
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 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. If you have questions about the SECURE Act 2.0 changes and how they impact you, please contact David Strom, QPA, QKA, QKC, at dstrom@primeretirementsolutions.com.

2023 Required Changes

- Required Minimum Distributions (RMD)
 - The age for required commencement of RMDs increases to 73 from 72.
 - The RMD age will be increased from age 73 to age 75 in 2033.
 - The penalty for failure to receive an RMD was reduced from 50% to 25%.

2023 Optional Changes

- Employer contributions as Roth
 - Contribution must be 100% vested
 - Recordkeepers need to be able to accommodate the process
- Participant Notices Not Required for those Not Participating
 - Need to track who is not participating
 - These participants still need to receive SPD, and an annual notice reminding them that they can participate
- Hardship Distribution Participant “Self-Certification”
 - Employees can self-certify that the deemed hardship conditions have been met
 - This reduces the burden of administration for the plan sponsor
- Small Financial Incentives allowed to encourage plan enrollment
 - For example a gift card or promotional item is now allowable
 - Could be considered plan compensation depending on definition in document

2024 Required Changes

- Long Term Part Time Employees
 - 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
 - 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”

- Ownership Attribution Rules
 - Current ownership attribution rules eliminated for spouses who own separate and unrelated businesses in community property states.
 - Current rule that attributes ownership to a minor child was also eliminated
 - This will require separate plans, or a Multiple Employer Plan for spouses who used to have one plan because of these rules
- 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 have 401(k) earlier without a required employer contribution
 - If Long Term Part Time Employees are a concern, can handle with reduced eligibility for 401(k) contributions only for all new hires

2024 Optional Changes

- Increase in Force Out Amount – increases from \$5,000 to \$7,000
 - Terminated participants who don't elect to take their benefit payment are forced out of the plan
- 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
- Emergency \$2,500 Savings Account
 - Roth type contributions allowed for NHCEs only
 - Contributions must be treated as deferrals for matching contributions
 - Must permit withdrawals at least once per month

2025 Required Changes

- 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%
 - Employees may opt out but few actually do
- Long Term Part Time Employees Eligibility Change
 - 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 (not required until 2025)

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

2026 Required Changes

- Catch-Up Contributions must be Roth for Employees who earn more than \$145,000 in prior year
 - Payroll will need to make this change
 - This was deferred from 2024 which the law originally required
- 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

2027 Required Changes

- Saver Credit Replaced by Federal Matching Contribution – Required Tax Change
 - Up to a 50% match made on first \$2,000 contributed to a 401(k), 403(b), Govt. 457(b) or an IRA
 - Phased Out between:
 - \$41,000 and \$71,000 for joint tax return
 - \$20,500 and \$35,000 for single and married filing separate
 - \$30,750 and \$53,250 for head of household filers

Special Benefit Payment Provisions

Required Tax Change

- 2023 Distributions for Terminal Illness
 - 10% excise tax is waived
 - Physician must certify the terminal illness
 - Not a new distribution reason, but a way to avoid the 10% excise tax

Optional Changes

- 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

- Last day of the first plan year beginning after January 1, 2026.
- Plans must operationally comply and then be amended later.
- Need to track what optional provisions are adopted.