Congress Passes SECURE Act 2.0

Key Provisions of SECURE Act 2.0

Since the passage of the "Setting Every Community Up For Retirement Act" (SECURE Act) in 2019, there have been consistent Congressional efforts to expand on the SECURE Act with further changes geared to encouraging retirement. These bipartisan efforts reached a conclusion on Friday, December 23, 2022, when Congress passed the SECURE Act 2.0 as part of the fiscal year 2023 Omnibus Spending Bill. The SECURE Act 2.0 includes a number of provisions which will significantly impact retirement savings and cash flow for Americans of all income levels.

Below is a list of the more critical changes to the retirement planning landscape:

Delayed RMD Beginning Date

The 2019 SECURE Act increased the age to begin taking Required Minimum Distributions (RMD) from 70½ to 72. SECURE Act 2.0 will increase the age to begin taking RMD's to 73 beginning in 2023, and ultimately age 75 beginning in 2033. For individuals who have already turned 72 in 2022, their first RMD will still be due April 1, 2023. For individuals who turn 72 in 2023, their RMD's will now begin at age 73, meaning that their first RMD will be due by April 1, 2025.

Automatic Enrollment in 401(k)

Beginning in 2025, all new 401(k) plans (note this would not apply to existing plans) would be required to automatically enroll all employees in the 401(k) with at least a 3% pre-tax contribution rate (but not more than 10%). The contribution rate would automatically increase 1% per year until the employee is contributing at least 10% (but not more than 15%), unless the employee affirmatively opts out. There is an exception for small businesses (10 or fewer employees), businesses less than 3 years old, church plans, and governmental plans.

Catch-Up Contributions Limits

Currently, individuals can make catch-up contributions to their 401(k) of $6,500 per year at age 50. Beginning in 2025, SECURE Act 2.0 will cap catch-up contributions for those between age 60 and 63 at the greater of $10,000 or 150% of their current catch-up contribution limit. This $10,000 figure will be indexed for inflation beginning in 2026. SIMPLE IRA participants would be able to contribute $5,000 in catch-up contributions (up from $3,000).

Catch-Up Roth Contributions

Beginning in 2024, employees age 50 or older making more than $145,000 in wages (indexed for inflation) will be required to make catch-up contributions to qualified retirement plans on a Roth basis, as opposed to catch-up contributions on a pre-tax basis.

Optional Roth Employer Match

Beginning in 2023, employer plans may offer employees the ability to elect matching or nonelective employer contributions to be made on a Roth basis, provided that the employer contributions must be vested at the time the contribution is made.

Matching Student Loan Payments

SECURE Act 2.0 will allow employers to consider student loan payments made by the employee as retirement contributions for purposes of employer match to retirement accounts. This provision will be effective beginning in 2024. Note that this will be voluntary – plans are not required to consider student loan payments as retirement contributions.

Roth SEP and SIMPLE Contributions

Beginning in 2023, individuals contributing to SEP IRAs and SIMPLE IRAs will now be allowed to make Roth contributions, whereas these plans previously allowed only pre-tax contributions.

National Database for 401(k) Plans

The legislation authorizes the creation of a national "lost and found" database to allow employees to locate plan administrators for former employers. This will be created by the Department of Labor within two years of enactment.

Roth 401(k) Exempt from RMD

Currently, Roth IRAs are exempt from RMD requirements; however, Roth 401(k)'s are subject to RMDs. SECURE Act 2.0 changes this by exempting Roth 401(k)'s from RMD requirements beginning in 2024.

Reduced Penalty for Missed RMD

Beginning in 2023, penalties for missed RMDs would be reduced from 50% of the missed RMD to 25% of the missed RMD amount. This penalty would become 10% if the missed payment is corrected in a timely manner. At first glance, this change appears positive for taxpayers; however, the IRS has historically had discretion to waive penalties where "reasonable cause" existed for the missed RMD. With the reduced penalties, it remains to be seen whether the penalty provisions will be enforced more strictly. Individuals should continue to place high importance on meeting their RMD requirements.

Tax Credits for Startup Costs of Retirement Plans for Small Employers

The small business startup credit will be increased from 50% of administrative costs to offer retirement plans to 100% for employers with up to 50 employees. Additionally, employers with up to 50 employees will receive a credit for a percentage of the amount contributed by the employer on behalf of employees, up to $1,000.

529 Plan Rollovers to Roth IRA

One area of concern for those saving for college has been the possibility of over-funding 529 plans. Under current law, distributions from a 529 plan that are not taken for educational expenses may be subject to tax on the gain, as well as a 10% penalty. Families can avoid this harsh result by transferring unused 529 balances to a new beneficiary for their own education. SECURE Act 2.0 attempts to address the potential issue of over-funding 529 plans by allowing beneficiaries of 529 plans to roll over up to $35,000 from 529 plans to Roth IRAs over the course of their lifetime. Rollovers will be subject to Roth IRA annual contribution limits and the 529 account must have been open for 15 years prior to rolling over the funds. This provision will take effect for distributions beginning in 2024.

Many of the changes outlined above will be welcome news to retirement savers during the holiday season. The goal of this legislation is to incentivize greater retirement savings amongst Americans, and there are likely several initiatives within the law that will provide savings opportunities for all Americans. With this being the second sweeping piece of retirement legislation to pass in the last five years, it is more important than ever for all individuals to speak with their financial professionals to review how their retirement plans and how this most recent legislation will impact their finances moving forward.

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