

## Pocket Guide to SECURE 2.0

Jennifer Rigterink, Alexis Rosett, Heather Monte

“SECURE 2.0 Act of 2022” was signed into law on December 29, 2022, as part of the Consolidated Appropriations Act, 2023. This Pocket Guide provides a short summary of the retirement-related provisions in [SECURE 2.0](#). Parts I through XIII of the Pocket Guide are organized chronologically by effective date, and the final part (Part XIV) summarizes provisions with varying effective dates after SECURE 2.0 enactment.

Section	Provision	Short Summary	Effective Date
<b>Part I: Retroactive Effective Dates</b>			
Sec. 111.	Application of Credit for Small Employer Pension Plan Startup Costs to Employers Which Join an Existing Plan	Confirms employers joining a multiple employer plan (which includes pooled employer plans) are eligible for tax credit for all three years	Retroactive to taxable years starting after December 31, 2019
Sec. 331.	Special Rules for Use of Retirement Funds in Connection with Qualified Federally Declared Disasters	Provides automatic disaster relief rules for distributions and loans from retirement plan accounts in cases of qualified federally declared disasters	Effective for disasters occurring on or after January 26, 2021
<b>Part II: SECURE 2.0 Enactment (December 29, 2022)</b>			
Sec. 101.	Expanding Automatic Enrollment in Retirement Plans	Requires that 401(k) and 403(b) plans (with limited exceptions) automatically enroll eligible participants at specific deferral rates with auto-escalation	Effective for plans established after December 29, 2022; automatic enrollment provisions must apply for plan years starting after December 31, 2024
Sec. 128.	Enhancement of 403(b) Plans	Permits 403(b) custodial accounts to participate in collective investment trusts	December 29, 2022* *Effective in theory; changes to securities laws needed to make this provision operative

<b>Section</b>	<b>Provision</b>	<b>Short Summary</b>	<b>Effective Date</b>
Sec. 202.	Qualifying Longevity Annuity Contracts	Loosens restrictions on the premiums for qualifying longevity annuity contracts by eliminating the 25% retirement plan account balance limit and increasing dollar limit to \$200,000 (indexed)	Generally effective for contracts purchased on or after December 29, 2022
Sec. 204.	Eliminating a Penalty on Partial Annuitization	Permits account owners to aggregate annuity payments received in respect of an interest in a retirement plan and any other remaining interest in the same retirement plan toward the year's required minimum distribution	December 29, 2022
Sec. 301.	Recovery of Retirement Plan Overpayments	Provides that plan fiduciaries are not required to recover inadvertent plan overpayments; if overpayments are recovered from participants, new timing rules and limitations apply	December 29, 2022
Sec. 305.	Expansion of Employee Plans Compliance Resolution System	Expands Employee Plans Compliance Resolution System to permit plan sponsors additional flexibility to self-correct retirement plan errors	December 29, 2022; Treasury directed to make corresponding updates to EPCRS within two years
Sec. 335.	Corrections of Mortality Tables	Requires Treasury to amend minimum funding regulations for defined benefit pension plans by capping mortality improvement rates	December 29, 2022
Sec. 345.	Annual Audits for Group of Plans	Clarifies that plans filing under a group of plans need only submit an audit opinion if the plan has 100 participants or more	December 29, 2022
Sec. 606.	Enhancing Retiree Health Benefits in Pension Plans	Extends sunset date to the end of 2032 for rules permitting the use of overfunded pension plan assets to pay retiree health and life insurance benefits; transfers permitted if the transfer is no more than 1.75% of plan assets and the plan is at least 110% funded	Transfers made on or after December 29, 2022

Section	Provision	Short Summary	Effective Date
<b>Part III: Taxable and Calendar Years Starting After SECURE 2.0 Enactment (December 29, 2022)</b>			
Sec. 112.	Military Spouse Retirement Plan Eligibility Credit for Small Employers	Provides small employers sponsoring a defined contribution plan with a tax credit for implementing certain eligibility and vesting provisions for military spouses	Taxable years starting after December 29, 2022
Sec. 118.	Tax Treatment of Certain Nontrade or Business SEP Contributions	Permits employers of domestic employees to provide retirement benefits for such employees under a Simplified Employee Pension	Taxable years starting after December 29, 2022
Sec. 201.	Remove Required Minimum Distribution Barriers for Life Annuities	Eliminates barriers to the availability of life annuities in qualified retirement plans by relaxing current required minimum distribution (RMD) rules that prevent offering certain annuity features such as guaranteed annual increases and premium death benefit returns	Calendar years ending after December 29, 2022
Sec. 302.	Reduction in Excise Tax on Certain Accumulations in Qualified Retirement Plans	Reduces the excise tax for failure to take required minimum distributions from 50% to 25%; for RMD failures corrected in a “timely manner,” the excise tax is further reduced to 10%	Taxable years starting after December 29, 2022
<b>Part IV: Plan Years Starting After SECURE 2.0 Enactment (December 29, 2022)</b>			
Sec. 113.	Small Immediate Financial Incentives for Contributing to a Plan	Employers permitted to offer <i>de minimis</i> financial incentives (not paid for with plan assets) to boost employee participation in retirement plans	Plan years starting after December 29, 2022
Sec. 312.	Employer May Rely on Employee Certifying that Deemed Hardship Distribution Conditions are Met	Permits employees to self-certify that they experienced an event that constitutes a hardship for purposes of taking a hardship withdrawal (in addition to current rules which permit self-certifying the distribution is not in excess of the amount required to satisfy the need)	Plan years starting after December 29, 2022
Sec. 348.	Cash Balance	Provides that for market-based cash balance plans, the plan may use any reasonable rate to project the accrued benefit for backloading purposes, not to exceed 6%	Plan years starting after December 29, 2022

Section	Provision	Short Summary	Effective Date
Sec. 604.	Optional Treatment of Employer Matching or Nonelective Contributions as Roth Contributions	Permits defined contribution plans to allow participants to elect to receive matching or nonelective contributions on a Roth basis	Contributions made after December 29, 2022
<b>Part V: Distributions After SECURE 2.0 Enactment (December 29, 2022)</b>			
Sec. 311.	Repayment of Qualified Birth or Adoption Distribution Limited to Three Years	Limits the repayment period for qualified birth or adoption distributions to three years from the date the distribution is received	Distributions after enactment, with special rule for QBOADs made before December 29, 2022
Sec. 323.	Clarification of Substantially Equal Periodic Payment Rule	Clarifies that the “substantially equal periodic payments” exception from the 10% early withdrawal penalty continues to apply after certain rollovers, exchanges and for certain annuity payments	Effective for annuity distributions made after December 29, 2022 For transfers, rollovers, and exchanges, effective after December 31, 2023
Sec. 326.	Exception to Penalty on Early Distributions from Qualified Plans for Individuals with a Terminal Illness	Provides an exception to the 10% early withdrawal penalty for terminally ill individuals	Distributions made after December 29, 2022
<b>Part VI: Taxable Years Starting After December 31, 2022</b>			
Sec. 102	Modification of Credit for Small Employer Pension Plan Startup Costs	Increases start-up credit for employers with 50 or fewer employees; provides an additional credit for certain employer contributions	Taxable years starting after December 31, 2022
Sec. 107.	Increase in Age for Required Beginning Date for Mandatory Distributions	Delays the age on which the required beginning date is determined for starting required minimum distributions from age 72 to age 73 for individuals who attain age 72 after December 31, 2022, and then increases to age 75 for individuals who attain age 74 after December 31, 2032	Distributions required to be made after December 31, 2022, with respect to individuals who attain age 72 after that date

Section	Provision	Short Summary	Effective Date
Sec. 601.	Simple and SEP Roth IRAs	Allows simplified employee pension plans (SEPs) and SIMPLE IRAs to accept Roth contributions	Taxable years starting after December 31, 2022
<b>Part VII: Plan Years Starting After December 31, 2022</b>			
Sec. 105.	Pooled Employer Plans Modification	Clarifies that a pooled employer plan may designate a named fiduciary (other than an employer in the plan) to collect contributions to the plan	Plan years starting after December 31, 2022
Sec. 106.	Multiple Employer 403(b) Plans	Provides that 403(b) plans may participate in multiple employer plans and pooled employer plans	Plan years starting after December 31, 2022
Sec. 320.	Eliminating Unnecessary Plan Requirements Related to Unenrolled Participants	Eliminates certain individual account plan notice requirements for unenrolled participants if the unenrolled participant receives an annual reminder notice regarding eligibility and is provided any otherwise-required document on request	Plan years starting after December 31, 2022
Sec. 339.	Recognition of Tribal Government Domestic Relations Orders	Permits recognition of domestic relations orders issued by tribal governments as “qualified domestic relations orders”	Applies to domestic relations orders submitted after December 31, 2022, including orders submitted for reconsideration
<b>Part VIII: Taxable and Calendar Years Starting After December 31, 2023</b>			
Sec. 116.	Allow Additional Nonelective Contributions to SIMPLE Plans	Permits additional employer contributions to SIMPLE plans	Taxable years starting after December 31, 2023
Sec. 117.	Contribution Limit for SIMPLE Plans	Increases the annual deferral limit and the catch-up contribution limits for SIMPLE IRAs and SIMPLE 401(k) plans	Taxable years starting after December 31, 2023

Section	Provision	Short Summary	Effective Date
Sec. 325.	Roth Plan Distribution Rules	Eliminates the pre-death distribution requirement for Roth designated accounts in employer-sponsored retirement plans, aligning the employer plan rule with Roth IRAs	Taxable years starting after December 31, 2023; will not apply to distributions required with respect to years starting before January 1, 2024
Sec. 327.	Surviving Spouse Election to be Treated as Employee	Permits a surviving spouse to elect to be treated as the deceased employee for purposes of the RMD rules applied to a retirement plan account, aligning the employer plan rule with IRAs	Calendar years starting after December 31, 2023
Sec. 349.	Termination of Variable Rate Premium Indexing	Stops indexing PBGC variable rate premiums for inflation and freezes the rate at 5.2%	Calendar years starting after December 31, 2023
Sec. 603.	Elective Deferrals Generally Limited to Regular Contribution Limit	Requires that all catch-up contributions to retirement plans are made on a Roth basis, with an exception for employees with previous calendar year compensation of \$145,000 or less (indexed)	Taxable years starting after December 31, 2023

### Part IX: Plan Years Starting After December 31, 2023

Sec. 110.	Treatment of Student Loan Payments as Elective Deferrals for Purposes of Matching Contributions	Permits an employer to make matching contributions under a 401(k) plan, 403(b) plan, or SIMPLE IRA with respect to “qualified student loan payments” made by the employee with respect to student loan debt	Plan years starting after December 31, 2023
Sec. 121.	Starter 401(k) Plans for Employers with No Retirement Plan	Permits an employer that does not sponsor a retirement plan to offer a “deferral-only” starter 401(k) plan (or safe harbor 403(b) plan)	Plan years starting after December 31, 2023
Sec. 127.	Emergency Savings Accounts Linked to Individual Account Plans	Permits an employer to offer pension-linked “emergency savings accounts” as part of an individual account plan to non-highly compensated employees; account is subject to contribution and withdrawal limits	Plan years starting after December 31, 2023
Sec. 310.	Application of Top Heavy Rules to Defined Contribution	Permits top-heavy plans covering otherwise excludable employees to test non-excluded and excludable employees separately for top-heavy testing	Plan years starting after December 31, 2023

Section	Provision	Short Summary	Effective Date
	Plans Covering Excludable Employees		
Sec. 315.	Reform of Family Attribution Rule	Refines family attribution rules that apply when performing coverage and nondiscrimination tests by disregarding community property laws for purposes of determining ownership	Plan years starting after December 31, 2023
Sec. 316.	Amendments to Increase Benefit Accruals Under Plan for Previous Plan Year Allowed Until Employer Tax Return Due Date	Permits retroactive plan amendments increasing participant benefit accruals for the prior plan year provided the amendment is adopted by the employer's tax return due date	Plan years starting after December 31, 2023
Sec. 332.	Employers Allowed to Replace SIMPLE Retirement Accounts with Safe Harbor 401(k) Plans during a Year	Allows an employer to replace a SIMPLE IRA plan with a SIMPLE 401(k) plan or other safe harbor 401(k) plan mid-year	Plan years starting after December 31, 2023
Sec. 343.	Defined Benefit Annual Funding Notices	Revises existing defined benefit plan notices to require additional information about the plan's funding status	Plan years starting after December 31, 2023
Sec. 602.	Hardship Withdrawal Rules for 403(b) Plans	Conforms the 403(b) hardship withdrawal rules to align with the 401(k) plan rules	Plan years starting after December 31, 2023
<b>Part X: Distributions After December 31, 2023</b>			
Sec. 115.	Withdrawals for Certain Emergency Expenses	Provides an exception from the 10% early withdrawal penalty for one withdrawal per calendar year for emergency expenses, up to \$1,000; participant has three-year period to recontribute	Distributions made after December 31, 2023
Sec. 126.	Special Rules for Certain Distributions from Long-Term Qualified Tuition Programs to Roth IRAs	Provides a mechanism for tax-free and penalty free rollovers from Code Section 529 educational accounts to the beneficiary's Roth IRA	Distributions made after December 31, 2023

Section	Provision	Short Summary	Effective Date
Sec. 304	Updating Dollar Limit for Mandatory Distributions	Involuntary cash-out limit for small benefits under the automatic rollover provisions increased from \$5,000 to \$7,000	Distributions made after December 31, 2023
Sec. 314.	Penalty-Free Withdrawal from Retirement Plans for Individual in Case of Domestic Abuse	Provides an exception from the 10% early withdrawal penalty tax for individual cases of domestic abuse; amount is limited to the lesser of \$10,000 or 50% of the participant's vested account; participant has three-year period to recontribute	Distributions made after December 31, 2023
Sec. 350.	Safe Harbor for Corrections of Employee Elective Deferral Failures	Makes permanent the current EPCRS safe harbor correction method for automatic enrollment and automatic escalation errors scheduled to expire on December 31, 2023	Effective for errors after December 31, 2023
<b>Part XI: Taxable Years Starting After December 31, 2024</b>			
Sec. 109.	Higher Catch-Up Limit to Apply At Age 60, 61, 62, and 63	Increases the catch-up contribution limit to the greater of \$10,000 (indexed) or 50% more than the regular catch-up contribution limit in 2025 (indexed after 2025) for individuals who have attained ages 60, 61, 62 and 63	Taxable years starting after December 31, 2024
<b>Part XII: Plan Years Starting After December 31, 2024</b>			
Sec. 125.	Improving Coverage for Part-Time Workers	Reduces the eligibility period for long-term part-time workers to become eligible to make elective deferrals to a workplace retirement plan from three consecutive 12-month periods to <i>two</i> consecutive 12-month periods; extends long-term part-timer rules to 403(b) plans covered by ERISA	Plan years starting after December 31, 2024
<b>Part XIII: After December 31, 2025 and Beyond . . .</b>			
Sec. 338.	Requirement to Provide Paper Statements in Certain Cases	Generally requires that unless the participant elects otherwise, defined contribution plans must provide participants with a paper benefit statement at least annually; for defined benefit plans; paper benefit statement must be provided once every three years	Plan years starting after December 31, 2025



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Sec. 103.	Saver's Match	Replaces the saver's tax credit with a "saver's match" contribution of 50% of qualifying contributions up to \$2,000, deposited in the qualifying employee's retirement plan account	Taxable years starting after December 31, 2026
Sec. 114.	Deferral of Tax for Certain Sales of Employer Stock to Employee Stock Ownership Plan Sponsored by S-Corporation	Extends the gain deferral provisions under Code Section 1042 for sales of non-publicly traded C corporation stock to an ESOP to sales of employer stock to S corporation ESOPs (with 10% limit on deferral)	Effective for sales made after December 31, 2027
Sec. 123.	Certain Securities Treated as Publicly Traded in Case of Employee Stock Ownership Plans	Updates certain ESOP rules related to whether a security is a "publicly traded employer security" and "readily tradeable on an established securities market"	Plan years starting after December 31, 2027
<b>Part XIV: Date Certain After SECURE 2.0 Enactment (December 29, 2022)</b>			
Sec. 120.	Exemption for Certain Automatic Portability Transactions	Allows a retirement plan service provider to provide employer plans with automatic portability services for former participant account balances	Applies to transactions occurring 12 months after December 29, 2022
Sec. 303.	Retirement Savings Lost and Found	Creates a national online database, housed at the DOL, for former participants to search for contact information for retirement plan administrators; plans required to provide additional reporting to the DOL about former employees	Database creation required 2 years after December 29, 2022; plan required reporting would start for plan years starting after December 31, 2023
Sec. 318.	Performance Benchmarks for Asset Allocation Funds	Directs the DOL to update participant disclosure rules to accommodate benchmarking mixed-asset class investments against a blended benchmark	Within 2 years after December 29, 2022
Sec. 321.	Review of Pension Risk Transfer Interpretive Bulletin	Directs the DOL to review the ERISA fiduciary standards that apply to pension risk transfers to determine whether amendments are warranted	Within 1 year after December 29, 2022

Section	Provision	Short Summary	Effective Date
Sec. 334.	Long-Term Care Contracts Purchased with Retirement Plan Distributions	Excepts certain distributions each year for premiums for specified long term care insurance contracts from 10% early withdrawal penalty	Distributions made 3 years after December 29, 2022
Sec. 336.	Report to Congress on Section 402(f) Notices	Requires that the government accountability office (GAO) provide a report to Congress on the effectiveness of Section 402(f) notices	Within 18 months after December 29, 2022
Sec. 340.	Defined Contribution Plan Fee Disclosure Improvements	Requires the DOL to review participant disclosure requirements for participant-directed individual account plans and submit a report to Congress	Within 3 years after December 29, 2022
Sec. 341.	Consolidation of Defined Contribution Plan Notices	Directs Treasury and the DOL to amend regulations to permit the consolidation of certain required plan notices (QDIA notice, 401(k) safe harbor notice, and permissive withdrawal notices)	Within 2 years after December 29, 2022
Sec. 342.	Information Needed for Financial Options Risk Mitigation	Directs the DOL to issue regulations on participant notice and disclosure requirements regarding lump sum windows	Within 1 year after December 29, 2022
Sec. 344.	Report on Pooled Employer Plans	Requires the DOL to conduct a study on the pooled employer plan industry and report to Congress	Within 5 years of December 29, 2022, and updates every 5 years thereafter

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*This Pocket Guide is intended to provide a high-level overview of SECURE 2.0 and does not include detailed descriptions. For future updates on SECURE 2.0, check out our blog, [www.ERISAPRACTICECENTER.COM](http://www.ERISAPRACTICECENTER.COM), to which you can subscribe [here](#).*