Retirement legislation

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SECURE 2.0 Act of 2022: A boost to retirement saving

Finally signed into law, **the SECURE 2.0 Act of 2022** builds on the improvements made by the Setting Every Community Up for Retirement Enhancement Act (SECURE Act) of 2019 with more than 90 changes affecting qualified retirement plans, IRAs, SIMPLEs, SEPs, ABLEs and 529 plans.

SECURE 2.0 includes most of the major elements from the three separate retirement bills it consolidated. Here are summaries of the key provisions related to qualified plans and SIMPLEs. Not every provision is summarized below, such as the one regarding the new "starter" 401(k).

Effective 2023 (updates in blue)

Provision (timing)	Summary
Significant expansion of startup tax credits (taxable years beginning after 2022)	The SECURE 2.0 Act created a substantial new startup plan tax credit based on contributions the employer makes on behalf of participants, and expanded the existing startup tax credit on employer out-of-pocket plan costs. Together, these tax credits may provide a significant benefit for small businesses that are starting a plan. The new employer contribution tax credit reimburses small businesses for a portion of the amount of employer contributions made. For smaller plans (those with 50 or fewer employees*), the tax credit starts at 100% of employer contributions made for each employee earning less than $100,000 a year up to $1,000 and phases down over five years from plan adoption (100%, 100%, 75%, 50%, 25%). The tax credit for larger plans (those with 51–100 employees*) also phases down according to the same schedule but is subject to additional reductions. The existing employer plan cost credit has been increased from 50% to 100% of eligible costs for employers with 50 or fewer employees.* ** Employees who received compensation of $5,000 or more in the preceding year.*
Relaxed RMD rules (2023)	The age at which required minimum distributions must begin has increased from 72 to 73 and will increase to 75 in 2033. Also, the penalty for not taking an RMD from a qualified plan or IRA has been lowered from 50% of the required amount not taken to 25%. If an untaken RMD from a qualified plan or IRA is corrected in a timely manner, the excise tax has been reduced from 25% to 10%.

Effective 2023 (continued)

Provision (timing)	Summary
Roth option available for employer contributions (2023)	Previously available only as pretax, employers now have the option to allow employees to decide whether to take employer matching and nonelective contributions on a Roth after-tax or pretax basis. The employer may deduct Roth contributions, but employees take Roth contributions as income, and contributions and earnings would be subject to normal Roth rules thereafter. Roth contributions must be fully vested.
Roth SIMPLE and SEP IRAs (taxable years beginning after 2022)	Employers are now able to offer Roth SIMPLE and SEP IRAs alongside traditional SIMPLE and SEP IRAs. The Roth option is available for both employer and employee contributions.

Effective 2024 (updates in blue)

Provision (timing)	Summary
SIMPLE plan enhancements (taxable years beginning after 2023)	The SIMPLE plan contribution and catch-up limits (adjusted for inflation; \$15,500 and \$3,500 for 2023) are increased 10% for employers with 25 or fewer employees. Employers with 26–100 employees qualify for the higher limits only if they provide a dollar-for-dollar matching contribution up to 4% of compensation or a 3% nonelective employer contribution (up from regular requirements of 3% and 2%, respectively). Also, employers with SIMPLE plans have the option of making nonelective contributions above the currently required contributions (nonelective or matching) to each employee in a uniform manner, up to the lesser of \$5,000 or 10% of compensation.
Emergency Roth savings accounts (2024)	Employers have the option to add an emergency savings account to their plan to provide non-highly compensated employees (NHCEs) easy access to emergency funds. Automatic enrollment of up to 3% of salary can be established, and the employee contributions, which are Roth after-tax, are subject to matching. Once the account balance reaches \$2,500 (indexed for inflation) or a lower amount determined by the employer, no further contributions are allowed until the balance falls below the limit. Assets must be invested in cash, an interest-bearing deposit account or an investment product designed to preserve principal, such as a stable value investment. Employers must follow specified notice and disclosure requirements. Employees are allowed to withdraw up to the full account balance at least once per calendar month. The first four withdrawals in the plan year cannot be subject to fees.
Emergency withdrawals (2024)	Eligible retirement plans may permit participants to take one distribution up to \$1,000 each calendar year that is self-certified by the participant for "unforeseeable or immediate financial needs relating to necessary personal or family emergency expenses." Such withdrawals are not subject to the federal 10% penalty for early withdrawals.

Effective 2024 (continued, updates in blue)

Provision (timing)	Summary
Student loan payment match (plan years beginning after 2023)	Employers with 401(k), 403(b) or SIMPLE plans have the option to make matching contributions on workers' qualified student loan payments. Matching contributions are also allowed with governmental 457(b) plans.
Tax- and penalty-free rollovers from 529 plans to Roth IRAs (distributions after 2023)	To help alleviate fears about having to pay taxes and penalties to access leftover assets in 529 accounts, 529 plan assets can be rolled over directly into a Roth IRA for the beneficiary of the 529 plan, within certain limitations, including, but not limited to: • Rollovers are limited to a maximum of $35,000 per beneficiary over their lifetime. • The 529 account must be at least 15 years old with the same named beneficiary during that period. It appears that the 15-year count restarts if the beneficiary changes. • The amount to be rolled over must have been in the account for at least five years.

Effective 2025 and later

Provision (timing)	Summary
Required automatic enrollment and escalation (plan years beginning after 2024)	Unless employees opt out, new 401(k) and 403(b) plans must automatically enroll participants in the plan with a beginning salary deferral of 3%–10%. Deferrals must increase 1% per year up to 10%–15%. Exemptions apply, including small businesses (10 or fewer employees), new businesses (less than 3 years old), and church and governmental plans. Plans existing before December 30, 2022, are not subject to this provision.
Increased catch-up contributions (taxable years beginning after 2024)	The catch-up contribution maximum for employees age 50+ is $7,500 for 2023 ($3,500 for SIMPLE plans) and adjusted for inflation annually. Beginning in 2025, employees age 60–63 will have a higher catch-up limit – 50% more than the regular catch-up limit or $10,000 (indexed for inflation), whichever is greater.
Wider plan eligibility for part-time workers (2025)	SECURE 2.0 builds on the 401(k) plan eligibility requirements for long-term part-time employees established by the SECURE Act by: (1) lowering the number of consecutive years in which employees need at least 500 hours of service to become eligible from three years to two years and; (2) clarifying that pre-2021 service is disregarded for vesting purposes just as it is disregarded for eligibility purposes. SECURE 2.0 also extends the rules to 403(b) plans subject to ERISA. However, for purposes of applying the rules to 403(b) plans, service before 2023 is disregarded.
Retirement savings lost and found (2025)	To help individuals find information about previous employers to claim earned benefits, a searchable retirement savings database will be created by the Department of Labor.

Effective 2025 and later (continued, updates in blue)

Provision (timing)	Summary
Required Roth treatment for catch-up contributions (taxable years beginning after 2025)	Catch-up contributions to qualified retirement plans for higher earners are required to be Roth after-tax contributions, even if regular contributions are pretax. Participants with compensation below $145,000 (to be adjusted for inflation) are exempt and can elect pretax or Roth catch-up contributions (if available).
Saver's tax credit becomes a government match (for taxable years beginning after 2026)	The saver's tax credit (up to $1,000 per individual) for lower income workers changes from a credit paid in cash as part of a tax refund to a federal matching contribution deposited into a retirement plan account or IRA. Also, the credit rate changes from a tiered range of 10%–50% of retirement plan and IRA contributions to an across-the-board 50%.

What's not changing

Topic	Summary
CITs not yet available to 403(b) plans	Surprisingly, Congress did not clear the path for 403(b) plans to be able to invest in group trusts such as collective investment trusts (CITs). Until securities laws are amended, 403(b) plan investments will continue to be limited to annuities and mutual funds.
"Backdoor" Roth conversions not addressed	Roth conversion rules were not changed to address the loophole of high earners, who are not eligible to open a Roth IRA but can open a traditional IRA and then convert it to a Roth IRA.

Information as of September 2023. Other details, rules and exceptions may apply. This material does not constitute legal or tax advice. For more information, consult your financial professional, legal or tax advisor.

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