



SECURE 2.0 ACT

# Summary

as of November 2023

# What it means for plan sponsors and employees

The Securing a Strong Retirement Act (SECURE 2.0 Act of 2022), an important piece of retirement legislation, was signed into law on December 29, 2022. This legislation includes provisions intended to make retirement plans more widely accessible, reinforces the importance of saving and offers many American workers the opportunity for greater financial security in retirement.

Now is the time for plan sponsors and consultants to understand how the provisions of the new law may impact their retirement plans. We've assembled this summary to help you build a deeper understanding of the provisions within the bill. We expect additional guidance regarding the implementation of the provisions and will provide timely updates to you.

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## This SECURE 2.0 provision summary guide is organized into four sections:

1. Near-term provisions to focus on today
2. Beyond 2023: additional provisions to consider
3. Provisions specific to IRAs only
4. Additional provisions

Within the first two sections, the provisions are divided into two categories: mandatory and other/optional. We've updated these two categories and recategorized provisions, as applicable. "Mandatory" means either employers are required to implement the SECURE 2.0 provision for their plan, or the provision is applicable by law but does not require a plan change. "Other/optional" means either the SECURE 2.0 provision may be implemented by a plan sponsor—but is not required—or there are other applicability considerations.

For each provision, we've included a high-level description, the impacted plan type(s), effective date and the Act section number. Note the effective date for the provisions varies—some start immediately (as of the December 29, 2022, enactment of SECURE 2.0) and others start in years to come.

Plan sponsors should review all provisions with their legal counsel to determine how a provision may impact their plan(s).

# Near-term provisions to focus on today

The provisions in this section are likely to impact retirement plans now. Some of these provisions became effective December 29, 2022—the date of SECURE 2.0 enactment—and other provisions are effective in 2023.

The provisions are divided into two categories: mandatory and other/optional. We've updated these two categories and recategorized provisions, as applicable. "Mandatory" means either employers are required to implement the SECURE 2.0 provision for their plan, or the provision is applicable by law but does not require a plan change. "Other/optional" means either the SECURE 2.0 provision may be implemented by a plan sponsor—but is not required—or there are other applicability considerations.

## NEAR-TERM > MANDATORY PROVISIONS

Provision (Section number)	Description
<a href="#">Required minimum distribution (RMD) age increase</a> (§107)	<p>Increases the age for RMDs from 72 to 73 starting in 2023, and then to 75 starting in 2033. Federal guidance is needed to determine the RMD age for individuals born in 1959.</p> <p><b>Affected plan types:</b> 401(a), 401(k), 403(b), 457(b), other Defined Contribution plans, traditional IRAs, simplified employee pensions (SEPs), SIMPLE IRAs</p> <p><b>Effective date:</b> Distributions required to be made after December 31, 2022, then distributions required to be made after December 31, 2032</p>
<a href="#">Remove RMD barriers of life annuities</a> (§201)	<p>The legislation amends IRC §401(a)(9) to provide that certain types of annuity distributions will not cause a violation of the actuarial minimum income threshold test (MITT), such as (1) annuity payments that increase by a constant of less than 5% per year; (2) a lump sum that results in a shortening of the payment period or a full or partial commutation of future annuity payments, provided that the lump sum is determined in an actuarially reasonable manner as determined in good faith by the contract issuer; (3) short-term accelerations of annuity payments that are scheduled to be made within the ensuing 12 months; (4) annuities that provide dividends or similar payments determined in an actuarially reasonable manner, as determined in good faith by the contract issuer; and (5) a lump-sum return of premium death benefits.</p> <p><b>Affected plan types:</b> 401(a), 401(k), 403(b), 457(b), other Defined Contribution plans, traditional IRAs, SEP IRAs, SIMPLE IRAs, Roth IRA beneficiary accounts</p> <p><b>Effective date:</b> Calendar years ending after December 29, 2032</p>
<a href="#">Reduction in excise tax</a> (§302)	<p>The penalty for failure to take RMDs is reduced from 50% to 25%. The excise tax may be reduced to 10% if corrected in a timely manner. A taxpayer may need to seek the reduction in the penalty tax in his or her personal tax filing.</p> <p><b>Affected plan types:</b> 401(a), 401(k), 403(b), 457(b) and other Defined Contribution plans, traditional IRAs, SEP IRAs, SIMPLE IRAs, Roth IRA beneficiary accounts</p> <p><b>Effective date:</b> Taxable years beginning after December 29, 2022</p>
<a href="#">Distribution to firefighters</a> (§308)	<p>The special rule for "qualified public safety employees" extends the exception from the 10% additional tax on a distribution made from a 401(a), 403(a), or 403(b) plan to an employee who provides firefighting services, even if not employed in the public sector, after the employee attains the age of 50 and separates from service. The taxpayer should consult with their tax professional to seek exception to the penalty tax in their tax filing.</p> <p><b>Affected plan types:</b> 401(a), 401(k), 403(a), 403(b) plans sponsored by private entities</p> <p><b>Effective date:</b> Distributions made after December 29, 2022</p>

## NEAR-TERM > MANDATORY PROVISIONS (CONT.)

Provision (Section number)	Description
Substantially equal periodic payment rule (§323)	<p>The exception to the 10% additional tax on substantially equal periodic payments that commence prior to age 59½ is not necessarily violated by a tax-free rollover, transfer or exchange to another eligible arrangement after the substantially equal periodic payments have commenced, as long as the combined distributions from the old and new arrangements continue to satisfy the exception. The taxpayer should consult with their tax professional to seek exception to the penalty tax in their tax filing.</p> <p><b>Affected plan types:</b> 401(a), 401(k), 403(a), 403(b), IRAs</p> <p><b>Effective date:</b> December 29, 2022, for annuity distributions; December 31, 2023, for transfers, rollovers and exchanges</p>
Exception to penalty for individuals with a terminal illness (§326)	<p>An exception to the 10% early withdrawal tax is provided in the case of a distribution to a terminally ill individual. A physician must certify that the participant is terminally ill prior to the distribution being made. The taxpayer should consult with their tax professional to seek exception to the penalty tax in their tax filing.</p> <p><b>Affected plan types:</b> 401(a), 401(k), 403(a), 403(b), IRAs</p> <p><b>Effective date:</b> Distributions made after December 29, 2022</p>
Repeal of direct payment requirement on exclusion from gross income of distributions from governmental plans for health and long-term care insurance (§328)	<p>There is no longer a requirement for a governmental plan to pay health insurance premiums for a public safety officer directly to the insurer in order to exclude such amounts from gross income. Under the new provision, the exclusion may apply whether or not the payments are made directly to the health plan or insurer. The taxpayer should consult with their tax professional to seek the exclusion in their tax filing.</p> <p><b>Affected plan types:</b> Governmental 401(a), 401(k), 403(a), 403(b), 457(b)</p> <p><b>Effective date:</b> Distributions made after December 29, 2022</p>
Modify eligible age for exemption from early withdrawal penalty (§329)	<p>The exception to the 10% additional tax on distributions prior to age 59½, which applies to a distribution from a governmental plan to a public safety officer who is at least age 50, is extended to include public safety officers with at least 25 years of service with the employer sponsoring the plan. The taxpayer will need to seek the exception to the penalty tax in his or her tax filing.</p> <p><b>Affected plan types:</b> Governmental 401(a), 401(k), 403(a), 403(b)</p> <p><b>Effective date:</b> Distributions made after December 29, 2022</p>
Exemption from penalty for corrections employees (§330)	<p>The public safety officer exception to the additional 10% tax on early distributions is extended to include any employee of a state or political subdivision of a state who provides services as a corrections officer or as a forensic security employee providing for the care, custody and control of forensic patients. The taxpayer will need to seek the penalty tax exception in his or her tax filing.</p> <p><b>Affected plan types:</b> Governmental 401(a), 401(k), 403(a), 403(b)</p> <p><b>Effective date:</b> Distributions made after December 29, 2022</p>
Corrections of mortality tables (§335)	<p>For purposes of the minimum funding rules, a pension plan is not required to assume beyond the plan's valuation date future mortality improvements at any age greater than 0.78%.</p> <p><b>Affected plan types:</b> 401(a) Defined Benefit plans</p> <p><b>Effective date:</b> February 29, 2022</p>

## NEAR-TERM > MANDATORY PROVISIONS (CONT.)

Provision (Section number)	Description
Recognition of tribal government domestic relations orders (§339)	<p>The provision amends ERISA to recognize qualified domestic relations orders (QDROs) issued by Tribal courts. This applies to domestic relations orders received by plan administrators after the effective date, including any submitted for reconsideration after such date.</p> <p><b>Affected plan types:</b> 401(a), 401(k), 403(b), 457(b)</p> <p><b>Effective date:</b> QDROs received by plan administrators after December 31, 2022</p>
Information needed for financial options risk mitigation act (§342)	<p>Pension plan administrators must provide plan participants and retirees with critical information that would allow people considering what is best for their financial futures to compare between benefits offered under the plan and the lump sum, and would explain how the lump sum is calculated, the ramifications of accepting a lump sum, such as the loss of certain federal protections, details about the election period, where to follow up with questions and other information.</p> <p><b>Affected plan types:</b> ERISA 401(a) Defined Benefit plans</p> <p><b>Effective date:</b> The DOL must issue regulations not earlier than December 29, 2022; these may not be effective earlier than one year after a final rule.</p>
Cash balance (§348)	<p>For plan sponsors of a hybrid plan who use a variable crediting rate, the interest crediting rate that is treated as in effect, and as the projected interest crediting rate, is a reasonable projection of such variable interest rate, subject to a maximum of 6%.</p> <p><b>Affected plan types:</b> 401(a) Defined Benefit plans</p> <p><b>Effective date:</b> Plan years beginning after December 29, 2022</p>
Termination of variable rate premium indexing (§349)	<p>The “applicable dollar amount” for determining the premium fund target is now a flat \$52 for each \$1,000 of unfunded vested benefits.</p> <p><b>Affected plan types:</b> 401(a) Defined Benefit plans</p> <p><b>Effective date:</b> December 29, 2022</p>
Plan amendments (§501)	<p>Plan amendments are required by the last day of the first plan year beginning on or after January 1, 2025 (2027 in the case of governmental plans), as long as the plan operates in accordance with such amendments as of the effective date of a bill requirement or amendment.</p> <p>Plan amendment dates are aligned under the SECURE Act, the CARES Act, and the Taxpayer Certainty and Disaster Tax Relief Act of 2020 to these new dates (instead of 2022 and 2025).</p> <p><b>Affected plan types:</b> 401(a), 401(k), 403(b), 457(b)</p> <p><b>Effective date:</b> December 29, 2022</p>
Enhancing retiree health benefits in pension plans (§606)	<p>The sunset date is extended to the end of 2032 for employers to use assets from an overfunded pension plan to pay retiree health and life insurance benefits, subject to specific requirements.</p> <p><b>Affected plan types:</b> 401(a) Defined Benefit plans</p> <p><b>Effective date:</b> Transfers made on or after December 29, 2022</p>

## NEAR-TERM > OTHER/OPTIONAL PROVISIONS

Provision (Section number)	Description
<p>Modification of credit for small employer pension plan startup costs (§102)</p>	<p>Increases the small business startup credit from 50% to 100% for employers with up to 50 employees. Except in the case of Defined Benefit plans, an additional credit is provided, generally a percentage of the amount contributed by the employer on behalf of employees, up to a per-employee cap of \$1,000.</p> <p><b>Affected plan types:</b> 401(a), 403(a), SEPs, SIMPLE retirement accounts</p> <p><b>Effective date:</b> Taxable years beginning after December 31, 2022</p>
<p>Pooled employer plan (PEP) modification (§105)</p>	<p>Allows a PEP to designate a named fiduciary other than an employer to collect contributions to the plan.</p> <p><b>Affected plan types:</b> 401(a), 401(k), 403(b) PEPs</p> <p><b>Effective date:</b> Plan years beginning after December 31, 2022</p>
<p>Multiple employer plans (MEPs) (§106)</p>	<p>Permits 403(b) plan sponsors to join together under a single, MEP or PEP. Relief from the “one bad apple” rule is included, protecting the tax treatment of compliant employers from the violations of any one employer in the group.</p> <p><b>Affected plan types:</b> 403(b)</p> <p><b>Effective date:</b> Plan years beginning after December 31, 2022</p>
<p>Clarifies start-up credit for MEPs (§111)</p>	<p>The start-up credit for small businesses joining a multiple employer plan (MEP) or PEP is available for three years based on the date the employer joins the MEP/PEP. Employers with up to 100 employees are generally eligible for the annual tax credit.</p> <p><b>Affected plan types:</b> 401(a), 401(k), 403(b) MEPs and PEPs</p> <p><b>Effective date:</b> Retroactively for taxable years beginning after December 31, 2019</p>
<p>Military spouse retirement plan eligibility credit for small employers (§112)</p>	<p>Small employers are eligible for a tax credit with respect to their Defined Contribution plans if they (1) make military spouses immediately eligible for plan participation within two months of hire, (2) upon plan eligibility, make the military spouse eligible for any matching or nonelective contribution that they would have been eligible for otherwise at two years of service, and (3) make the military spouse 100% immediately vested in all employer contributions.</p> <p><b>Affected plan types:</b> Defined Contribution plans sponsored by for-profit entities</p> <p><b>Effective date:</b> Taxable years beginning after December 31, 2022</p>
<p>Small, immediate financial incentives for contributing to a plan (§113)</p>	<p>Allows employers to offer employees de minimis financial incentives (such as gift cards in small amounts) for making deferrals to a retirement plan, provided plan assets are not used to fund the incentives.</p> <p><b>Affected plan types:</b> 401(k), 403(b)</p> <p><b>Effective date:</b> Plan years beginning after December 29, 2022</p>
<p>Tax treatment of certain nontrade or business SEP contributions (§118)</p>	<p>Employers of domestic employees (e.g., nannies) are permitted to provide retirement benefits for such employees under an SEP.</p> <p><b>Affected plan types:</b> SEPs</p> <p><b>Effective date:</b> Taxable years beginning after December 29, 2022</p>
<p>Section 415 limit for employees of rural electric cooperatives (§119)</p>	<p>The compensation-based limit for participants who are not highly compensated employees and who participate in a rural electric cooperative retirement plan is eliminated.</p> <p><b>Affected plan types:</b> Rural electric cooperative retirement plans</p> <p><b>Effective date:</b> Limitation years ending after December 29, 2022</p>



## NEAR-TERM > OTHER/OPTIONAL PROVISIONS (CONT.)

Provision (Section number)	Description
<a href="#">Enhancement of 403(b) plans</a> (§128)	<p>Congress enhanced the federal tax code to allow 403(b) plans to offer collective investment trusts (CITs). However, federal securities laws still need to be amended for 403(b) plans to include CITs. As a result, CITs are still unavailable in 403(b) plans.</p> <p><b>Affected plan types:</b> 403(b)</p> <p><b>Effective date:</b> Investments after December 29, 2022, but pending further amendment</p>
<a href="#">Eliminate partial annuitization penalty</a> (§204)	<p>When a portion of a participant’s Defined Contribution plan account is distributed in the form of annuity payments, and the annuity payments exceed the amount that would be required to be distributed under the individual account rules based on the value of the annuity, the excess annuity payment amount for a year can be applied toward the RMD due for the year from the remaining portion of the plan account.</p> <p><b>Affected plan types:</b> 401(a), 401(k), 403(b), 457(b), other Defined Contribution plans, traditional IRAs, SEP IRAs, SIMPLE IRAs, Roth IRA beneficiary accounts</p> <p><b>Effective date:</b> Plan years beginning after December 29, 2022</p>
<a href="#">Recovery of retirement plan overpayments</a> (§301)	<p>Retirement plan fiduciaries are given the ability to decide not to recoup loan overpayments that were mistakenly made to participants. If plan fiduciaries choose to recoup loan overpayments, limitations and protections apply to safeguard participants.</p> <p><b>Affected plan types:</b> 401(a), 401(k), ERISA 403(b)</p> <p><b>Effective date:</b> December 29, 2022</p>
<a href="#">Expansion of Employee Plans Compliance Resolution System (EPCRS)</a> (§305)	<p>The EPCRS is expanded to:</p> <ul style="list-style-type: none"> <li>• Allow more types of errors to be corrected through self-correction</li> <li>• Apply to inadvertent IRA errors</li> </ul> <p><b>Affected plan types:</b> 401(a), 403(a), 403(b), SEPs, SIMPLE retirement accounts</p> <p><b>Effective date:</b> December 29, 2022</p>
<a href="#">Eliminate the “first day of the month” requirement for governmental section 457(b) plans</a> (§306)	<p>Eliminates the “first day of the month” rule for governmental 457(b) plans, allowing participants to change their salary deferrals at any time during the month as long as the deferral agreement is completed before the compensation is made available to them.</p> <p><b>Affected plan types:</b> Governmental 457(b)</p> <p><b>Effective date:</b> Tax years beginning after December 29, 2022</p>
<a href="#">Qualified birth or adoption distributions (QBADs) repayment</a> (§311)	<p>If a participant who takes a QBAD wishes to repay it, the amount must be repaid to a retirement plan account within three years of the distribution for it to be treated as a rollover.</p> <p><b>Affected plan types:</b> 401(a), 401(k), 403(b), governmental 457(b), traditional IRAs</p> <p><b>Effective date:</b> Distributions made after December 29, 2022, and retroactively to the three-year period beginning on the day after the date on which such distribution was received</p>
<a href="#">Employee certifying hardship</a> (§312)	<p>Under certain circumstances, the plan sponsor may rely on an employee’s self-certification that the employee has incurred and meets the requirements for a hardship withdrawal (or unforeseeable emergency withdrawal from a governmental 457(b) plan) to the extent that the plan sponsor does not have knowledge to the contrary.</p> <p><b>Affected plan types:</b> 401(k), 403(b), governmental 457(b)</p> <p><b>Effective date:</b> Plan years beginning after December 29, 2022</p>

## NEAR-TERM > OTHER/OPTIONAL PROVISIONS (CONT.)

Provision (Section number)	Description
<p>Retroactive first-year elective deferrals for sole proprietors (§317)</p>	<p>An employer may establish a new 401(k) plan after the end of the taxable year, but before the tax filing date, and treat the plan as having been established on the last day of the taxable year. Such plans may be funded by employer contributions up to the employer's tax filing date. When the plan is sponsored by a sole proprietor or single member LLC, it may receive employee contributions up to the date of the employee's tax return filing date for the initial year.</p> <p><b>Affected plan types:</b> 401(k)</p> <p><b>Effective date:</b> Plan years beginning after December 29, 2022</p>
<p>"Unenrolled" participant disclosures (§320)</p>	<p>Plan sponsors are no longer required to distribute certain otherwise-required ERISA notices to employees who are not enrolled as participants in their retirement plan. However, the plan is required to send an annual reminder notice of the participant's eligibility to participate in the plan and any other required notice requested by the participant.</p> <p><b>Affected plan types:</b> 401(a), 401(k), 403(a), ERISA 403(b)</p> <p><b>Effective date:</b> Plan years beginning after December 31, 2022</p>
<p>Use of retirement funds in connection with federally declared disasters (§331)</p>	<p>Participants affected by a federally declared disaster occurring on or after January 26, 2021, are permitted to take a penalty-free withdrawal up to a limited amount from their retirement plan or IRA. Such distributions are considered gross income over three years. Distributions can be repaid within three years, in which case they are generally treated as direct trustee-to-trustee transfers.</p> <p><b>Affected plan types:</b> 401(a), 403(a), 403(b), governmental 457(b), IRAs</p> <p><b>Effective date:</b> For disasters occurring on or after January 26, 2021</p>
<p>RMD rules for special needs trust (§337)</p>	<p>In the case of a special needs trust established for a beneficiary with a disability, the trust may provide for a charitable organization as the remainder beneficiary.</p> <p><b>Affected plan types:</b> 401(a), 401(k), 403(a), 403(b), 457(b), IRAs</p> <p><b>Effective date:</b> Calendar years beginning after December 29, 2022</p>
<p>Annual audits for group of plans (§345)</p>	<p>The provision eliminates the DOL's proposed trust-level audit of a group of plans by requiring that any audits with respect to a group may only relate to each individual plan that would be subject to an audit if it were not participating in the group (i.e., plans that have 100 participants or more).</p> <p><b>Affected plan types:</b> ERISA 401(a) and 401(k) plans</p> <p><b>Effective date:</b> December 29, 2022</p>
<p>SIMPLE and SEP Roth IRAs (§601)</p>	<p>SIMPLE IRAs are now allowed to accept Roth contributions. In addition, employers are now allowed to offer employees the ability to treat employee and employer SEP contributions as Roth (in whole or in part).</p> <p><b>Affected plan types:</b> SIMPLE IRAs, SEPs</p> <p><b>Effective date:</b> Taxable years beginning after December 31, 2022</p>
<p>Optional treatment of employer matching and/or nonelective contributions as Roth contributions (§604)</p>	<p>Permits 401(a), 403(b) or governmental 457(b) plan participants to designate employer-matching and/or nonelective contributions as Roth contributions if the plan so permits.</p> <p><b>Affected plan types:</b> 401(k), 403(b), governmental 457(b)</p> <p><b>Effective date:</b> Contributions made after December 29, 2022</p>



# Beyond 2023: additional provisions to consider

The provisions in this section are effective December 31, 2023, and beyond. Although the effective dates for these provisions may not impact a plan immediately, we encourage you to evaluate them and plan accordingly.

The provisions are divided into two categories: mandatory and other/optional. We've updated these two categories and recategorized provisions, as applicable. "Mandatory" means either employers are required to implement the SECURE 2.0 provision for their plan, or the provision is applicable by law but does not require a plan change. "Other/optional" means either the SECURE 2.0 provision may be implemented by a plan sponsor—but is not required—or there are other applicability considerations.

## BEYOND 2023 > MANDATORY PROVISIONS

Provision (Section number)	Description
Auto-enrollment in new retirement plans (§101)	<p>A newly established ERISA 401(k) or 403(b) plan must automatically enroll participants in the respective plan upon becoming eligible and include auto-escalation provisions unless an exception is met.</p> <p><b>Affected plan types:</b> 401(k), 403(b)</p> <p><b>Effective date:</b> Plan years beginning after December 31, 2024</p>
Saver's match (§103/104)	<p>Replaces the previous tax credit for IRA and retirement plan contributions with a federal matching contribution to the taxpayer's IRA or retirement plan. The Treasury Department is directed to promote this provision to increase awareness and participation.</p> <p><b>Affected plan types:</b> 401(k), 403(b), governmental 457(b), traditional IRAs</p> <p><b>Effective date:</b> Taxable years beginning after December 31, 2026; no later than July 1, 2026.</p>
Improving coverage for part-time workers (§125)	<p>Reduces the service requirement for part-time workers to two years—down from three years—to enroll in ERISA 401(k) plans, and now applies to 403(b) plans. Service for 12-month periods beginning before January 1, 2023, is not taken into account for purposes of the new participation and vesting rules. Pre-2021 service is disregarded for vesting purposes (retroactive to plan years beginning after December 31, 2020) for 401(k) plans.</p> <p><b>Affected plan types:</b> ERISA 401(k) and 403(b) plans</p> <p><b>Effective date:</b> Plan years beginning after December 31, 2024</p>
Retirement savings "lost and found" (§303)	<p>Establishes a national online searchable database that will be managed by the DOL and will allow individuals to locate the plan administrator of any plan in which they are a participant or beneficiary with a balance in a plan.</p> <p><b>Affected plan types:</b> ERISA 401(a), 401(k) and 403(b) plans</p> <p><b>Effective date:</b> No later than two years after December 29, 2022</p>
Reform of family attribution rule (§315)	<p>Stock attribution rules:</p> <ul style="list-style-type: none"><li>• Address inequities where spouses with separate businesses reside in a community property state when compared to spouses who reside in separate property states</li><li>• Modify the attribution of stock between parents and minor children</li></ul> <p><b>Affected plan types:</b> 401(a), 401(k), 403(b)</p> <p><b>Effective date:</b> Plan years beginning after December 31, 2023</p>

## BEYOND 2023 > MANDATORY PROVISIONS (CONT.)

Provision (Section number)	Description
<p>Roth plan distribution rules (§325)</p>	<p>Predeath RMDs for Roth accounts in employer plans are eliminated. Minimum distributions due in 2023, but which may be taken in 2024, are still required to be paid.</p> <p><b>Affected plan types:</b> 401(a), 401(k), 403(b), governmental 457(b)</p> <p><b>Effective date:</b> Taxable years beginning after December 31, 2023</p>
<p>Surviving spouse election to be treated as employee (§327)</p>	<p>A surviving spouse who is the sole beneficiary of a deceased participant may elect to be treated as the deceased employee for purposes of the RMD rules.</p> <p><b>Affected plan types:</b> 401(a), 401(k), 403(a), 403(b), 457(b)</p> <p><b>Effective date:</b> Calendar years beginning after December 31, 2023</p>
<p>Paper benefit statement requirement (§338)</p>	<p>Subject to certain exceptions, paper retirement benefit statements must be delivered to participants at least once a year for Defined Contribution plans and once every three years for Defined Benefit plans. Participants may elect to receive all statements electronically.</p> <p>The other three quarterly statements required for ERISA-covered plans can be provided electronically.</p> <p><b>Affected plan types:</b> ERISA 401(a), 401(k), and 403(b) Defined Contribution plans, 401(a) Defined Benefit plans</p> <p><b>Effective date:</b> The Labor Secretary must update the relevant sections of DOL regulations and corresponding guidance by December 31, 2024; the annual paper statement is effective for plan years beginning after December 31, 2025.</p>
<p>Defined Benefit annual funding notices (§343)</p>	<p>A Defined Benefit pension plan must more clearly define its funding issues on the plan's annual funding notice.</p> <p><b>Affected plan types:</b> ERISA 401(a) Defined Benefit plans</p> <p><b>Effective date:</b> Plan years beginning after December 31, 2023</p>
<p>Elective deferrals generally limited to regular contribution limit (§603)</p> <p>Mandatory – If catch-up contributions offered in your retirement plan</p>	<p>Age 50+ catch-up contributions made to a retirement plan must be designated as Roth contributions for participants earning more than \$145,000 in the prior year from the employer sponsoring the plan.</p> <p><b>Affected plan types:</b> 401(k), 403(b), governmental 457(b) plans</p> <p><b>Effective date:</b> Taxable years beginning after December 31, 2023, with extension of administrative transition period to January 1, 2026</p>

## BEYOND 2023 > OTHER/OPTIONAL PROVISIONS

Provision (Section number)	Description
Higher catch-up contributions for ages 60–63 (§109)	<p>Raises the annual age-based catch-up contribution limit to the greater of \$10,000 or 150% of the regular age 50+ catch-up limit for 401(k), 403(b) and governmental 457(b) plans, and to the greater of \$5,000 or 150% of the regular age 50+ catch-up limit for SIMPLE IRA and SIMPLE 401(k) plans. The higher catch-up amount applies at ages 60, 61, 62 and 63.</p> <p><b>Affected plan types:</b> 401(k), 403(b), governmental 457(b), SIMPLE retirement accounts</p> <p><b>Effective date:</b> Taxable years beginning after December 31, 2024</p>
Student loan payments eligible for matching contributions (§110)	<p>Permits a plan sponsor to make matching contributions based on the employee’s qualified student loan payments.</p> <p><b>Affected plan types:</b> 401(k), 403(b), governmental 457(b), SIMPLE retirement accounts</p> <p><b>Effective date:</b> Plan years beginning after December 31, 2023</p>
Penalty-free withdrawals for certain emergency expenses (§115)	<p>The 10% early withdrawal penalty tax is waived for withdrawals from a retirement plan account (other than a Defined Benefit plan) for personal or family emergency expenses. The taxpayer may need to seek an exception to the penalty tax in their tax filing.</p> <p><b>Affected plan types:</b> 401(a), 401(k), 403(b), 403(c), traditional IRAs</p> <p><b>Effective date:</b> Distributions made after December 31, 2023</p>
Allow additional nonelective contributions to SIMPLE plans (§116)	<p>Employers are permitted to make additional nonelective contributions to each employee of the plan in a uniform manner.</p> <p><b>Affected plan types:</b> SIMPLE plans</p> <p><b>Effective date:</b> Taxable years beginning after December 31, 2023</p>
Contribution limit for SIMPLE plans (§117)	<p>In the case of an employer with no more than 25 employees, the annual deferral limit and the catch-up contribution at age 50 are increased by 10%, as compared to the limit that would otherwise apply in the first year this change is effective. Employers with 26 to 100 employees are permitted to provide higher deferral limits, but only if the employer either provides a 4% matching contribution or a 3% employer contribution. Similar changes to contribution limits for SIMPLE 401(k) plans apply. An employer can limit the amount that an employee can contribute to the plan.</p> <p><b>Affected plan types:</b> SIMPLE IRA qualified salary reduction arrangements, SIMPLE 401(k) plans</p> <p><b>Effective date:</b> Taxable years beginning after December 31, 2023</p>
Exemption for certain automatic portability transactions (§120)	<p>A retirement plan service provider is permitted to provide employer plans with automatic portability services involving the automatic transfer of a participant’s default IRA into the participant’s new employer’s retirement plan, after the participant has been given notice of the transfer and unless the participant affirmatively elects otherwise.</p> <p><b>Affected plan types:</b> Traditional IRAs established under the automatic rollover rules</p> <p><b>Effective date:</b> For transactions occurring on or after the date, which is 12 months after December 29, 2022</p>
Starter 401(k) plans for employers with no retirement plan (§121)	<p>An employer that does not sponsor a retirement plan is permitted to offer a starter 401(k) plan (or safe harbor 403(b) plan).</p> <p><b>Affected plan types:</b> 401(k), 403(b)</p> <p><b>Effective date:</b> Plan years beginning after December 31, 2023</p>

## BEYOND 2023 > OTHER/OPTIONAL PROVISIONS (CONT.)

Provision (Section number)	Description
Emergency savings accounts linked to individual account plans (§127)	Employers may offer pension-linked emergency savings accounts to non-highly compensated employees and may provide for automatic enrollment into these accounts. <b>Affected plan types:</b> ERISA 401(k) and 403(b) plans <b>Effective date:</b> Plan years beginning after December 31, 2023
Updating dollar limit for mandatory distributions (§304)	Increases the dollar threshold—from \$5,000 to \$7,000—at which a plan could distribute a former employee’s retirement plan balance without participant consent or spousal consent. If the amount exceeds \$1,000, the plan sponsor would have to direct such amounts to an IRA established in the name of the former employee/participant. <b>Affected plan types:</b> 401(a), 401(k), 403(b) <b>Effective date:</b> Distributions made after December 31, 2023
Exclusion of certain disability-related first responder treatment payments (§309)	First responders may now exclude pension or annuity payments received in connection with the individual’s service as a law enforcement officer, firefighter, paramedic or emergency medical technician from gross income, subject to an annual limit that cannot exceed the amount of workers’ compensation payments received by the individual during the 12-month period immediately preceding the date on which the individual attains retirement age. The taxpayer will need to seek exclusion of such payments from gross income in their tax filing. <b>Affected plan types:</b> 401(a), 401(k), 403(a), 403(b), governmental 457(b) <b>Effective date:</b> Amounts received in taxable years beginning after December 31, 2026
Application of top-heavy rules covering excludable employees (§310)	Allows an employer/plan sponsor of Defined Contribution plans to exclude employees who have not met the minimum statutory age or service requirements from consideration when performing the top-heavy test. <b>Affected plan types:</b> 401(a), 401(k) <b>Effective date:</b> Plan years beginning after December 31, 2023
Penalty-free withdrawal from retirement plans for individual case of domestic abuse (§314)	If permitted under the terms of the plan, participants may self-certify that they have experienced domestic abuse and would be permitted to take a penalty-free withdrawal up to a limited amount. Such a distribution will not be subject to the 10% penalty tax on early distributions. Additionally, the participant may repay the amount distributed within three years, in which case it is generally treated as a direct trustee-to-trustee transfer. <b>Affected plan types:</b> 401(a), 401(k), 403(b), 457(b), traditional IRAs <b>Effective date:</b> Distributions made after December 31, 2023
Benefit accruals under previous plan year (§316)	Permits an employer to adopt a new retirement plan by the due date of the employer’s tax return for the fiscal year in which the plan is effective. Also allows discretionary amendments that increase participants’ benefits to be adopted by the due date of the employer’s tax return. <b>Affected plan types:</b> 401(a), 401(k), 403(a) <b>Effective date:</b> Plan years beginning after December 31, 2023
Replacing SIMPLE retirement accounts with safe harbor 401(k) plans (§332)	An employer is allowed to replace a SIMPLE IRA plan with a SIMPLE 401(k) plan or other 401(k) plan that requires mandatory employer contributions during a plan year. <b>Affected plan types:</b> SIMPLE IRAs, SIMPLE 401(k), 401(k) <b>Effective date:</b> Plan years beginning after December 31, 2023

## BEYOND 2023 > OTHER/OPTIONAL PROVISIONS (CONT.)

<b>Provision</b> (Section number)	<b>Description</b>
<a href="#">Long-term care contracts purchased with retirement plan distributions</a> (§334)	<p>Retirement plans can distribute up to \$2,500 per year for the payment of premiums for certain certified long-term care insurance. These distributions are exempt from the additional tax on early distributions.</p> <p><b>Affected plan types:</b> 401(a), 401(k), 403(a), 403(b), 457(b), IRA</p> <p><b>Effective date:</b> Three years after December 29, 2022</p>
<a href="#">Consolidation of Defined Contribution plan notices</a> (§341)	<p>The Treasury and DOL will adopt regulations to permit, but not require, a plan to consolidate certain required plan notices. Any consolidated notice must include the required content, clearly identify the issues, and be furnished at the time and frequency required by each respective notice.</p> <p><b>Affected plan types:</b> ERISA 401(a), 401(k) and 403(b) plans</p> <p><b>Effective date:</b> Not later than two years after December 29, 2022</p>
<a href="#">Safe harbor for correcting employee elective deferral failures</a> (§350)	<p>Ensures that certain plans or arrangements have a “safe harbor” for correcting failures related to an automatic contribution feature, subject to certain requirements. Generally, errors must be corrected the earlier of 9½ months after the end of the plan year, or the first compensation payment day on or after the last day of the month in which the employee notified the employer of the error.</p> <p><b>Affected plan types:</b> 401(a), 401(k), 403(b), governmental 457(b)</p> <p><b>Effective date:</b> Applicable to errors with a required correction date after December 31, 2023</p>
<a href="#">Aligning 403(b) and 401(k) hardship distribution rules</a> (§602)	<p>The provision harmonizes the rules for 401(k) and 403(b) hardship distributions. Accordingly, plan participants may now receive a hardship distribution from certain employer contributions as well as earnings on salary deferrals. Also, 403(b) plan participants are no longer required to take a plan loan prior to requesting a hardship distribution.</p> <p><b>Affected plan types:</b> 403(b) plans</p> <p><b>Effective date:</b> Plan years beginning after December 31, 2023</p>

# Provisions specific to IRAs

The provisions in this section are specific to IRAs only. However, if a provision affects both IRAs and retirement plans, refer to the above sections in this guide for additional IRA impacts.

Provision (Section number)	Description
<a href="#">Indexing IRA catch-up limit (§108)</a>	<p>The \$1,000 limit on IRA contributions for individuals who have attained age 50 is now indexed.</p> <p><b>Affected plan types:</b> IRAs</p> <p><b>Effective date:</b> Taxable years beginning after December 31, 2023</p>
<a href="#">529 plan to Roth IRA rollovers (§126)</a>	<p>Permits tax- and penalty-free rollovers of up to \$35,000 from 529 college savings plans to Roth IRAs over the course of the 529 plan beneficiary's lifetime, with limitations.</p> <p><b>Affected plan types:</b> 529 college savings plans, Roth IRAs</p> <p><b>Effective date:</b> Distributions made after December 31, 2023</p>
<a href="#">One-time election for qualified charitable distribution to split-interest entity; increase in qualified charitable distribution limitation (§307)</a>	<p>The IRA charitable distribution provision is expanded to allow for a one-time \$50,000 distribution to charities through charitable gift annuities, charitable remainder unitrusts, and charitable remainder annuity trusts. Section 307 also indexes for inflation the annual IRA charitable distribution limit of \$100,000.</p> <p><b>Affected plan types:</b> IRAs</p> <p><b>Effective date:</b> Distributions made in taxable years ending after December 29, 2022</p>
<a href="#">Individual retirement plan statute of limitations for excise tax on excess contributions and certain accumulations (§313)</a>	<p>The statute of limitations for excise taxes imposed on excess contributions or RMD failures starts running as of the date that a specific excise tax return (Form 5329) is filed for the violation. A three-year period of limitations begins when the taxpayer files an individual tax return (Form 1040) for the year of the violation, except in the case of excess contributions, in which case the statute of limitations runs six years from the date Form 1040 is filed.</p> <p><b>Affected plan types:</b> IRAs (other than Roth IRAs)</p> <p><b>Effective date:</b> December 29, 2022</p>
<a href="#">Tax treatment of IRA involved in a prohibited transaction (§322)</a>	<p>If an individual has multiple IRAs and engages in a prohibited transaction, only the IRA in which the prohibited transaction occurred will be disqualified.</p> <p><b>Affected plan types:</b> IRAs</p> <p><b>Effective date:</b> Taxable years beginning after December 29, 2022</p>
<a href="#">Elimination of additional tax on IRA corrective distributions of excess contributions (§333)</a>	<p>IRA distributions due to excess contributions and earnings allocable to the excess contribution are exempted from the 10% additional tax on early distributions, depending on specific conditions.</p> <p><b>Affected plan types:</b> IRAs</p> <p><b>Effective date:</b> December 29, 2022</p>



# Additional provisions

This last section includes provisions for which service providers need more guidance, as well as provisions that impact plan types/programs that TIAA does not offer. Timely updates will be provided as we receive more guidance.

Provision (Section number)	Description
<p>Deferral of tax for certain sales of employer stock to employee stock ownership plan (ESOPs) sponsored by S corporation (§114)</p>	<p>The gain deferral provisions of Code section 1042 are expanded, limited to 10% on the deferral to sales of employer stock to S corporation ESOPs, if certain conditions are met.</p> <p><b>Affected plan types:</b> ESOPs</p> <p><b>Effective date:</b> Sales made after December 31, 2027</p>
<p>Assist states in locating owners of applicable savings bonds (§122)</p>	<p>The Treasury Secretary must share certain relevant information with a state that relates to an applicable savings bond registered to an owner with a last known or registered address in that state to help locate the registered owner.</p> <p><b>Affected plan types:</b> n/a</p> <p><b>Effective date:</b> December 29, 2022</p>
<p>Certain securities treated as publicly traded in case of ESOPs (§123)</p>	<p>Certain ESOP rules are updated with respect to whether a security is a “publicly traded employer security” and “readily tradable on an established securities market,” according to specific conditions.</p> <p>Highly regulated companies with six liquid securities that are quoted on non-exchange markets may now treat their stock as “public” for ESOP purposes, thus making it easier for these companies to offer ESOPs to their U.S. employees.</p> <p><b>Affected plan types:</b> ESOPs</p> <p><b>Effective date:</b> Plan years beginning after December 31, 2027</p>
<p>Modification of age requirement for qualified Achieving a Better Life Experience (ABLE) programs (§124)</p>	<p>The age by which blindness or disability must occur for an individual to be eligible by reason of such blindness or disability for an ABLE program is increased.</p> <p><b>Affected plan types:</b> ABLE programs</p> <p><b>Effective date:</b> Taxable years beginning after December 31, 2025</p>
<p>Qualifying longevity annuity contracts (QLACs) (§202)</p>	<p>QLACs may be sold with spousal survival rights, and free-look periods are permitted up to 90 days with respect to contracts purchased or received in an exchange on or after July 2, 2014.</p> <p><b>Affected plan types:</b> QLACs</p> <p><b>Effective date:</b> Contracts generally purchased or received in an exchange on or after December 29, 2022</p>
<p>Insurance–dedicated exchange–traded funds (ETFs) (§203)</p>	<p>The Treasury Department must update the regulations to reflect the ETF structure to provide that ownership of an ETF’s shares by certain types of institutions that are necessary to the ETF’s structure does not preclude look-through treatment for the ETF, as long as it otherwise satisfies the current-law requirements for look-through treatment, thus facilitating the creation of a new type of “insurance-dedicated” ETF.</p> <p><b>Affected plan types:</b> 401(a), 401(k), 403(b), 457(b), IRAs</p> <p><b>Effective date:</b> Segregated asset account investments made starting seven years after December 29, 2022</p>

## ADDITIONAL PROVISIONS (CONT.)

Provision (Section number)	Description
Performance benchmarks for asset allocation funds (§318)	<p>The Labor Secretary is directed to update the DOL's regulations so that an investment that uses a mix of asset classes can be benchmarked against a blend of broad-based securities market indices, subject to certain requirements, to allow better comparisons and aid participant decision-making.</p> <p><b>Affected plan types:</b> ERISA 401(a), 401(k) and 403(b) plans</p> <p><b>Effective date:</b> No later than two years after December 29, 2022</p>
Report to Congress on reporting and disclosure requirements (§319)	<p>The Treasury Department, DOL, and Pension Benefit Guaranty Corporation are directed to review reporting and disclosure requirements for pension plans and to make recommendations to Congress to consolidate, simplify, standardize and improve such requirements.</p> <p><b>Affected plan types:</b> 401(a), 401(k), 403(a), 403(b)</p> <p><b>Effective date:</b> No later than three years after December 29, 2022</p>
Review of pension risk transfer interpretive bulletin (§321)	<p>The DOL must review the current interpretive bulletin governing pension risk transfers to determine whether amendments are warranted and to report to Congress its finding, including an assessment of any risk to participants.</p> <p><b>Affected plan types:</b> ERISA 401(a) Defined Benefit plans</p> <p><b>Effective date:</b> Not later than one year after December 29, 2022</p>
Treasury guidance on rollovers (§324)	<p>The Treasury Secretary is required to simplify and standardize the rollover process by issuing sample forms for direct rollovers that may be used by both the incoming and outgoing retirement plans or IRAs.</p> <p><b>Affected plan types:</b> 401(a), 401(k), 403(a), 403(b), governmental 457(b), IRAs</p> <p><b>Effective date:</b> No later than January 1, 2025</p>
Report to Congress on section 402(f) notices (§336)	<p>The Government Accountability Office is required to issue a report to Congress on the effectiveness of section 402(f) notices.</p> <p><b>Affected plan types:</b> 401(a), 401(k), 403(b), governmental 457(b), IRAs</p> <p><b>Effective date:</b> No later than 18 months after December 29, 2022</p>
Defined Contribution plan fee disclosure improvements (§340)	<p>The DOL must review its fiduciary disclosure requirements in participant-directed individual account plan regulations.</p> <p><b>Affected plan types:</b> ERISA 401(a), 401(k) and 403(b) plans</p> <p><b>Effective date:</b> No later than three years after December 29, 2022</p>
Report on PEPs (§344)	<p>The Labor Secretary must conduct a study on the new and growing PEP industry.</p> <p><b>Affected plan types:</b> ERISA 401(a), 401(k) and 403(b) PEPs</p> <p><b>Effective date:</b> Within five years of December 29, 2022, and every five years thereafter</p>
Worker Ownership, Readiness and Knowledge (WORK) Act (§346)	<p>Requires DOL to establish a program to foster employee ownership programs through existing and new state programs.</p> <p><b>Affected plan types:</b> Employee ownership programs</p> <p><b>Effective date:</b> No later than 180 days after December 29, 2022</p>
Report by the Secretary of Labor on the impact of inflation on retirement savings (§347)	<p>The Labor Secretary, in consultation with the Treasury Secretary, must report on the impact of inflation on retirement savings.</p> <p><b>Affected plan types:</b> n/a</p> <p><b>Effective date:</b> Not later than 90 days after December 29, 2022</p>

## ADDITIONAL PROVISIONS (CONT.)

Provision (Section number)	Description
Amendments relating to Setting Every Community Up for Retirement Enhancement Act of 2019 (SECURE) (§401)	<p>Technical and clerical amendments to effectuate SECURE Act of 2019. These amendments do not change the substance of the provisions.</p> <p><b>Affected plan types:</b> 401(k), 403(b), IRAs (including Roth IRAs)</p> <p><b>Effective date:</b> Retroactively effective as if included in SECURE Act of 2019, enacted December 20, 2019</p>
Charitable conservation easements (§605)	<p>Charitable deductions are no longer allowed for a qualified conservation contribution if the deduction claimed exceeds two-and-one-half times the sum of each partner's relevant basis in the contributing partnership, subject to specific conditions.</p> <p>Taxpayers now have the opportunity to correct certain defects in an easement deed (excluding easements involved in abusive transactions).</p> <p><b>Affected plan types:</b> n/a</p> <p><b>Effective date:</b> Contributions made after December 29, 2022</p>
Relating to judges of the Tax Court (§701)	<p>Changes to pension annuity provisions for U.S. Tax Court judges include pensions of the surviving spouses and dependent children of judges who have been assassinated.</p> <p><b>Affected plan types:</b> Retirement plans for U.S. Tax Court judges</p> <p><b>Effective date:</b> Generally, December 29, 2022</p>
Special judges of the Tax Court (§702)	<p>Providing parity between special trial judges of the Tax Court and other federal judges, a retirement plan is established under which a special trial judge may elect to receive retired pay in a similar manner and under similar rules to regular judges.</p> <p><b>Affected plan types:</b> Retirement plans for federal special trial judges</p> <p><b>Effective date:</b> 180 days after December 29, 2022</p>



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