

Law & Policy Group

# User's guide to **SECURE 2.0**

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## Section 1

# Introduction

A dizzying array of legislation affecting defined contribution (DC) and defined benefit (DB) plans became law on Dec. 29, 2022, as part of a fiscal 2023 government spending package. Capping several years of congressional effort, the SECURE 2.0 Act of 2022 ([Div. T of Pub. L. No. 117-328](#)) is intended to build on changes made by the Setting Every Community Up for Retirement Enhancement (SECURE) Act of 2019 ([Div. O of Pub. L. No. 116-94](#)).

Navigating SECURE 2.0 is a formidable challenge. The statute consists of 120 pages of text and 90 individual sections with no table of contents. To help employers and plan sponsors understand the legislation's implications, this guide provides a high-level summary of SECURE 2.0 provisions grouped topically — as outlined in the preceding table of contents — including separate treatment of provisions specific to DC and DB plans.

The six tables in this guide describe statutory changes and their effective dates, identify whether the changes are mandatory or optional for employers, and provide initial observations, including implementation challenges for which agency guidance would be helpful. The act also includes several apparent drafting errors for which Congress intends to introduce technical corrections legislation. Those errors are noted in the relevant sections of the guide.

This guide doesn't address SECURE 2.0's employee stock ownership plan (ESOP) provisions and a handful of other nonbenefit-related provisions. When referring to the original SECURE Act, this guide uses the term "SECURE 1.0" to avoid any confusion between the laws.

## Periodic updates to this guide

This guide will be updated periodically to reflect additional information and guidance. Substantive changes since the original publication date include the following:

### Aug. 7

- **Employee Plans Compliance Resolution System (EPCRS).** The discussion of [EPCRS](#) changes reflects IRS Notice 2023-43, which explains the extent to which plan sponsors can use the expanded self-correction program pending official updates.

### March 7

- **Penalty-free distributions.** The discussions of the new distributions from DC plans with no early withdrawal penalty (i.e., for [major disasters](#), [personal emergencies](#), [domestic abuse](#) and [terminal illness](#)) now indicate whether these distributions satisfy the distributable event rules.
- **Long-term care insurance premiums.** The guide includes a new discussion of penalty-free distributions from DC plans to pay for certified [long-term care insurance premiums](#) for a participant and the participant's spouse (or other family members if allowed by regulations).

- **Higher catch-up contribution limits.** The discussions of the higher catch-up contribution limit for [DC plan](#) and savings incentive match plan for employees of small employers ([SIMPLE plan](#)) participants ages 60–63 clarify that even though plans aren't required to offer catch-up contributions, those that do apparently must implement the new limit (but IRS guidance is needed).
- **Retroactive plan amendments.** The discussion of the [extended deadline](#) to adopt plan amendments increasing benefits now clarifies that the later deadline does not apply to amendments increasing matching contributions.
- **Section 420 transfers.** The discussion of DB plans' [transfers of excess assets](#) to retiree health accounts now has more detail on the cost-maintenance period for the new *de minimis* transfers and notes that collectively bargained transfers may not use the new lower threshold.

## Additional resources

- [Correcting retirement plan overpayments under SECURE 2.0](#) (July 28, 2023)
- [IRS again delays final RMD rule, gives new relief for SECURE acts](#) (July 19, 2023)
- [SECURE 2.0 offers new alternative for in-plan emergency savings](#) (July 7, 2023)
- [Congress pens letter to Treasury, IRS on SECURE 2.0 corrections](#) (June 26, 2023)
- [SECURE 2.0's student loan match 101](#) (June 13, 2023)
- [The ABCs of IRS FAQs on EPCRS under SECURE 2.0](#) (June 6, 2023)
- [Viewing SECURE 2.0 through a 403\(b\) lens](#) (May 22, 2023)
- [House bill would let 403\(b\) plans invest in collective trusts](#) (May 16, 2023)
- [DC plans need guidance on SECURE 2.0's higher catch-up limit](#) (May 1, 2023)
- [Implementing SECURE 2.0's Roth provisions may tax DC sponsors](#) (April 11, 2023)
- [Taking a closer look at SECURE 2.0's penalty-free distribution provisions](#) (March 13, 2023)
- [Form 5500 trilogy concludes with latest set of changes](#) (March 13, 2023)
- [Taking a look at SECURE 2.0's defined benefit plan provisions](#) (Feb. 21, 2023)
- [Road-testing SECURE 2.0's auto-enrollment mandate for new DC plans](#) (Feb. 14, 2023)
- [SECURE 2.0 brings more changes to required minimum distribution rules](#) (Feb. 7, 2023)

## Section 2

# Changes affecting DC plans

| Provision  | Description of change   | Effective date                           | Optional or mandatory?   | Comments  |
|--|---|--|--|---|
| <b>Eligibility and participation</b>   |   |  |  |   |
| <b>Long-term part-time worker eligibility (Sec. 125)</b>                             | 401(k) and 403(b) plans must allow part-time workers to participate after completing 2 consecutive years with at least 500 hours of service. For 401(k) plans, pre-2021 service is disregarded for eligibility and vesting purposes. For other plans, service for plan years before Jan. 1, 2023, is disregarded for those purposes.  | Plan years beginning after Dec. 31, 2024 | Mandatory  | SECURE 1.0 required participation after 3 consecutive years with at least 500 hours and applied only to 401(k) plans.   |
| <b>Auto-enrollment and escalation for new plans, with some exceptions (Sec. 101)</b> | New 401(k) and 403(b) plans must include an eligible automatic contribution arrangement (EACA) feature providing: <ul style="list-style-type: none"> <li>• 1st year deferral rate of at least 3% but not more than 10%</li> <li>• 1% annual auto-escalation up to at least 10%, capped at 15%</li> <li>• Right to opt out or change deferral rate</li> <li>• Investment of deferrals in qualified default investment alternative (QDIA) unless participant elects otherwise</li> <li>• Ability to withdraw auto-deferrals made during 90-day period after initial deferral</li> </ul> | Plan years beginning after Dec. 31, 2024 | Mandatory, except for: <ul style="list-style-type: none"> <li>• Plan established before Dec. 29, 2022</li> <li>• Governmental or church plan</li> <li>• SIMPLE plan</li> <li>• Sponsor in business less than 3 years</li> <li>• Sponsors with 10 or fewer employees</li> </ul> | Nonexempt plans established after SECURE 2.0's enactment on Dec. 29, 2022, apparently need to have EACA in place for 2025 plan year.<br><br>Change applies to employers adopting a multiple-employer plan (MEP) after SECURE 2.0's enactment, even if the MEP was established before Dec. 29, 2022. |
| <b>Small financial incentives for participation (Sec. 113)</b>                       | Employers can offer employees <i>de minimis</i> financial incentives (e.g., gift cards) to participate in a 401(k) or 403(b) plan. Incentive must not be paid from plan assets.   | Plan years beginning after Dec. 29, 2022 | Optional   | The provision doesn't define the term <i>de minimis</i> .   |

| Provision  | Description of change  | Effective date                           | Optional or mandatory? | Comments   |
|--|--|--|------------------------|--|
| <b>Contributions and benefits</b>                |  |  |                        |  |
| <b>Matching student loan payments (Sec. 110)</b> | 401(k), 403(b), governmental 457(b) and SIMPLE plans can treat employees' qualifying student loan payments (QSLPs) as elective deferrals for purposes of matching contributions, subject to the following: <ul style="list-style-type: none"> <li>• Student loan debt must be for higher education.</li> <li>• Participant must annually certify that QSLPs have been made, and employer can rely on that self-certification.</li> <li>• Match rate, eligibility and vesting must be the same as match on elective deferrals.</li> <li>• Plan can apply actual deferral percentage (ADP) test separately to employees receiving QSLP match.</li> <li>• Benefit is treated as available to all match-eligible employees — even those with no student loan debt — for purposes of minimum coverage and nondiscrimination tests.</li> <li>• QSLPs count toward annual deferral limit under Internal Revenue Code (IRC) Section 402(g) but not contribution limit under 415(c).</li> </ul> | Plan years beginning after Dec. 31, 2023 | Optional               | <p>This change allows treating the contributions as true matching contributions, instead of nonelective contributions (employers' only option before SECURE 2.0).</p> <p>Treasury must issue regulations, as well as a model plan amendment for the QSLP match. Regulations may permit matching QSLPs at a different frequency than matching contributions on employee deferrals, as long as the QSLP match is made at least annually. Regulations must allow employers to establish reasonable procedures to claim the match, but employees must have at least 3 months after plan year-end to do so.</p> |

| Provision  | Description of change  | Effective date                          | Optional or mandatory?   | Comments  |
|--|--|---|--|---|
| <b>Contributions and benefits (cont'd)</b>                                     |  |   |  |   |
| <b>Higher catch-up contribution limit (Sec. 109)</b>                           | <p>The catch-up contribution limit for participants ages 60–63 will increase to the greater of the following two amounts:</p> <ul style="list-style-type: none"> <li>\$10,000</li> <li>150% of the 2024 catch-up contribution limit for other participants</li> </ul> <p>Both amounts are indexed after 2025.</p>                                    | Tax years beginning after Dec. 31, 2024 | Mandatory for plans offering catch-up contributions  | <p>Plans don't have to offer catch-up contributions; however, for those that do, this change appears to be mandatory. (IRS guidance is needed to clarify.)</p> <p>Limits differ for SIMPLE plans (discussed <a href="#">below</a>).</p>   |
| <b>Roth-only catch-up contributions for high earners (Sec. 603)</b>            | <p>Catch-up contributions under 401(k), 403(b) and governmental 457(b) plans may only be made on a Roth basis by participants whose prior-year FICA wages with the sponsor exceeded \$145,000 (indexed after 2024). Other participants must have the option to make Roth catch-up contributions if any participant is limited to Roth catch-ups.</p> | Tax years beginning after Dec. 31, 2023 | Mandatory for plans offering catch-up contributions  | <p>Plans that currently don't offer Roth contributions apparently need to add them to permit catch-up contributions for a plan year if any employee exceeds the compensation threshold for Roth-only catch-up contributions.</p> <p>A drafting error appears to eliminate all catch-up contributions starting in 2024, but key House and Senate leaders <a href="#">intend</a> to introduce a technical corrections bill clarifying that catch-ups are still permitted.</p> |
| <b>Option for Roth employer match and nonelective contributions (Sec. 604)</b> | <p>401(k), 403(b) and governmental 457(b) plans can let participants elect to receive matching and nonelective contributions on a Roth basis. These contributions aren't excludable from the participant's gross income and must be nonforfeitable at the time received.</p>   | Contributions made after Dec. 29, 2022  | Optional, but the act isn't clear whether this change might be mandatory for plans that have a Roth deferral feature | <p>Guidance is needed on various issues, such as how to treat these contributions for payroll withholding and income tax reporting.</p>   |



| Provision  | Description of change  | Effective date                                  | Optional or mandatory? | Comments   |
|--|--|---|------------------------|--|
| <b>Contributions and benefits (cont'd)</b>                           |  |   |                        |  |
| <b>Pension-linked emergency savings accounts (PLESAs) (Sec. 127)</b> | <p>Individual account plan sponsors can let nonhighly compensated employees (NHCEs) contribute to an emergency savings account linked to their plan account, subject to the following:</p> <ul style="list-style-type: none"> <li>• Auto-enrollment is allowed, up to 3% of pay.</li> <li>• Contributions are made on Roth basis.</li> <li>• Account cannot exceed \$2,500 (indexed) or lower limit set by employer.</li> <li>• Contributions over account limit can be directed to employee's Roth account (if any) under the plan or stopped.</li> <li>• Contributions must be held in cash in an interest-bearing deposit account or an investment product designed to preserve principal.</li> <li>• Participants must be allowed to take withdrawals at least once a month.</li> <li>• No withdrawal fee can apply to first 4 withdrawals each plan year.</li> <li>• Employers can eliminate the accounts at any time.</li> <li>• On separation from service or the employer's elimination of the accounts, participants can transfer their emergency savings to the plan's Roth account or take a distribution.</li> </ul> | <p>Plan years beginning after Dec. 31, 2023</p> | <p>Optional</p>        | <p>Sponsors would have to treat emergency savings contributions as elective deferrals for purposes of matching contributions. The contributions also appear to count toward IRC's annual contribution limits.</p> <p>The departments of Labor (DOL) and Treasury must conduct a study on emergency savings from individual account plans, including emergency savings accounts, and report to Congress within 7 years.</p> <p>This provision is independent of the provision authorizing penalty-free withdrawals of up to \$1,000 for emergency expenses (discussed <a href="#">below</a>).</p> |

| Provision   | Description of change  | Effective date   | Optional or mandatory? | Comments   |
|---|--|--|------------------------|--|
| <b>Contributions and benefits (cont'd)</b>                                  |  |  |                        |  |
| <b>Expanded saver's credit match (Sec. 103)</b>                             | The saver's credit for contributions to retirement plans and individual retirement accounts (IRAs) will no longer be refunded in cash. Credits greater than \$100 will be deposited into taxpayer's 401(k), 403(b) or IRA non-Roth account. Credit will equal 50% of contributions up to \$2,000 per person, with income-based phaseout. | Tax years beginning after Dec. 31, 2026  | Optional               | Plans do not have to accept the contribution.  |
| <b>Distributions</b>  |  |  |                        |  |
| <b>Increase in age for required minimum distributions (RMDs) (Sec. 107)</b> | RMD age is increasing from 72 to: <ul style="list-style-type: none"> <li>73 for participants who turn 72 after Dec. 31, 2022, and age 73 before Jan. 1, 2033</li> <li>75 for participants who turn 74 after Dec. 31, 2032 (subject to technical correction)</li> </ul>   | Distributions after Dec. 31, 2022, for participants attaining age 72 after that date | Mandatory              | Provision has a drafting error. A participant born in 1959 will turn 73 before Jan. 1, 2033, and 74 after Dec. 31, 2032. Key House and Senate committee leaders <u>intend</u> to introduce technical corrections legislation to clarify that the RMD age will increase to age 75 for participants who turn 73 after Dec. 31, 2032.<br><br>RMD age change also applies to DB plans (discussed <u>below</u> ). |
| <b>No predeath RMDs for Roth accounts (Sec. 325)</b>                        | Roth accounts in DC plans are no longer subject to the predeath RMD rules. However, plans must still pay predeath RMDs from Roth accounts that relate to tax years before the effective date (e.g., 2023 RMD must be paid to a participant with an April 1, 2024, required beginning date).  | Tax years beginning after Dec. 31, 2023  | Mandatory              | This change aligns predeath RMD rules for Roth accounts under employer plans with existing RMD rules for Roth IRAs.  |
| <b>Increase involuntary cash-out limit (Sec. 304)</b>                       | The maximum amount that may be involuntarily cashed out will increase to \$7,000 (from \$5,000).   | Distributions after Dec. 31, 2023  | Optional               |  |

| Provision   | Description of change  | Effective date                           | Optional or mandatory? | Comments  |
|---|--|--|------------------------|---|
| <b>Distributions (cont'd)</b>   |  |  |                        |   |
| <b>Disaster relief (Sec. 331)</b>   | Plans can offer the following relief to participants affected by federally declared disasters: <ul style="list-style-type: none"> <li>• Distributions up to \$22,000 per disaster, with no early withdrawal penalty and option to repay within 3 years</li> <li>• Repayment of unused hardship distributions taken to purchase principal residence in disaster area</li> <li>• Temporary increase in plan loan cap up to \$100,000</li> <li>• 180-day suspension of plan loan repayments and corresponding extension of the loan term</li> </ul> | Disasters on or after Jan. 26, 2021      | Optional               | <p>The Government Accountability Office (GAO) has to report to Congress on participant utilization of this relief (and similar relief in prior legislation), including the adequacy of the \$22,000 limit on distributions.</p> <p>The distributions satisfy the distributable-event requirements for 401(k), 403(b), governmental 457(b) and money purchase pension plans.</p> |
| <b>Reliance on employee certification for hardship distributions (Sec. 312)</b> | Plan administrators of 401(k) and 403(b) plans can rely on a participant's self-certification of the following: <ul style="list-style-type: none"> <li>• The hardship distribution is for an immediate and heavy financial need and does not exceed the amount required to satisfy the need.</li> <li>• The participant has no alternative means reasonably available to satisfy the need.</li> </ul> Similar rule applies to administrators of 457(b) plans allowing distributions for unforeseeable emergencies.                               | Plan years beginning after Dec. 29, 2022 | Optional               | Treasury can issue regulations providing exceptions to this rule when the administrator has actual knowledge contradicting an employee's certification.   |

| Provision   | Description of change  | Effective date                    | Optional or mandatory? | Comments  |
|---|--|-----------------------------------|------------------------|---|
| <b>Distributions (cont'd)</b>                                     |  |                                   |                        |   |
| <b>Penalty-free withdrawals for emergency expenses (Sec. 115)</b> | <p>Plans can offer distributions with no early withdrawal penalty for “unforeseeable or immediate financial needs relating to necessary or personal family emergency expenses,” subject to the following:</p> <ul style="list-style-type: none"> <li>• Distributions cannot exceed \$1,000.</li> <li>• A participant may take only one such distribution per calendar year.</li> <li>• Plan administrators can rely on participant’s self-certification of eligibility.</li> <li>• Participants can repay a distribution within 3 years.</li> <li>• Additional emergency distributions are prohibited during the 3-year repayment period unless existing distribution is fully repaid or the amount the participant has contributed after the existing distribution is at least as much as the amount not repaid.</li> </ul> | Distributions after Dec. 31, 2023 | Optional               | <p>Treasury can issue regulations providing exceptions for administrators who have actual knowledge contradicting participant’s certification.</p> <p>This provision is independent of the provision authorizing pension-linked emergency savings accounts (discussed <a href="#">above</a>).</p> <p>These distributions satisfy the distributable-event requirements for 401(k), 403(b) and governmental 457(b) plans.</p> |

| Provision   | Description of change  | Effective date                                | Optional or mandatory? | Comments  |
|---|--|---|------------------------|---|
| <b>Distributions (cont'd)</b>   |  |   |                        |   |
| <b>Penalty-free withdrawals in the event of domestic abuse (Sec. 314)</b> | <p>Plans that aren't subject to IRC's qualified joint-and-survivor and preretirement-survivor annuity requirements can offer distributions with no early withdrawal penalty to victims of domestic abuse, subject to the following:</p> <ul style="list-style-type: none"> <li>• Distributions cannot exceed the lesser of \$10,000 (indexed after 2024) or 50% of the participant's vested benefit.</li> <li>• Distributions must be made within 1 year of the date on which the participant is a victim of domestic abuse by a spouse or domestic partner.</li> <li>• Plan administrators can rely on participant's self-certification of eligibility.</li> <li>• Participants can repay a distribution within 3 years.</li> </ul> | <p>Distributions made after Dec. 31, 2023</p> | <p>Optional</p>        | <p>These distributions satisfy the distributable-event requirements for 401(k), 403(b) and governmental 457(b) plans.</p>   |
| <b>Penalty-free withdrawals for terminal illness (Sec. 326)</b>           | <p>The early withdrawal penalty does not apply to distributions to participants certified by a physician as having a condition reasonably expected to result in death within 84 months after the date of certification.</p> <ul style="list-style-type: none"> <li>• Statute does not limit the amount or number of distributions that can be made available.</li> <li>• Distributions can be repaid within 3 years.</li> </ul> <p>The participant must furnish "sufficient evidence" to the plan administrator in the form and manner that Treasury may prescribe.</p>  | <p>Distributions made after Dec. 29, 2022</p> | <p>Optional</p>        | <p>SECURE 2.0 does not state that these distributions satisfy the distributable-event requirements, raising doubts about whether this provision creates a new distribution event.</p> |

| Provision  | Description of change  | Effective date                         | Optional or mandatory? | Comments  |
|--|--|--|------------------------|---|
| <b>Distributions (cont'd)</b>  |  |  |                        |   |
| <b>Qualified long-term care distributions (Sec. 334)</b>   | <p>Plans can offer distributions with no early withdrawal penalty to pay for certified long-term care insurance premiums for a participant or the participant's spouse (or other family members if allowed by Treasury regulations). Distributions are limited each calendar year to the least of the following amounts:</p> <ul style="list-style-type: none"> <li>• The annual premium paid by or assessed to the participant</li> <li>• 10% of the participant's vested benefit</li> <li>• \$2,500 (indexed after 2024)</li> </ul> <p>The participant must file a premium statement with the plan administrator. The statement must:</p> <ul style="list-style-type: none"> <li>• Provide the insurer's name and tax ID</li> <li>• Identify the participant as the policy owner</li> <li>• State whom the policy covers and the covered individual's relationship to the participant</li> <li>• Include the calendar year premium</li> </ul> <p>Treasury may require additional information on the statement.</p> | Distributions made after Dec. 29, 2025 | Optional               | These distributions are distributable events under the rules for qualified DC plans (including 401(a), 401(k) and 403(a) plans), 403(b) plans and 457(b) plans. |
| <b>Three-year repayment limit on qualified birth or adoption distribution (QBOAD) (Sec. 311)</b> | <p>A participant who wishes to repay a QBOAD has 3 years to do so starting on the day after the distribution is received. However, for QBOADs made on or before Dec. 29, 2022, the repayment period ends on Dec. 31, 2025.</p>   | Distributions made after Dec. 29, 2022 | Mandatory              | SECURE 1.0 allowed plans to offer QBOADs and gave participants the option to repay at any time, with no limit.  |

| Provision   | Description of change  | Effective date   | Optional or mandatory? | Comments   |
|---|--|--|------------------------|--|
| <b>Lifetime income</b>  |  |  |                        |  |
| <b>Removal of RMD barriers for life annuities (Sec. 201)</b>                    | Plans can offer annuities with the following features without violating IRC Section 401(a)(9): <ul style="list-style-type: none"> <li>• Annual increases of less than 5%</li> <li>• Lump sum payments that shorten the payment period or result in a full or partial commutation or acceleration of future payments</li> <li>• Dividends and similar distributions</li> <li>• Return of premium payments on death</li> </ul>   | Calendar years ending after Dec. 29, 2022  | Optional               |  |
| <b>More qualifying longevity annuity contract (QLAC) flexibility (Sec. 202)</b> | Treasury has 18 months to amend its QLAC regulations as follows: <ul style="list-style-type: none"> <li>• Eliminate requirement that premiums not exceed 25% of a participant's account balance</li> <li>• Increase the dollar limitation on premiums to \$200,000 (from \$125,000) and provide for indexing starting in 2024</li> <li>• Allow ex-spouses to receive spousal benefits pursuant to a qualified domestic relations order (QDRO) or similar divorce or separation instrument</li> <li>• Allow "free look" rescission periods up to 90 days</li> </ul> | Changes to premium limitations effective for contracts purchased after Dec. 29, 2022<br><br>Other changes effective for contracts purchased after July 2, 2014 | Optional               | Until Treasury issues final regulations, taxpayers may rely on a reasonable good-faith interpretation of this provision. (Treasury must issue regulations by June 29, 2024.) |

| Provision   | Description of change   | Effective date                           | Optional or mandatory? | Comments  |
|---|---|--|------------------------|---|
| <b>Lifetime income (cont'd)</b>                                     |   |  |                        |   |
| <b>Elimination of RMD penalty on partial annuities (Sec. 204)</b>   | Participants receiving a portion of their individual account as an annuity can count annuity payments received during a year toward RMD due for that year.  | Dec. 29, 2022                            | Optional               | Treasury must amend its RMD regulations to reflect the change. In the meantime, taxpayers may rely on a reasonable good-faith interpretation of this provision. |
| <b>403(b) plans</b>   |   |  |                        |   |
| <b>403(b) MEPs (Sec. 106)</b>                                       | 403(b) plans can now be MEPs or pooled employer plans (PEPs) subject to rules similar to those that apply to qualified MEPs and PEPs.   | Plan years beginning after Dec. 31, 2022 | Optional               | Church plans are excluded.  |
| <b>Investment in collective investment trusts (CITs) (Sec. 128)</b> | IRC Section 403(b) now allows custodial accounts to invest in group trusts with qualified plans and IRAs.   | Amounts invested after Dec. 29, 2022     | Optional               | SECURE 2.0 doesn't include the changes to federal securities laws needed to fully operationalize this provision.  |
| <b>Hardship withdrawal conforming changes (Sec. 602)</b>            | Qualified nonelective contributions (QNECs) and qualified matching contributions (QMACs) in 403(b) custodial accounts, earnings on those contributions, and earnings on elective deferrals may now be sources for hardship withdrawals. | Plan years beginning after Dec. 31, 2023 | Optional               | These changes align the hardship distribution rules for 403(b) plans with the rules for 401(k) plans.   |
| <b>Long-term part-time worker eligibility (Sec. 125)</b>            | 403(b) plans must allow part-time workers to participate after completing 2 consecutive years with at least 500 hours of service. Service for plan years before Jan. 1, 2023, is disregarded for those purposes.                        | Plan years beginning after Dec. 31, 2024 | Mandatory              | SECURE 1.0's long-term part-time worker eligibility changes applied only to 401(k) plans.   |



| Provision  | Description of change  | Effective date  | Optional or mandatory? | Comments  |
|--|--|---|------------------------|---|
| <b>PEPs</b>  |  |   |                        |   |
| <b>403(b) MEPs (Sec. 106)</b>                                      | 403(b) plans can now be MEPs or PEPs subject to the rules that apply to qualified MEPs and PEPs.   | Plan years beginning after Dec. 31, 2022                  | Optional               | Church plans are excluded.  |
| <b>Designation of named fiduciary for contributions (Sec. 105)</b> | PEPs can designate any named fiduciary (other than a participating employer) to be responsible for collecting contributions.   | Plan years beginning after Dec. 31, 2022                  | Optional               | SECURE 1.0 required a PEP's trustee to have this responsibility.  |
| <b>Application of startup credit for MEPs (Sec. 111)</b>           | Small employers joining a MEP or a PEP get the pension startup credit for three years, regardless of how long the MEP or PEP has been in existence.  | Retroactive for tax years beginning after Dec. 31, 2019   | Optional               | The credit's availability previously was based on when the MEP or PEP started (e.g., if an employer joined a PEP that started 1 year earlier, the employer received the credit only for 2 years). |
| <b>DOL report on PEPs (Sec. 344)</b>                               | DOL must study PEPs and report to Congress on the following: <ul style="list-style-type: none"> <li>• Number of PEPs</li> <li>• Name of each PEP</li> <li>• Range of investment options under PEPs</li> <li>• Fees assessed by PEPs</li> <li>• Methods employers use to select and monitor PEPs</li> <li>• Number and nature of DOL enforcement actions against PEPs</li> <li>• Any other information DOL determines is necessary</li> </ul> | 5 years after Dec. 29, 2022, and every 5 years after that |                        |   |

| Provision  | Description of change  | Effective date                                      | Optional or mandatory? | Comments   |
|--|--|---|------------------------|--|
| <b>Governmental plans</b>  |  |   |                        |  |
| <b>Elimination of “first day of the month” requirement for governmental 457(b) plans (Sec. 306)</b>          | Participants in governmental 457(b) plans can make or change deferral elections any time before the compensation is currently available.                   | Tax years beginning after Dec. 29, 2022             |                        | Governmental 457(b) plan participants previously had to make deferral elections before the 1st of the month in which the compensation would become available. The 1st of the month rule still applies to 457(b) plans sponsored by tax-exempt employers. |
| <b>Extension of qualified public safety employee distributions to private-sector firefighters (Sec. 308)</b> | Private-sector firefighters participating in a qualified or 403(b) plan can take distributions at age 50 with no early withdrawal penalty.                 | Distributions after Dec. 29, 2022                   | Optional               | This rule already applied to other public safety employees, including firefighters working for governmental employers.   |
| <b>Extension of qualified public safety employee distributions to corrections officers (Sec. 330)</b>        | Corrections officers and forensic security employees working for governmental employers can take distributions at age 50 with no early withdrawal penalty. | Distributions made after Dec. 29, 2022              | Optional               | This rule already applied to other public safety employees.  |
| <b>Distributions to retired public safety officers for health and long-term care premiums (Sec. 328)</b>     | These distributions no longer have to be paid directly to the insurer.   | Distributions beginning 3 years after Dec. 29, 2022 | Optional               |  |

| Provision   | Description of change  | Effective date                           | Optional or mandatory?                              | Comments  |
|---|--|--|---|---|
| <b>Simplified employee pensions (SEPs) and SIMPLE plans</b>                                 |  |  |   |   |
| <b>Higher SIMPLE catch-up contribution limits (Sec. 109)</b>                                | <p>The catch-up contribution limit for participants ages 60–63 will increase to the greater of the following two amounts:</p> <ul style="list-style-type: none"> <li>\$5,000</li> <li>150% of the 2025 catch-up contribution limit for other SIMPLE participants</li> </ul> <p>Both amounts are indexed after 2025.</p>  | Tax years beginning after Dec. 31, 2024  | Mandatory for plans offering catch-up contributions | Plans don't have to offer catch-up contributions; however, for those that do, this change appears to be mandatory (although IRS guidance is needed to clarify). |
| <b>Additional nonelective contributions for SIMPLE plans (Sec. 116)</b>                     | Employer can make nonelective contributions to SIMPLE plans above the minimum contribution for employees with at least \$5,000 in compensation. The additional contribution must not exceed the lesser of 10% of compensation or \$5,000 (indexed).  | Tax years beginning after Dec. 31, 2023  | Optional  |   |
| <b>Increased SIMPLE deferral and catch-up contribution limits (Sec. 117)</b>                | <p>SIMPLE IRA contribution limits are increasing as follows:</p> <ul style="list-style-type: none"> <li>Annual deferral and age 50 catch-up contribution limits will increase by 10%.</li> <li>For employers with 26–100 employees, increased limits apply only if employer increases its required SIMPLE match or nonelective contribution (as applicable) by 1 percentage point.</li> <li>Similar changes apply to SIMPLE 401(k) plans.</li> </ul> | Tax years beginning after Dec. 31, 2023  | Optional  | Treasury must provide a report to Congress with data on SIMPLE IRAs and SIMPLE 401(k) plans by Dec. 31, 2024, and annually thereafter.                          |
| <b>Replacement of SIMPLE IRAs with safe harbor 401(k) plans during plan year (Sec. 332)</b> | Employers sponsoring SIMPLE IRAs can replace those arrangements with a SIMPLE 401(k) or other safe harbor 401(k) plan at any time during the plan year. Contribution limits are prorated during the transition year.   | Plan years beginning after Dec. 31, 2023 | Optional  |   |

| Provision  | Description of change  | Effective date                           | Optional or mandatory? | Comments  |
|--|--|--|------------------------|---|
| <b>SEPs and SIMPLE plans (cont'd)</b>  |  |  |                        |   |
| <b>Roth for SEPs and SIMPLEs (Sec. 601)</b>  | SEPs and SIMPLE IRAs can now accept Roth contributions.  | Tax years beginning after Dec. 31, 2022  | Optional               | Provision could be interpreted as requiring SEP and SIMPLE Roth contributions to count toward the otherwise applicable Roth IRA contribution limit. However, key House and Senate committee leaders <u>intend</u> to introduce technical corrections legislation clarifying that these contributions wouldn't count for that purpose. |
| <b>Miscellaneous</b>   |  |  |                        |   |
| <b>Auto-portability prohibited transaction exemption (PTE) and requirements (Sec. 120)</b> | A new IRC PTE covers auto-portability service providers (i.e., providers that hold involuntary cashouts in an IRA and then roll the funds over to the DC plan sponsored by the IRA owner's new employer). Providers must meet a host of conditions to be eligible for the exemption. | 1 year after Dec. 29, 2022               | N/A                    | DOL must issue regulations or other guidance implementing this exemption within 1 year. DOL also must periodically report to Congress on the effectiveness of auto-portability transactions under this exemption.   |
| <b>Starter 401(k) plans (Sec. 121)</b>   | Employers that don't sponsor a retirement plan can offer a deferral-only 401(k) or 403(b) plan that auto-enrolls employees at a 3%–15% deferral rate. The deferral limit will be tied to IRA contribution limits. The plans will be safe harbor plans and treated as not top-heavy.  | Plan years beginning after Dec. 31, 2023 | Optional               |   |

| Provision   | Description of change   | Effective date                               | Optional or mandatory? | Comments   |
|---|---|--|------------------------|--|
| <b>Miscellaneous (cont'd)</b>   |   |  |                        |  |
| <b>Separate top-heavy testing for excludable and nonexcludable employees (Sec. 310)</b> | DC plans may perform top-heavy testing by excluding employees who haven't met the IRC's minimum age and service requirements for participation.   | Plan years beginning after Dec. 31, 2023     | Optional               | Other nondiscrimination tests already provide for a similar exclusion. |
| <b>Extended deadline to adopt amendments increasing benefits (Sec. 316)</b>             | The deadline for an employer to adopt a discretionary amendment increasing benefits (other than matching contributions) is extended until the employer's tax-filing deadline (including extensions) for the year in which the amendment takes effect. | Plan years beginning after Dec. 31, 2023     | Optional               |  |
| <b>Spousal beneficiary election to be treated as employee (Sec. 327)</b>                | A surviving spouse can elect to be treated as the deceased employee for RMD purposes.   | Calendar years beginning after Dec. 31, 2023 | Mandatory              |  |

## Section 3

# Changes affecting DB plans

| Provision  | Description of change   | Effective date                           | Optional or mandatory?                     | Comments  |
|--|---|--|--|---|
| <b>Eliminate variable-rate premium (VRP) indexing (Sec. 349)</b> | For plan years after 2023, inflationary indexing of Pension Benefit Guaranty Corp. (PBGC) VRPs for single-employer plans will end and VRPs will be frozen at \$52 per \$1,000 in unfunded vested benefits.  | Dec. 29, 2022                            | N/A  | Inflationary indexing continues on VRP cap and flat-rate premiums.  |
| <b>Annual funding notice (AFN) enhancements (Sec. 343)</b>       | <p>The disclosure of a plan's funded level for the notice year and the prior two years will be based on year-end market value of assets and liabilities, rather than the funding target attainment percentage (FTAP). AFNs must also include additional details:</p> <ul style="list-style-type: none"> <li>• If required funded status information is presented in a table, a statement that PBGC's calculation of plan liabilities on plan termination may be greater, and a reference to the section of the notice explaining PBGC benefit guarantees</li> <li>• The average return on assets for the notice year</li> <li>• A table showing participant head-count data (retired, terminated vested and active) as of the last day of the notice year and the two preceding years (AFNs previously had to include participant data only for the notice year)</li> <li>• More information on the PBGC guarantee</li> </ul> | Plan years beginning after Dec. 31, 2023 | Mandatory (for plans that must issue AFNs) | <p>First modified AFNs are due 120 days after the end of plan years beginning on or after Jan. 1, 2024 (April 30, 2025, for calendar-year plans).</p> <p>Information about the plan's funded status based on the FTAP is still required in the interest rate stabilization supplement (for plans required to include the supplement).</p> |

| Provision  | Description of change   | Effective date  | Optional or mandatory? | Comments  |
|--|---|---|------------------------|---|
| <b>Increase involuntary cash-out limit to \$7,000 (Sec. 304)</b> | The maximum amount that may be involuntarily cashed out will increase to \$7,000 (from \$5,000).  | Distributions after Dec. 31, 2023   | Optional               | This change also applies to DC plans (discussed <a href="#">above</a> ).  |
| <b>Lump sum window disclosure (Sec. 342)</b>                     | Plan administrators must provide extensive disclosures to participants and beneficiaries offered lump sums during a window period, not later than 90 days before the window opens. Plan sponsors must also submit information to DOL and PBGC 30 days before the window opens, as well as a post-offer report including the number of individuals who took the offer and other information the agencies may require.  | Within 1 year after issuance of DOL/IRS regulations, which must be delayed until at least Dec. 29, 2023 | Mandatory              |   |
| <b>DOL to review pension risk transfer guidance (Sec. 321)</b>   | DOL must review its current guidance on the fiduciary standards for selecting an insurance company or other annuity provider in a pension risk transfer and report the findings to Congress.  | Report due Dec. 29, 2023  | N/A                    | The act directs DOL to consult with the ERISA Advisory Council. DOL released a <a href="#">consultation paper</a> for discussion at the council's meeting on July 18, 2023. |
| <b>420 transfers (Sec. 606)</b>                                  | <p>DB plans can transfer excess pension assets to retiree health accounts until Dec. 31, 2032 (previously, DB plans could make transfers only until Dec. 31, 2025).</p> <p>The minimum level of plan funding for certain <i>de minimis</i> transfers (i.e., not exceeding 1.75% of plan assets) has decreased to 110% (from 125%). The cost maintenance period for those transfers is extended from 5 to 7 years.</p> | Transfers made after Dec. 29, 2022  | N/A                    | The lower threshold is not available for collectively bargained transfers.  |

| Provision   | Description of change  | Effective date  | Optional or mandatory? | Comments   |
|---|--|---|------------------------|--|
| <p><b>Increase in RMD age</b><br/><b>(Sec. 107)</b></p>                                       | <p>RMD age is increasing from 72 to:</p> <ul style="list-style-type: none"> <li>73 for participants who turn 72 after Dec. 31, 2022, and age 73 before Jan. 1, 2033</li> <li>75 for participants who turn 74 after Dec. 31, 2032 (subject to technical corrections)</li> </ul> | <p>Distributions after Dec. 31, 2022, for participants attaining age 72 after that date</p> | <p>Mandatory</p>       | <p>The statutory age is the latest age a plan may use to trigger RMDs. Some DB plan sponsors prefer to use an earlier age (e.g., age 70-1/2 for all participants, regardless of birth year).</p> <p>Provision has a drafting error. A participant born in 1959 will turn 73 before Jan. 1, 2033, and 74 after Dec. 31, 2032. Key House and Senate committee leaders <u>intend</u> to introduce technical corrections legislation to clarify that the RMD age will increase to age 75 for participants who turn 73 after Dec. 31, 2032.</p> <p>The same change in RMD age applies to DC plans (discussed <u>above</u>).</p> |
| <p><b>Hybrid plans' backloading testing</b><br/><b>(Sec. 348)</b></p>                         | <p>To demonstrate compliance with the anti-backloading rules in IRC Section 411(b), cash balance and other hybrid plans with variable interest-crediting rates can use a reasonable projection of the rate, not greater than 6%.</p>   | <p>Plan years beginning after Dec. 29, 2022</p>   | <p>Optional</p>        | <p>Provision only affects the projected rate for compliance testing, not the plan's actual interest-crediting rate.</p>  |
| <p><b>Extended deadline to adopt amendments increasing benefits</b><br/><b>(Sec. 316)</b></p> | <p>The deadline for an employer to adopt a discretionary amendment increasing benefit accruals is extended until its tax filing deadline (including extensions) for the year in which the amendment takes effect.</p>  | <p>Plan years beginning after Dec. 31, 2023</p>   | <p>Optional</p>        | <p>The same change applies to DC plan amendments (discussed <u>above</u>).</p>   |



| Provision  | Description of change  | Effective date   | Optional or mandatory? | Comments   |
|--|--|--|------------------------|--|
| <b>Mortality tables</b><br><b>(Sec. 335)</b>   | Mortality improvement scales underlying mortality tables for single-employer DB minimum funding under IRC Section 430 can't assume future rates of improvement greater than 0.78% at any age.  | Immediate, but applicable to valuation dates starting Jan. 1, 2024 | N/A                    | The 430 mortality tables also apply for other purposes, including PBGC VRPs and minimum lump sums under Section 417(e) (which uses a modified version of the tables).  |
| <b>Section 415 limits for rural electric cooperative plans</b><br><b>(Sec. 119)</b>                                | The highest 3-year average compensation limit no longer applies to participants in certain rural electric cooperative plans, except for participants who were HCEs in the earlier of: <ul style="list-style-type: none"> <li>• The plan year the participant terminated</li> <li>• The plan year distributions commenced</li> </ul> or <ul style="list-style-type: none"> <li>• any of the 5 plan years preceding the plan year above</li> </ul> | Limitation years ending after Dec. 29, 2022                        | Optional               | Eligible plans are those maintained by either: <ul style="list-style-type: none"> <li>• Multiple employers, of which at least 85% are rural cooperatives under IRC 401(k)(7)(B)(i) or (ii)</li> <li>• A national association of such rural cooperatives</li> </ul> Eligible employers may elect not to apply this section to their plan. |
| <b>Distributions to retired public safety officers for health and long-term care premiums</b><br><b>(Sec. 328)</b> | These distributions no longer have to be paid directly to the insurer.   | Distributions beginning Dec. 29, 2025                              | Optional               |  |

## Section 4

# Plan administration, notice and disclosure provisions

| Provision   | Description of change  | Effective date  | Optional or mandatory? | Comments   |
|---|--|---|------------------------|--|
| <b>Disclosures</b>  |  |   |                        |  |
| <b>Blended performance benchmarks for asset allocation funds in DC plans (Sec. 318)</b> | DOL must issue regulations allowing (but not requiring) DC plan administrators to benchmark a designated investment alternative holding a mix of asset classes — such as a target-date or balanced fund — against a blend of securities market indices reasonably representative of the fund's asset holdings. DOL also must report to Congress on the utilization and participants' understanding of the agency's regulatory benchmarking requirements. | DOL must issue regulations by Dec. 29, 2024.<br><br>Report to Congress is due in 3 years. | Optional               | DOL's current participant investment disclosure <a href="#">rules</a> for DC plans only allow blended benchmarks as a supplement to a broad-based securities market index. |
| <b>Simplified disclosures for unenrolled DC plan participants (Sec. 320)</b>            | DC plans only have to provide an annual reminder notice to nonparticipating employees with no account balance who received the plan's summary plan description (SPD) and other required disclosures on first becoming eligible. The notice must be furnished within a reasonable period before the beginning of each plan year. Eligible nonparticipating employees can request any documents available to participants.                                 | Plan years beginning after Dec. 31, 2022  | Optional               | Before this change, eligible nonparticipating employees had to receive the same plan communications as active participants.  |

| Provision                                 | Description of change   | Effective date                                  | Optional or mandatory? | Comments  |
|---|---|---|------------------------|---|
| <b>Disclosures (cont'd)</b>               |   |   |                        |   |
| <p><b>Paper statements (Sec. 338)</b></p> | <p>DC plans must deliver at least one paper benefit statement per year (one every three years for DB plans), unless a participant has affirmatively requested electronic delivery. In addition to summarizing the participant's benefits, the paper statement must contain information on how participants can opt out of receiving the paper disclosure or request delivery of some or all disclosures on paper for no additional cost.</p> <p>This change wouldn't apply to benefit statements furnished electronically under DOL's 2002 e-delivery safe harbor. However, participants who first become eligible to participate (or beneficiaries who first become eligible for benefits) after Dec. 31, 2025, must receive a one-time paper notice about their ability to request paper copies of required disclosures before the plan e-delivers any benefit statement.</p> | <p>Plan years beginning after Dec. 31, 2025</p> | <p>Mandatory</p>       | <p>DOL must update its 2002 regulatory safe harbor for e-delivery by Dec. 31, 2024, to implement this disclosure requirement.</p> |

| Provision                                  | Description of change   | Effective date                              | Optional or mandatory?   | Comments |
|--|---|---|--|----------|
| <b>Error corrections</b>                   |   |   |  |          |
| <b>Recovery of overpayments (Sec. 301)</b> | <p>Plan fiduciaries can decide not to recoup certain inadvertent benefit overpayments; such overpayments must be treated as eligible rollover distributions. Fiduciaries can also choose to forgo recovery of overpayments from sponsors if doing so poses no risk to other participants' benefits.</p> <p>If fiduciaries recoup overpayments, certain limitations and protections apply:</p> <ul style="list-style-type: none"> <li>• Fiduciaries can't charge interest.</li> <li>• Restrictions apply to threats of litigation and use of collection agencies.</li> <li>• Limitations apply when recouping annuity overpayments through future benefit payment reductions or installments.</li> <li>• Spouses or other beneficiaries can't be asked to repay a participant's overpayment.</li> <li>• Fiduciaries can't recoup any overpayments from a participant or a beneficiary if the first overpayment occurred more than 3 years before the participant or beneficiary first receives written notice of the error (except in the case of fraud or misrepresentation).</li> </ul> <p>These limitations don't apply to:</p> <ul style="list-style-type: none"> <li>• Recipients culpable for the overpayment (including those who knew that the payments materially exceeded the correct amount)</li> <li>• Existing recoupment arrangements</li> </ul> | Dec. 29, 2022, with some retroactive relief | Provisions granting discretion not to recoup overpayments are optional; limitations on recoupment are mandatory. |          |

| Provision   | Description of change   | Effective date                                      | Optional or mandatory? | Comments  |
|---|---|---|------------------------|---|
| <b>Error corrections (cont'd)</b>   |   |   |                        |   |
| <b>Employee Plans Compliance Resolution System (EPCRS) expansion (Sec. 305)</b> | <p>This provision significantly expands the Self-Correction Program (SCP) under IRS's EPCRS:</p> <ul style="list-style-type: none"> <li>• <b>Inadvertent errors.</b> Sponsors can use SCP to correct an eligible inadvertent error as long as they take some action demonstrating commitment to self-correct before Treasury discovers the error and make the correction within a reasonable time after discovering the error. Eligible inadvertent failures include those occurring despite practices and procedures reasonably designed to promote overall compliance with applicable IRC requirements.</li> <li>• <b>Loan failures and the Voluntary Fiduciary Correction Program (VFCP).</b> SCP will be available for more plan loan failures, and DOL must treat inadvertent loan failures corrected under the SCP as meeting VFCP requirements.</li> <li>• <b>Correction by IRA custodians.</b> Treasury must expand EPCRS to allow IRA custodians to correct inadvertent errors.</li> </ul> | <p>Treasury must update EPCRS by Dec. 29, 2024.</p> | <p>N/A</p>             | <p>IRS <a href="#">Notice 2023-43</a> confirms that plan sponsors (but not IRA custodians) may rely on the expanded SCP before IRS updates <a href="#">Rev. Proc. 2021-30</a>. Sponsors may use the expanded SCP even for errors that occurred prior to SECURE 2.0's enactment, although some limitations apply.</p> <p>Plans can't use SCP to correct failures that are egregious, involve the diversion or misuse of plan assets, or directly or indirectly relate to an abusive tax avoidance transaction.</p> |

| Provision   | Description of change  | Effective date   | Optional or mandatory? | Comments   |
|---|--|--|------------------------|--|
| <b>Error corrections (cont'd)</b>   |  |  |                        |  |
| <b>Safe harbor correction of employee elective deferral errors</b><br><b>(Sec. 350)</b> | Plans will have 9-1/2 months after plan year-end to correct — without penalty — reasonable errors in administering auto-enrollment and auto-escalation features. A shorter correction period applies if the employee notifies the sponsor of the error. Employers wouldn't have to restore missed deferrals but must pay any matching contributions participants would have received had the error not occurred. The correction is available for both current and former employees. This makes permanent (and expands) one of the temporary safe harbor corrections available under EPCRS originally scheduled to sunset at the end of 2023. | Plan years after Dec. 31, 2023   | Optional               | Treasury must issue regulations implementing this provision. Sponsors may rely on a good-faith interpretation of this provision until Treasury issues regulations.         |
| <b>Miscellaneous</b>  |  |  |                        |  |
| <b>Retirement Savings Lost and Found</b><br><b>(Sec. 303)</b>                           | DOL, in consultation with Treasury, must establish an online searchable database of information about retirement benefits. Plan administrators will have to provide DOL with information about current and former participants (as required by DOL regulations) to enable the agency to construct and operate the database. Anyone who had been a retirement plan participant or beneficiary will be able to search the database to get the plan administrator's contact information to make a claim for benefits.   | DOL must establish database by Dec. 29, 2024.<br><br>Plan administrators will have to start furnishing information for plan years beginning after Dec. 31, 2023. | Mandatory              | DOL must allow individuals to opt out of inclusion in the retirement Savings Lost and Found. DOL's inspector general must conduct regular integrity audits of the program. |

| Provision   | Description of change   | Effective date   | Optional or mandatory? | Comments   |
|---|---|--|------------------------|--|
| <b>Miscellaneous (cont'd)</b>   |   |  |                        |  |
| <b>Tribal government domestic relations orders (DROs) can be QDROs</b><br><b>(Sec. 339)</b> | Plans can now recognize as a QDRO a DRO issued by or under the laws of an Indian tribal government, a subdivision thereof, or an agency or instrumentality of either an Indian tribal government or a subdivision thereof.  | DROs received (or submitted for reconsideration) after Dec. 31, 2022 | Mandatory              | Prior law only recognized DROs issued by a state, a US territory and Washington, DC.   |
| <b>Defined contribution group (DCG) audit exception</b><br><b>(Sec. 345)</b>                | This provision eliminates the trust-level audit requirement for groups of plans permitted to file a single Form 5500 under the SECURE Act. DOL and Treasury referred to these plans as “defined contribution groups” (DCGs) in proposed revisions to Form 5500 and related regulations released in September 2021. Only large plans (with 100 or more participants) in the DCG must undergo an audit. | Dec. 29, 2022  | N/A                    | Proposed revisions to Form 5500 would have required trust-level audits, even if a DCG contains only small plans (with fewer than 100 participants) exempt from ERISA's audit requirement.<br><br>Final updates to the <a href="#">Form 5500</a> and supporting <a href="#">DOL regulations</a> for 2023 plan-year filings reflect this change. |

## Section 5

# Tax credits and penalties

| Provision  | Description of change   | Effective date  | Optional or mandatory? | Comments  |
|--|---|---|------------------------|---|
| <b>Reduction in excise tax for RMD failures</b><br><b>(Sec. 302)</b> | The excise tax for failure to take RMDs is reduced to 25% (from 50%). The tax is further reduced to 10% if the failure is fixed during a specified correction window.   | Tax years beginning after Dec. 29, 2022                 | N/A                    |   |
| <b>Small employer startup credit</b><br><b>(Sec. 102)</b>            | The small employer retirement plan startup credit is modified as follows: <ul style="list-style-type: none"> <li>Employers with 50 or fewer employees now get a credit for 100% (up from 50%) of the costs to start and administer a pension plan, but the credit is still capped at \$5,000 and available for the employer's first 3 taxable years administering the plan.</li> <li>Employers that start a DC plan get an additional credit that's a percentage of their contributions on behalf of employees, capped at \$1,000 per employee and phased out for employers with 51–100 employees.</li> </ul> | Tax years beginning after Dec. 31, 2022                 | Optional               | Provision could be interpreted as counting the additional credit for employer contributions toward the \$5,000 cap, but key House and Senate committee leaders <u>intend</u> to introduce technical corrections legislation clarifying that the credits are separate. |
| <b>Application of startup credit for MEPs</b><br><b>(Sec. 111)</b>   | Small employers joining a MEP or a PEP get the startup credit for three years, regardless of how long the MEP or PEP has existed.   | Retroactive for tax years beginning after Dec. 31, 2019 | Optional               | The credit's availability previously was based on when the MEP or PEP started (e.g., if an employer joined a PEP that had started 1 year earlier, the employer received the credit for only 2 years).   |



| Provision   | Description of change   | Effective date  | Optional or mandatory? | Comments |
|---|---|---|------------------------|----------|
| <b>Tax credit for military spouses</b><br><b>(Sec. 112)</b>   | Small employers sponsoring DC plans get a tax credit for making military spouses immediately eligible to participate and receive matching or nonelective contributions that they would otherwise have received at 2 years of service. The contributions must be 100% vested. The maximum credit is \$500 per military spouse. The credit is available for the spouse's first 3 years of participation and only if the spouse is a nonhighly compensated employee. | Tax years beginning after Dec. 29, 2022   | Optional               |          |
| <b>IRA-specific provisions</b>  |   |   |                        |          |
| <b>Index IRA catch-up limits</b><br><b>(Sec. 108)</b>   | The \$1,000 catch-up contribution limit for IRA owners ages 50 or older will now be indexed.  | Tax years beginning after Dec. 31, 2023   | N/A                    |          |
| <b>Changes for qualified charitable distributions (QCDs) from IRAs</b><br><b>(Sec. 307)</b>                   | Two changes for QCDs from IRAs are: <ul style="list-style-type: none"> <li>The \$100,000 annual limit on tax-free charitable distributions will now be indexed.</li> <li>A new, one-time distribution up to \$50,000 to "split-interest entities" is also permitted under certain conditions.</li> </ul>  | Indexing effective for tax years beginning after 2023<br>One-time QCD change for distributions in tax years beginning after Dec. 29, 2022 | N/A                    |          |
| <b>Statute of limitations for excise tax on excess IRA contributions and missed RMDs</b><br><b>(Sec. 313)</b> | The 3-year statute of limitations on excise taxes owed on missed RMDs from IRAs now starts to run when the IRA holder files a federal income tax return for the year in which the failure occurs. A similar rule applies for excise taxes owed on excess IRA contributions, except the statute of limitations is 6 years instead of 3 years.  | Dec. 29, 2022   | N/A                    |          |

| Provision  | Description of change   | Effective date   | Optional or mandatory? | Comments |
|--|---|--|------------------------|----------|
| <b>IRA-specific provisions (cont'd)</b>  |   |  |                        |          |
| <b>Clarification for excise tax on IRA prohibited transactions</b><br><b>(Sec. 322)</b>      | If an individual has multiple IRAs and commits a prohibited transaction with one of the IRAs, only that IRA is disqualified and treated as distributed to the individual. | Tax years beginning after Dec. 29, 2022  | N/A                    |          |
| <b>No excise tax on corrective distributions and earnings from IRAs</b><br><b>(Sec. 333)</b> | A distribution of excess IRA contributions and related earnings is not subject to the 10% early withdrawal penalty tax.   | Determinations made after Dec. 29, 2022, even if the failure occurred before that date | N/A                    |          |

## Section 6

# Plan amendments and technical corrections

| Provision   | Description of change  | Effective date | Optional or mandatory? | Comments   |
|---|--|----------------|------------------------|--|
| <p><b>Plan amendments for SECURE 2.0 (Sec. 501)</b></p> | <p>Plan amendments for SECURE 2.0 must be adopted by the end of the first plan year beginning on or after Jan. 1, 2025 (2027 for governmental and collectively bargained plans). The statute provides anti-cutback relief for these amendments if plans operate in accordance with applicable changes until amendments are adopted.</p> <p>The statute also extends the plan amendment deadlines for SECURE 1.0, the Coronavirus Aid, Relief and Economic Security (CARES) Act (Pub. L. No. 116-136), and the Taxpayer Certainty and Disaster Tax Relief Act (Relief Act) (Div. EE of Pub. L. No. 116-260) as follows:</p> <ul style="list-style-type: none"> <li>• SECURE 1.0 deadlines now match the SECURE 2.0 deadlines.</li> <li>• The amendment deadlines for the CARES Act and the Relief Act are now the end of the 2025 plan year (2027 plan year for governmental plans).</li> </ul> | N/A            | N/A                    | <p>IRS last year extended the amendment deadlines for SECURE 1.0, the CARES Act and the Relief Act to Dec. 31, 2025, regardless of plan year. (Deadlines for governmental employers were based on legislative calendars.)</p> <p>The IRS extension also applied to the age reduction for in-service distributions from pension plans to 59-1/2 under the Bipartisan American Miners Act of 2019 (Div. M of Pub. L. No. 116-94). SECURE 2.0 does not extend the amendment deadline for this change. So employers that implemented this change still must amend their plans by Dec. 31, 2025, regardless of plan year. (Governmental employers have until the applicable deadline based on their legislative calendars.)</p> |

| Provision  | Description of change   | Effective date             | Optional or mandatory?                                      | Comments |
|--|---|----------------------------|---|----------|
| <b>SECURE 1.0 technical amendments</b><br><b><u>(Sec. 401)</u></b> | <p>One technical amendment clarifies that an auto-enrollment notice is required for QACAs.</p> <p>Other technical amendments make several clarifications for long-term part-time workers:</p> <ul style="list-style-type: none"><li>Participants who join a DC plan under the long-term part-time worker rule can be excluded for nondiscrimination purposes, including the safe harbor plan rules.</li><li>The requirement that each year with 500 hours of service counts as a year of service for vesting purposes applies to the entire plan, not just the deferral arrangement.</li><li>Participants who join a DC plan under the long-term part-time worker rule are treated as full-time under the plan when they've satisfied the IRC's minimum age and service requirements for participant (age 21 and 1 year of service in which the employee works at least 1,000 hours).</li></ul> | SECURE 1.0 effective dates | Mandatory<br><br>Optional<br><br>Mandatory<br><br>Mandatory |          |

## Section 7

# Agency directives (not already mentioned above)

| Provision   | Description of change   | Effective date  | Comments  |
|---|---|---|---|
| <b>Treasury to promote expanded saver's match</b><br><b>(Sec. 104)</b>  | Treasury must take steps to increase public awareness of the expanded saver's credit (discussed <a href="#">above</a> ) and report to Congress on the department's anticipated promotional efforts.   | Treasury report to Congress due by July 1, 2026   |   |
| <b>Triagency report on disclosures</b><br><b>(Sec. 319)</b>             | Treasury, DOL and PBGC must review reporting and disclosure requirements that apply to retirement plans under ERISA and the IRC. The agencies would have to consult with participant and employer representatives and prepare a report to Congress evaluating the effectiveness of current disclosures and making recommendations on how to consolidate, simplify, standardize and improve disclosures. The report must include an analysis of how participants and beneficiaries are providing preferred contact information, the methods plan sponsors are using to provide disclosures, and the rate at which participants and beneficiaries are receiving, accessing, understanding, and retaining disclosures. | Agencies must begin their review as soon as practicable. Report to Congress is due by Dec. 29, 2025 |   |
| <b>Treasury guidance on streamlining rollovers</b><br><b>(Sec. 324)</b> | After obtaining relevant information from participants and plan sponsor representatives, Treasury must release sample forms for direct rollovers and trustee-to-trustee transfers.  | By Jan. 1, 2025   | Treasury must consider coordination with the triagency report on disclosures ( <a href="#">Sec. 319</a> ) and the Government Accountability Office (GAO) report on 402(f) notices ( <a href="#">Sec. 336</a> ). |

| Provision   | Description of change   | Effective date   | Comments   |
|---|---|--|--|
| <b>GAO report on 402(f) notices</b><br><b>(Sec. 336)</b>  | GAO must issue a report to Congress on the effectiveness of currently required Section 402(f) rollover notices. The report must recommend ways to facilitate better understanding of different distribution options and corresponding tax consequences, including spousal rights.   | Within 18 months after Dec. 29, 2022                             |  |
| <b>DOL report on DC plan fee disclosure</b><br><b>(Sec. 340)</b>                                  | DOL must explore how to improve the required content and design of DC plan fee disclosures to enhance participants' understanding of fees and expenses, as well as the cumulative effect on retirement savings over time. DOL must report its findings to Congress, including recommended consumer education on financial literacy concepts relating to retirement plan fees and recommended legislative changes to address the findings. | By Dec. 29, 2025   | DOL may conduct this evaluation through a public information request.                            |
| <b>DOL/IRS regulations allowing consolidation of certain DC plan notices</b><br><b>(Sec. 341)</b> | DOL and Treasury must adopt regulations allowing plans to consolidate into a single notice two or more of the required notices regarding QDIAs, automatic enrollment and 401(k) plan safe harbors.  | By Dec. 29, 2024   | This provision doesn't prevent consolidation of other notices, as permitted by DOL and Treasury. |
| <b>DOL report on inflation and retirement plans</b><br><b>(Sec. 347)</b>                          | DOL, in consultation with Treasury, must study the effect of inflation on retirement savings and submit findings to Congress.   | Findings to Congress were due March 29 (90 days after enactment) |  |

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