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"The SECURE Acts"
An Update and Refresher on Workplace Retirement Plans

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Automatic Enrollment Requirements

- New **requirement** for 401(k) and 403(b) plans
- Effective for plan years beginning after 12/31/2024 (*i.e.*, starting in 2025)
- Existing plans are exempted
- Exceptions for small (10 or fewer employees) and new businesses, governmental and church plans

Automatic Enrollment Requirements

- Initial automatic deferral rates: 3%-10% of pay
- Subsequent annual increases required until maximum 15% of pay
- Participants may opt out or change deferral rates

Credits for Small Employer Pension Plan Startup Costs

- Tax credits provided to an "eligible employer" by IRC § 38(b)(14)
- Eligibility and calculation is determined under IRC § 45E
- For "qualified startup costs"
  - Any ordinary and necessary expenses of an eligible employer, paid or incurred by an eligible employer, in connection with:
    (1) the establishment or administration of an eligible employer plan, or
    (2) the retirement-related education of employees with respect to such plan.

- Credit increased from 50% to **100%** of qualified startup costs of eligible employers with up to 50 employees

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Credits for Small Employer Pension Plan Startup Costs
(continued)

- Additional credit for employer contributions to plans other than defined benefit plans (IRC § 45E(f))
- Additional credit is equal to the percentage of employer contributions (excluding elective deferrals), up to $1,000 per employee
- Additional credit phases out over 5 years, and for employers with between 51-100 employees

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Emergency Use of Retirement Accounts – Withdrawals for Emergency Expenses

- Penalty-free "emergency personal expense distribution" of up to $1,000 allowed up to once per calendar year for qualifying expenses
- Beginning in 2024
- For "unforeseeable or immediate financial needs relating to necessary personal or family emergency expenses"
- Self-certification permitted
- A participant may not take the same type of distribution for 3 years unless repaid to plan account during such 3-year period

Emergency Use of Retirement Accounts – Savings Accounts Linked to Retirement Accounts

- Employer option to offer to non-highly compensated employees
- Up to $2,500 in employee deferrals or 3% of pay and $2,500 in employer match per year
- Treated like a Roth account (post-tax)
- Excess contributions may be directed to an employee's Roth defined contribution plan

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Qualified Birth or Adoption Distributions

- Authorized by the SECURE Act of 2019
- Up to $5,000, penalty-free, from defined contribution plans
- Available during the one-year period beginning on the date of birth or legal adoption of an individual's child
- Amount of distribution still includible in gross income, but not subject to the 10% additional tax under IRC § 72(t)(1)
- Individuals generally may recontribute a qualified birth or adoption distribution to their plan account

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Student Loan Payments/Employer Match

- Section 110 of SECURE 2.0 allows employers to make matching contributions to a 401(k) plan, 403(b) plan or SIMPLE IRA based on an employee's repayment of student loan debt
- Effective for plan years beginning after December 31, 2023
- Employers may rely on certifications by employees
- Employers may make matching contributions for student loan repayments at different intervals than other matches (e.g., with regular payrolls), but at least annually

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Student Loan Payments/Employer Match
(continued)

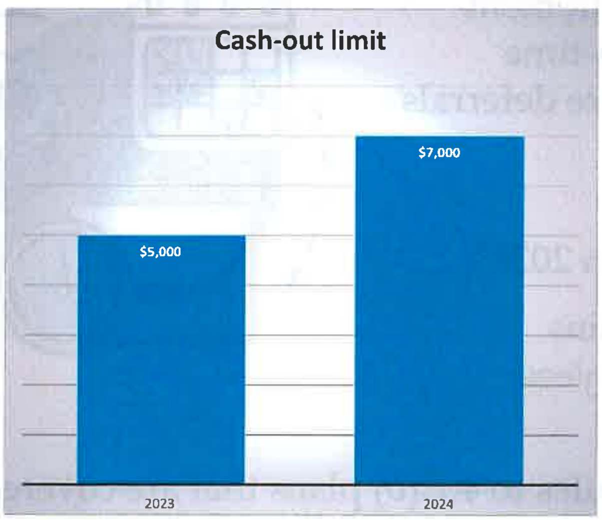
For more information. . .

https://www.benefitspro.com/2023/08/25/secure-2-0s-student-loan-match-takes-effect-in-2024-are-you-up-to-speed/

Long-Term, Part-Time Employees

- Shortens employers' maximum service requirement from 3 years (current law) to **2 years** for part-time employees to become eligible to make elective deferrals to 401(k) plans
- Takes effect for plan years beginning after 12/31/2024 (*i.e.*, for potential participation in 2025*)
- *Under the original SECURE Act, 2023 remains Year 3 for tracking hours of part-time employees to participate as early as **1/1/2024**
- Extends the long-term, part-time coverage rules to 403(b) plans that are covered by ERISA

Increased Mandatory Cash-out Limit



- Under current law, plans may automatically roll over terminated participant balances with values (including present values of DB benefits) of up to $5,000 to a designated eligible retirement plan (IRA)
- Beginning with distributions made in 2024, the $5,000 limit increases to $7,000

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Expanded Relief for Correcting Plan Errors

- Recognition of the "ever growing complexity of retirement plan administration"
- Allows more types (and older) errors to be self-corrected without filing with the IRS for relief
- Must still be corrected within a "reasonable period" after failure identified
- Many loan errors now eligible for self-correction
- Effective immediately

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Roth Treatment / Catch-Up Contributions

- New requirement for employers and plan administrators to afford Roth (post-tax) treatment to certain (also new) catch-up contributions
- Originally effective beginning in 2024, but 2-year "administrative transition period" **to <u>2026</u>** announced by IRS in Notice 2023-62 (August 25, 2023)
- Requires correct payroll processing and allocation to plan accounts
- Applies to employees whose wages from the employer exceed $145,000 in the prior calendar year (indexed for cost-of-living)

Increased Annual Catch-Up Contribution Limits

- For employer plans, the amount of catch-up contributions permitted is increased to the greater of $10,000 or 50% more than the standard catch-up amount annually. The catch-up amount for participants age 50 and older in 2023 is currently $7,500 for employer plans.
- For SIMPLE plans, the amount of catch-up contributions permitted is increased to the greater of $5,000 or 50% more than the standard catch-up amount annually. The catch-up amount for participants age 50 and older in 2023 is currently $3,500 for SIMPLE plans.
- Applies to plan participants who are 60, 61, 62 and 63.
- The increased amounts will be indexed for inflation after 2025
- Effective for taxable years after December 31, 2024

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Increases to Required Beginning Date (RMDs)

- Combined rules following the SECURE Act of 2019 and SECURE 2.0:
  - For participants of tax-qualified employer-sponsored retirement plans, "required beginning date" means April 1 of the calendar year following the later of—

    (1) the calendar year in which the employee attains the "applicable age"; or

    (2) the calendar year in which the employee retires.*

*Except for 5% business owners.

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Increases to Required Beginning Date (continued)

- "Applicable Age"

- **Age 73** for an individual who turns age 72 after December 31, 2022, and turns age 73 before January 1, 2033
- **Age 75** for an individual who turns age 73 on or after January 1, 2033

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Required Beginning Date and Actuarial Increases

- Despite incremental increases of the required beginning date since 2020, the IRC's requirement for plans to provide actuarially increased benefits to employees who work past the calendar year in which they turn age 70 ½ without commencing benefits remains (See 26 U.S.C. § 401(a)(9)(C)(iii).
- As a result, some employers are leaving their plans unchanged from the pre-2020 required beginning date and continuing to distribute benefits after employees reach age 70 ½.

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Elimination of Pre-Death Required Minimum Distributions (RMDs) from Roth Accounts

- Current law requires pre-death RMDs from Roth accounts in employer-sponsored retirement plans (*e.g.*, 401(k) plans)
- Not currently required from Roth IRAs
- Such pre-death required minimum distributions are eliminated for taxable years beginning after December 31, 2023 (*i.e.*, in 2024)

Replacing a SIMPLE IRA with Safe Harbor 401(k)

- Employers may elect to replace a SIMPLE IRA plan with a SIMPLE 401(k) or other 401(k) plan that requires employer contributions
- If specified steps are followed, no adverse tax consequences to plan or participants
- Effective for plan years beginning after December 31, 2023 (*i.e.*, in 2024)

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Safe Harbor for Correcting Deferral Failures

- For failures relating to automatic enrollment and automatic escalation
- Applies to qualified plans, 403(b) plans, IRAs and 457(b) plans
- Existing IRS-issued safe harbor expiring December 31, 2023

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Safe Harbor for Correcting Deferral Failures

- SECURE 2.0 provides a new grace period to correct reasonable errors
- Correction is generally available without penalty within 9 ½ months after the end of the plan year in which the error first occurred
- Earlier correction is required if a participant notifies the employer of the error

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Hardship Distributions
Self-Certification by Employees

- Under certain circumstances, a plan administrator may now rely on an employee's self-certification when applying for a hardship distribution from a Section 401(k) or 403(b) plan
- Self-certification available for safe harbor hardships under the 401(k) regulations (*e.g.*, medical care, tuition, preventing eviction or foreclosure)
  - Limited to amount needed to cover immediate and heavy financial need
  - Employee cannot reasonably obtain the funds from another source
- Exceptions where plan administrator has actual knowledge to the contrary
- Effective for plan years beginning after the date of SECURE 2.0's enactment (*i.e.*, January 1, 2023 for calendar year plans)

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Questions?

Thank you for joining us!

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