Payments may be Treated as 401(k) Contributions for Matching Contributions including Safe Harbor Matching Contributions
    - This is meant to help those with student loan debt also receive matching contributions for retirement.
    - Plan sponsors that want to recruit and retain college graduates may be interested in this provision.
    - There are administrative issues that must be solved to implement this new option, for example how does the plan administrator know that the loan payments have been made to the loan servicer?

- Emergency $2,500 Savings Account for 401(k) Plans
    - Roth type contributions that are only allowed for NHCEs.
    - Contributions must be treated as deferrals for matching contributions.
    - Must permit withdrawals at least once per month.

2025 Required Changes

- Increased 401(k) Catch-Up Limits
    - Employees ages 60 to 63 have an increased catch-up limit.
    - The increased limit is the greater of $10,000 or 50% more than the regular age catch-up amount in 2025 as adjusted for inflation.

- Long Term Part Time Employees Eligibility Change for 401(k) and 403(b) Plans
    - Service requirement is reduced to two consecutive years with at least 500 hours of service from three consecutive years with at least 500 hours of service.

- 403(b) plans must also implement this provision.

- Automatic enrollment and automatic increases for 401(k) and 403(b) plans
    - Required for 401(k) and 403(b) plans ***established after December 29, 2022***
        - Exemptions:
            - Employers with 10 or fewer employees
            - Employers that have been in business for less than 3 years
    - Initial enrollment percentage at least 3% but no more than 10%.
    - Automatic increases of 1% per year until deferral percentage reaches at least 10% but not more than 15%.

<u>2026 Required Changes</u>

- Paper Participant Statement
    - 401(k) and Profit Sharing Plans must provide one paper statement annually unless participant elects otherwise.
    - Defined Benefit and Cash Balance Plans must provide one paper statement every three years unless participant elects otherwise.

<u>Optional Special Benefit Payment Provisions</u>

The following changes are optional. Plan Sponsors can adopt them in the year they become available or in the future as needed.

- 2023 Qualified Disaster Distributions
    - Plan can provide for permanently.
    - $22,000 withdrawal without 10% excise tax
    - Tax can be spread over 3 years.
    - Withdrawal can be re-paid during the 3 years following distribution.

- 2023 Participant loans for Qualified Disaster
    - Up to $100,000
    - Longer repayment period allowed.

- 2024 Withdrawal for Emergency Personal Expenses
    - Plans may permit one withdrawal per calendar year up to $1,000 for emergency expenses.
    - 10% excise tax is waived.
    - Withdrawal may be repaid within 3 years.
    - No additional withdrawals allowed within 3 years unless prior withdrawal is repaid.

- 2024 Domestic Abuse Victim Distributions
    - Allowed from 401(k), Profit Sharing and 403(b) Plans.
    - Withdrawal for Domestic Abuse -limited to lesser of $10,000 or 50% of vested balance.
    - Self-certification.
    - 10% excise tax is waived.
    - 3 year repayment period.

- 2026 Distributions for Long Term Care Premiums
    - Amount limited to lesser of $2,500, 10% of vested balance, or actual premium for the year.
    - 10% excise tax is waived.

Required Amendments

- Plans must be amended for the SECURE Act 2.0 provisions no later than the last day of the first plan year beginning on or after January 1, 2025.
    - Plans must operationally comply and then be amended later.
    - Need to track what optional provisions are adopted.