

PUBLICATION

Preparing Employers for SECURE 2.0 Compliance in 2025

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As 2024 draws to a close, plan sponsors should be aware of those provisions of the SECURE Act 2.0 that become effective in 2025. Recall that the SECURE 2.0 Act (SECURE 2.0) was enacted on December 29, 2022, and while some provisions were immediately effective, other provisions will become effective in later years. In 2024, the Treasury Department and the Internal Revenue Service (IRS) issued final regulations that address major changes to SECURE 2.0. In addition, various other agency guidance has been released in prior years after enactment clarifying requirements in certain provisions of SECURE 2.0. We anticipate further agency guidance will be issued or finalized to clarify many looming questions on other provisions of SECURE 2.0.

Below is a summary of provisions relevant to employers and their retirement plans that will become effective in 2025. See our previous client alert, which can be accessed [here](#), for a summary of provisions that became effective in prior years. While operational and administrative compliance is required now, corresponding plan amendments are not required for most plans until December 31, 2026.

Mandatory Provisions

Automatic Enrollment (Defined Contribution Plans)

All 401(k) and 403(b) plans established after December 29, 2022, must include automatic enrollment features. These new plans must automatically enroll participants at a default rate of between three percent and ten percent of compensation and escalate participants' deferral rate each year at a rate of one percent a year up to at least ten percent (but not more than 15 percent). The automatic enrollment requirement also applies to multiemployer plans that add a 401(k) feature after December 29, 2022. This auto-enroll feature is required unless:

- Plan was established (i.e., signed) on or before December 29, 2022;
- Employer normally employs no more than ten employees;
- Employer is in existence for fewer than three years; or
- Plan is a SIMPLE, governmental, or church plan.

Coverage for Long-Term Part-Time (LTPT) Employees

Beginning in 2024, employers sponsoring 401(k) plans must permit employees aged 21 and older who worked at least 500 hours (but less than 1,000 hours) per year for three consecutive years to participate in the plan for elective deferrals (401(k) and Roth contributions). As of January 1, 2025, the consecutive-year requirement is reduced to two consecutive years.

Based on current agency guidance, this requirement also applies to employers sponsoring 403(b) plans that are governed by ERISA. However, an exemption applies for statutory exclusions under 403(b) plans that are not age or service based. For example, the student exclusion is based on a statutory classification (i.e., students performing services at a school, college, or university) and is, therefore, not service based. In this

case, a 403(b) plan may continue to exclude student employees, regardless of whether they would otherwise satisfy the conditions to be eligible as an LTPT employee.

Similar to the mandatory auto-enroll feature, the LTPT employee provisions may result in increased small balances for terminated participants. Plans that efficiently use force-out distributions and automatic rollover IRAs can lower plan costs and decrease the risk of errors.

RMD Ages and RMD Death Benefit Payments

The SECURE Act and subsequently, SECURE 2.0, make changes to the rules for qualified retirement plan distributions to participants during the participant's lifetime and to beneficiaries after the participant's death. In July 2024, the IRS issued final regulations that amended the regulations governing required minimum distributions (RMDs) from retirement plans to reflect changes made by the SECURE Act and SECURE 2.0. The final regulations apply for distribution calendar years beginning on or after January 1, 2025.

For distributions during the employee's lifetime, generally, the required beginning date (RBD) is April 1 of the year after the later of the year the employee reaches the applicable age or retires. The applicable age varies: age 70 and one half, for those born before July 1, 1949; age 72 for those born on or after July 1, 1949, and before January 1, 1951 (SECURE Act of 2019 provision); age 73 for those born on or after January 1, 1951, before January 1, 1959, and for employees born in 1959; and age 75 for those born on or after January 1, 1960. Plans can provide for a uniform RBD of the calendar year following the year an employee attains age 70 and one half for administrative ease.

For distributions on the death of an employee prior to the RBD, upon the employee's death, an employee is treated as having died before their RBD. Under the final regulations, only eligible designated beneficiaries may receive distributions over their life expectancy. An eligible designated beneficiary is a designated beneficiary who is: (1) a surviving spouse; (2) a minor child; (3) disabled; (4) chronically ill; or (5) ten or fewer years younger than the employee. A non-designated beneficiary must receive the entire amount by the end of the calendar year of the 5th anniversary of the participant's death.

For a distribution made after the death of an employee, the full distribution must be made by the 10th anniversary of the employee's death. However, annual distributions must continue for a period of up to ten years following: (1) the death of an eligible designated beneficiary who was taking life expectancy payments; or (2) when a minor child-eligible designated beneficiary reaches the age of majority.

Discretionary Changes

Note: These changes are not required to be implemented and may be added to a plan at the discretion of the plan sponsor.

Increased Catch-Up Contributions

SECURE 2.0 provides for an increased catch-up contribution limit for individuals ages 60-63. The 2025 limit is \$11,250 (indexed for inflation). This applies to 401(k), 403(b), and governmental 457(b) plans. For SIMPLE 401(k) plans and SIMPLE IRAs, the catch-up contribution limits are increased for individuals aged 60-63 to \$5,250 (indexed for inflation). Note that the maximum catch-up contribution limit for 401(k) plans for those under age 60 is \$7,500 and remains at \$3,500 for SIMPLE 401(k) plans and SIMPLE IRAs.

Qualified Long Term Care Distributions

A plan may be written to allow plan participants to take a penalty-free withdrawal from 401(k), 403(b), and governmental 457(b) plans of \$2,500 per year to pay for long term care insurance. This optional change for plan sponsors becomes effective for distributions made after December 29, 2025.

Self-Certification for Hardship Withdrawals

Although not specifically implemented beginning in 2025, SECURE 2.0 also permits plan sponsors to allow employees to self-certify in writing that they have a safe harbor event to take a hardship distribution from a 401(k), 403(b), or 457(b) plan. This provision became effective for plan years beginning after December 29, 2022.

Conclusion

Employers should take care to review their plan administration to ensure compliance with the 2025 requirements of SECURE 2.0. Similar to the earlier changes, the provisions effective in 2025 can be operational prior to amending the plan. While plan amendments are not required for most plans until December 31, 2026, (later for collectively bargained and governmental plans), plan sponsors and administrators implementing these changes should be sure to:

- Operate the plan in accordance with the SECURE 2.0 requirements even though amendments are not yet required;
- Document all decisions in advance of drafting a formal plan amendment;
- Communicate with employees about relevant changes; and
- Take steps to ensure third parties, such as TPAs, recordkeepers, etc., can implement changes.

We will continue to monitor the IRS and DOL for further issuance of clarifying guidance, potential delays in implementation, model plan amendments, and regulations. For guidance or assistance, please contact the authors or a member of Baker Donelson's [Tax](#) or [Labor & Employment](#) Groups.