THE SECURE 2.0 ACT AND YOUR IRA

Changes effective through 2024

The *SECURE 2.0 Act of 2022* (SECURE 2.0) was passed as part of the *Consolidated Appropriations Act of 2023* and signed into law on December 29, 2022. Like its predecessor, the *Setting Every Community Up for Retirement Enhancement Act of 2019* (i.e., the SECURE Act), SECURE 2.0 makes a new round of changes impacting individual retirement arrangements (IRAs). The changes found in SECURE 2.0 are varied – sometimes the changes are subtle and other times the changes impact all IRA owners. The effective dates of the multitude of sections also vary greatly.

This brochure discusses the most impactful provisions that were effective after enactment and as updated through 2024. Specifically, this brochure will discuss:

- Changes to the starting date for taking required minimum distributions (RMDs)
- Reducing the penalty for failure to take an RMD
- Establishing permanent rules for qualified disaster recovery distributions
- Changes to qualified charitable distributions (QCDs)
- Changes to qualifying longevity annuity contracts (QLACs)
- Establishing a repayment period for qualified birth or adoption distributions
- Establishing new exceptions to the additional early-distribution tax for individuals with a terminal illness, certain emergency expenses, and victims of domestic abuse and the repayments of such distributions
- Eliminating the additional early-distribution tax when correcting an excess contribution
- Allowing Roth-type contributions to IRAs under an employer's SEP[1] and SIMPLE[2] IRA plans
- Direct rollover from a qualified tuition program to a Roth IRA

Changing the RMD start date to age 73

Prior to 2020, the law required traditional (including SEP[1] and SIMPLE[2]) IRA owners to take RMDs beginning in the year age 70½ was attained. The SECURE Act delayed this requirement until age 72.

SECURE 2.0 changed the RMD starting age to 73 for years beginning after 2022. The requirement to take the first RMD by April 1 of the year following the year in which the required age was attained, and by December 31 for each year after that, has not changed.

Importantly, IRA owners subject to the younger RMD age requirements must continue taking RMDs each year.

Example 1: George, born on June 30, 1949, attained age 70½ on December 30, 2019. George had to take his first RMD by April 1, 2020. Additionally, if his 2020 RMD had not been waived by the CARES Act, George would have had to take his 2020 RMD by December 31, 2020, his 2021 RMD by December 31, 2021, and so on.

Example 2: Jenny, born on July 1, 1949, attained age 70½ on January 1, 2020. As Jenny was not age 70½ by the end of 2019 she was subject to the age 72 rule. Because Jenny attained age 72 on July 1, 2021, she had to take her first RMD by April 1, 2022. Additionally, Jenny had to take her 2022 RMD by December 31, 2022, her 2023 RMD by December 31, 2023, and so on.

Example 3: Arnav, born December 31, 1950, attained age 72 on December 31, 2022, making him subject to the age 72 rule. Because Arnav attained age 72 on December 31, 2022, he had to take his first RMD by April 1, 2023. Additionally, Arnav had to take his 2023 RMD by December 31, 2023, his 2024 RMD by December 31, 2024, and so on.

Example 4: Rachel, born January 1, 1951, would have attained age 72 on January 1, 2023. As Rachel was not age 72 by the end of 2022 she is subject to the new rule and is not required to begin taking distributions until the year she attains age 73. As Rachel attained age 73 on January 1, 2024, she must take her first RMD by April 1, 2025. Additionally, Rachel must take her 2025 RMD by December 31, 2025, her 2026 RMD by December 31, 2026, and so on.

This RMD starting age will change to 75 after 2032.

Reduced penalty for failure to take an RMD

Individuals and beneficiaries who do not withdraw an RMD by the required distribution date are subject to an excess accumulation excise tax. Beginning with 2023, the SECURE Act 2.0 reduces this tax from 50 percent of the amount not withdrawn to 25 percent. Further, the law provides that if such a failure is corrected within a defined "correction window," the 25 percent excise tax is further reduced to 10 percent.

Qualified disaster recovery distribution rules

SECURE 2.0 modifies, and makes permanent, the rules for taking and repaying qualified disaster recovery distributions. Previously, the relief was granted on a per disaster (or grouped disaster) basis.

Under the permanent rules, individuals with a permanent place of abode in a qualified disaster area, may take qualified disaster recovery distributions in aggregate up to $22,000 from one or more IRAs or employer-sponsored retirement plans. Under these rules, an individual may include the distribution in income over a three-taxable year period, avoid the 10 percent additional early-distribution tax, and may repay part or all the distribution amount within a three-year period to an eligible retirement plan.

Qualified charitable distribution (QCD) rules

SECURE 2.0 makes the annual IRA QCD limit subject to cost-of-living adjustments. The QCD limit was $100,000 in 2023 and is $105,000 in 2024. In addition, the law authorizes a once-in-a-lifetime QCD distribution made directly from the custodian or trustee of the IRA to a split-interest entity. The amount of this QCD limit was $50,000 in 2023 and is $53,000 in 2024. A "split-interest entity" includes certain charitable remainder annuity trusts, charitable remainder unitrusts, and charitable gift annuities.

Qualifying longevity annuity contracts (QLACs)

A QLAC is an annuity contract purchased from an insurance company that provides a delayed annuity payment starting date in order to help mitigate the risk of a person outliving his or her retirement savings. The annuity payment starting date is generally after the owner's required beginning date but must begin no later than the month following the owner's 85th birthday.

SECURE 2.0 makes QLACs more attractive by eliminating the 25 percent of the account balance limitation on the premiums an individual can pay for a QLAC and also increases the amount that can be used to purchase a QLAC to $200,000. The $200,000 will be subject to future cost-of-living adjustments.

New repayment period for qualified birth or adoption distributions

SECURE 2.0 established a 3-year repayment period for qualified birth or adoption distributions where previously there was not a defined repayment period. The repayment period begins on the day after the date the distribution was received. SECURE 2.0 also establishes transition rules for individuals who took a qualified birth or adoption distribution on or before December 29, 2022.

Additional Early-distribution tax exceptions for certain individuals

SECURE 2.0 adds new exemptions from the 10 percent additional early-distribution tax. For distributions made prior to age 59½, the 10 percent additional early-distribution tax will not apply to an IRA distribution if the owner has a terminal illness, is a victim of domestic abuse, and for certain emergency expenses. Such distributions may be repaid any time during the 3-year period beginning on the day after the date on which the distribution was received.

Elimination of the additional early-distribution tax when correcting an excess contribution

SECURE 2.0 eliminates the 10 percent additional early-distribution tax on earnings attributable to a contribution that is being removed as an excess or unwanted contribution. However, the attributable earnings on the contribution will still be taxable in the year in which the contribution was made.

Roth-type contributions to IRAs under an employer's SEP[1] and SIMPLE[2] IRA plans

SECURE 2.0 authorizes Roth-type contributions (i.e., after-tax contributions) to SEP[1] Roth and SIMPLE[2] Roth IRAs, if permitted by the employer's SEP or SIMPLE IRA plan, and if the employee so elects. Importantly, there may be a delay before businesses and employees can take advantage of these changes as there needs to be guidance or updated agreements issued or approved by the IRS.

Direct rollover from a qualified tuition program to a Roth IRA

Certain assets in a 529 qualified tuition program account maintained for at least 15 years for a designated beneficiary may be directly rolled over on a tax-free basis to a Roth IRA maintained for the benefit of that beneficiary. The rollover is subject to contribution limits and compensation requirements. Permitted rollovers have limitations and there is a lifetime limit of $35,000 for these rollovers.

---

[1] *SEP stands for "Simplified Employee Pension"*

[2] *SIMPLE stands for "Savings Incentive Match Plan for Employees of Small Employers"*

This educational brochure is intended to provide general information regarding the impact to IRAs, effective beginning in 2023, and updated through 2024 resulting from the SECURE 2.0 Act of 2022. This brochure is not intended to provide recommendations, legal advice, or to be a detailed explanation of the rules or how those rules may apply to your individual circumstances. In addition, these summary explanations are subject to further modification or clarification based on future rulemaking, guidance, and interpretation from the IRS. For specific information, you are encouraged to consult your tax or legal professionals. You may also find helpful information in the IRA agreement and disclosure statement and amendments provided by the custodian/trustee, IRS Publication 590-A, **Contributions to Individual Retirement Arrangements (IRAs),** ***IRS Publication 590-B,*** **Distributions from Individual Retirement Arrangements (IRAs),** ***IRS Publication 560,*** **Retirement Plans for Small Business (SEP, SIMPLE, and Qualified Plans),** ***and the IRS website,*** **www.irs.gov.**