SECURE 2.0

DFW – ISCEBS Chapter

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SECURE 2.0

SECURE 2.0 is a compilation of:

- Securing a Strong Retirement Act.
- Retirement Improvement and Savings Enhancement to Supplement Healthy Investments for the Nest Egg Act ("RISE & SHINE").
- Enhancing American Retirement Now Act ("EARN").

Automatic Enrollment Required

- New 401(k) & 403(b) plans must have an Eligible Automatic Contribution Arrangement (EACA) beginning in 2025.
- Initial default rate 3% to 10%.
- Increase 1% each year until reaching at least 10% (15% maximum).
- Must allow 90 day window to take distribution
- Default investment must be QDIA.

Automatic Enrollment Required

Does not apply to

- Plans in existence prior to enactment;
- Governmental & church plans;
- Companies in business less than 3 years;
- SIMPLE plans; or
- Businesses with 10 or fewer employees.

Student Loan Match

- Matching contributions can be made based on the participant’s repayment of student debt.
- Effective beginning in 2024.
- Plan can rely on participant’s certification of student debt payments.
- Match must be subject to same vesting rules as the match on elective deferrals.

Long-Term, Part-Time Eligibility

- SECURE 1.0 requires participants to become eligible for elective deferrals upon working 3 consecutive years with at least 500 hours.
- SECURE 2.0 shortens this rule to 2 consecutive years with at least 500 hours.
- Effective beginning in 2025.
- Years prior to 2021 are excluded for vesting purposes.

Emergency Expenses

- New optional distribution trigger in 2024 for “unforeseeable or immediate” emergency expenses – once per calendar year up to $1,000.
- Can rely on participant’s written certification that they meet the emergency standard.
- Can be repaid within 3 years, and no new distribution in the following three calendar years unless repaid.
- Exempt from 10% early distribution penalty.

Emergency Expenses

- New optional “pension-linked emergency savings accounts” in 2024.
- Roth contributions for NHCEs only.
- No minimum amount, but contributions must stop at $2,500 (indexed).
- Distributions at least once per month at the discretion of the participant.
- Exempt from 10% early distribution penalty.

Defined Benefit Plans

- 2023 PBGC variable rate premium set at $52 per each $1000 of unfunded vested benefits – No longer indexed.
- Expands information required in annual funding notice to the PBGC starting with 2024 plan years.
- New participant disclosure for DB plans adding a lump sum window.

Saver’s Match

- Code currently allows for a “Saver’s Credit” – providing low- and mid-income tax payers with a partial tax credit for retirement contributions up to $2,000.
- 2027 – The Saver’s Credit becomes a Saver’s Match, a federal pre-tax matching contribution deposited into a taxpayer’s IRA or retirement plan.
- Phases out between $41,000 and $71,000 (married taxpayers filing a joint return).

Starter 401(k)

- 2024 – Companies that do not sponsor a retirement plan will have the option to adopt a "starter 401(k) deferral-only arrangement".
- Auto-enroll between 3% and 15%.
- Annual deferral limit is $6,000 (indexed), with an additional catch-up of $1,000 (indexed) at age 50.
- Exempt from ADP testing.

Increased Catch-Up

- Increased catch-up for years participant turns 60, 61, 62 and 63.
- Catch-up equals the greater of $10,000 (indexed) or 150% of the standard catch-up limit.
- Effective in 2025.

Increase in Required Beginning Date

- Required Beginning Date increased to:
  - 73 (or retirement, if later) for a participant who attains age 72 after December 31, 2022 and age 73 before January 1, 2033
  - 75 (or retirement, if later) for an participant who attains age 74 after December 31, 2032.

Lost & Found

- Requires DOL to create a national, online searchable lost and found program for Americans' retirement accounts.
- Designed to help participants find their retirement benefits & employers find lost or missing participants.
- Requires the database to be running within 2 years of enactment.

Roth Catch-Up Contributions

- 2024 – Catch-up contributions must be made on a Roth basis.
- Only applies to participants earning more than $145,000 in wages (indexed) in the prior year.
- Likely to increase plans that adopt Roth contributions.

Roth Match & Nonelective

- For any contributions made after enactment – Plans may allow participants to direct matching and nonelective contributions be made on a Roth basis.
- Only applies to contributions that are fully vested.

Changes to RMDs

- Excise tax for missed RMDs reduced from 50% to 25% – 10% if the error is corrected timely.
- Lifetime RMD rules will not apply to Roth accounts.
- Surviving spouse can elect to be treated as the participant for RMD purposes.
- Effective in 2024.

Paper Statements Required

- Paper benefit statements must be required –
  - Once every year for defined contribution plans.
  - Once every three years for defined benefit plans.
- Participants can affirmatively elect to receive all statements electronically.
- Effective in 2026.

Disclosures for Unenrolled Participants

- Beginning in 2023, defined contribution plans become exempt from providing ERISA and Code required notices to unenrolled employees.
- Unenrolled employees include eligible participants who do not defer into the plan and have no account balance.
- Must send an annual reminder notice of the participant's eligibility to participate in the plan.

Increase in Force-Out Distributions

- Increase in distributions without participant consent from $5,000 to $7,000.
- Effective in 2024.

Benchmarks for Mixed Asset Investments

- For participant fee disclosures, plans can use an appropriate blend of broad-based securities market indices to benchmark investments with mixed asset classes.
- DOL must update regulations within two years.

Hardship Distributions

- Plans may rely on a written certification from the participant that they have a financial need due to a hardship and that the requested amount is not more than what they need to meet the hardship.
- Same rule applies to unforeseeable emergencies in governmental 457(b) plans.
- 403(b) hardship distributions streamlined.

Annuity Accessibility

- Qualifying Longevity Annuity Contracts (QLAC) limit increased to $200,000 (indexed), with no percentage limit.
- Allows annuity products to invest in Exchange Traded Funds (ETFs).
- Relaxes RMD rules to allow annuity products to provide annual increases and additional types of payments.

Domestic Abuse Distributions

- New optional distribution trigger for victims of domestic abuse (within the prior 1 year period).
- Exempt from 10% early distribution penalty.
- 50% of the participant’s vested account up to $10,000 (indexed).
- Can be repaid within 3 years.
- Effective in 2024.

Long-Term Care Distributions

- New optional distribution trigger allowing the participant to pay the premium on a long-term care contract.
- Exempt from 10% early distribution penalty.
- 10% of the participant’s vested account up to $2,500 per year (indexed).
- Effective in three years after enactment.

Disaster Distributions

- New optional distribution trigger for participants that (1) live within a federally declared disaster area and (2) have sustained an economic loss due to the declared disaster.
- Exempt from 10% early distribution penalty.
- $22,000 (indexed).
- Can be repaid within 3 years.
- Can be included in taxable income over 3 years.

Terminally Ill Participants

- Distributions to terminally ill participants exempt from 10% early distribution tax.
- Certified by a physician as having an illness or physical condition which can reasonably be expected to result in death in 84 months or less.
- Can be repaid within 3 years.

Qualified Birth or Adoption Distributions

- SECURE 1.0 authorized Qualified Birth or Adoption Distributions (QBADs).
- Clarifies that QBADs can be repaid into the plan only within three years.

EPCRS Changes

- EPCRS expanded to allow plans to self-correct virtually any operational error, regardless of how long ago the error occurred (unless the IRS catches an uncorrected error during an audit).
- Still must have reasonable practices and procedures.
- Self-correction will need to be completed within a reasonable period.

Small Employer Start-up Plans

- Increases the tax credit for employers up to 50 employees to 100% of costs up to $5,000.
- New tax credit equaling employer contributions to employees paid under $100,000, up to $1,000 per employee.
  - Available to companies up to 50 employees.
  - Phased out for companies 51-100 employees.
  - Full credit for each employee in first and second years.
  - Credit phased out between third and fifth years.

Contributions for Military Spouses

- Small employers receive a new tax credit with respect to their defined contribution plans if they:
  - Make military spouses eligible to participate within 2 months of hire,
  - Upon eligibility, make military spouses eligible for any matching or nonelective contribution, and
  - 100% vest military spouses in all employer contributions

Contributions for Military Spouses

- NHCE military spouses only.
- Tax credit would equal
  - $200 per military spouse, plus
  - 100% of all employer contributions (up to $300) made on behalf of the military spouse.
- Available for three years.
- May rely on the employee’s certification that their spouse is a member of the military.

Increasing Prior Year Benefits

- For 2024 plan years – Existing plans can be amended to add or increase employer nonelective contributions for the prior year.
- Amendment must be adopted prior to tax return filing.
- Retroactive increase not allowed for matching contributions.

Governmental Plans

- Qualified public safety employees exempt from 10% early distribution penalty if terminated during or after age 50 or 25 years.
- "Qualified public safety employees" expanded to include corrections officers and forensic security employees.
- "First day of the month" election rule repealed for 457(b) plans.