

The SECURE Act 2.0 Enhances Retirement Planning

Matthew J. Mancini, CFP®, ChFC®, AEP®
Wealth Planning Team Leader

Key points

- This legislation is a sequel to the SECURE Act of 2019 and builds upon many of the same themes found in the prior act
- Features include expanded access to retirement accounts in cases of hardship, a further pushed back RMD date, and more
- This law's many provisions also provide planning opportunities for wealthier retirement account owners





In December 2022, Congress passed the Consolidated Appropriations Act of 2023. While this legislation is intended primarily to fund the federal government, it contains a section devoted to retirement accounts titled SECURE Act 2.0 (Setting Every Community Up for Retirement Enhancement). This legislation is a sequel to the SECURE Act of 2019 and builds upon many of the same themes found in the prior act: expanding access to retirement accounts in cases of hardship, incentivizing employers to offer retirement accounts, reducing punitive taxes and easing the administration of retirement accounts, and further pushing back the required minimum distribution (RMD) date over time. Of the SECURE Act 2.0's approximately 100 provisions, this article includes some of the notable changes applicable to individuals, specifically those in the affluent and high-net-worth space.

General provisions

Automatic enrollment: Beginning January 1, 2025, many employers will be required to enroll their employees in retirement plans. The initial enrollment amount minimum is 3% of gross income but may be set to as high as 10%. Employees may affirmatively opt out.

Relief for student loan borrowers: Employees paying student loans may be able to qualify for employer matching contributions even if they are not contributing to the employer retirement plan currently. This is designed to provide relief for employees who would otherwise miss out on employer matching contributions.

Reduction in RMD excise tax: The penalty for failure to take RMDs will drop from 50% to 25%. The penalty is further reduced to 10% if the failure to take an RMD is corrected within two years.

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Provisions most relevant to affluent and high-net-worth individuals

Increase in RMD age: An increase in the age for RMDs from 72 currently to age 73 for individuals who attain age 72 after December 31, 2022; it then increases again to age 75 starting on January 1, 2033 for individuals who attain age 74 after December 31, 2032.

Higher catch-up contribution limits: The updated Act modifies the existing employer retirement plan catch-up contribution amount, which is \$7,500, and the individual retirement account (IRA) catch-up contribution amount, which is \$1,000 in 2024.

- Beginning in 2025, the catch-up limits for employer retirement plan owners aged 60 to 63 will increase to the greater of \$10,000 or 150% of the regular catch-up amount in 2024.
- Beginning in 2026, the \$10,000 amount referenced above will be indexed for inflation.
- Beginning in 2024, the catch-up contribution to IRAs will be indexed to inflation.

Roth IRA treatment for catch-up contributions: Starting in 2026, all catch-up contributions to employer retirement plans must be Roth contributions for account owners with compensation equal to or in excess of \$145,000.

Roth RMDs from employer plans: Beginning in 2024, Roth amounts in employer plans will no longer be subject to RMDs. This change brings parity to the treatment of Roth IRAs and Roth employer plans in terms of RMDs.

Roth treatment of employer matching contributions:

Beginning immediately the law allows an election for Roth treatment of employer retirement plan contributions. Note: Any matching contribution amount elected as a Roth contribution will be treated as income to the employee in the year of the contribution.

Traditional IRA charitable contributions: IRA owners who are older than 70½ can now make a one-time distribution to a charitable remainder trust and/or charitable gift annuity up to \$50,000. The qualified charitable distribution amount will also now be indexed to inflation and for 2024 is \$105,000 per person.

529 Plan to Roth IRA rollovers: Beneficiaries of 529 college savings accounts can make direct rollovers of unused funds to a Roth IRA up to a lifetime maximum of \$35,000.

Long-term care contracts and retirement plan distributions:

Account owners may use \$2,500 per year from a retirement account to pay premiums on a long-term care contract. If the owner is younger than age 59½ the distribution will be exempt from the 10% early withdrawal penalty.

Update to employee stock ownership plan (ESOP) rules for business owners:

The law incorporates several provisions designed to make sales to ESOPs easier for business owners.

Conservation easement limits: The legislation enacts new limits on conservation easements claimed through pass-through entities. This provision codifies the Internal Revenue Service's (IRS's) recent campaign against syndicated conservation easements.

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What does this all mean?

The changes in this legislation are far-reaching and often intricately detailed and nuanced. It is important to take a step back and understand how this may impact your wealth plan. Below is a list of actionable items that are recommended to maximize planning opportunities for account owners.

- Generally, for many wealthier account owners, the new rules provide more flexibility to enhance your contributions after age 50 during prime earning years and to delay taking RMDs in your seventies. Comprehensive financial planning is key to taking advantage of this flexibility in an informed manner. Evaluating current cash flow and income tax liabilities against anticipated future cash flow and income tax liabilities will help provide guidance to make the best decisions for you and your family.
- For those who have children and grandchildren and are considering their education funding, there is now more flexibility when it comes to 529 plans. Generous contributors to 529 plans for younger generations can take comfort in the new provision allowing for rollovers of unused educational funds to a Roth IRA. If you are the beneficiary of a 529 plan that has unused funds you may want to consider whether a Roth IRA rollover makes sense for you. There are certain limits to this rollover provision including a requirement that the account be open for 15 years.
- Charitably inclined account owners should balance the potential income tax liability of traditional retirement account distributions, the financial need for those distributions, and using those assets as sources of funds for charitable donations. Given that traditional retirement accounts carry income tax liabilities in some cases, it may be beneficial to use retirement accounts for charitable gifting during life or at death rather than leaving the account to children or other beneficiaries.
- Business owners should consult with their advisors to ensure compliance with the new requirements and should consider how best to communicate any relevant changes to their employees.
- The law contains staggered effective dates beginning from 2023 onward for various provisions. Some elections, such as the election to treat employer contributions as Roth contributions, are effective immediately but may take time for employers to implement. You should seek advice to best navigate these new opportunities.

Saving for retirement has never been more important. The provisions of the SECURE Act 2.0 recognize the need for more flexibility, incentives, and access to retirement accounts. This law's many provisions also provide planning opportunities for wealthier retirement account owners. While many of the details will remain to be seen as the new law is being digested and pending any additional guidance on interpretation from the IRS, it is clear that the time is now to analyze your financial and estate plan and revisit your goals to find the optimal wealth path forward.

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Matthew J. Mancini, CFP®, ChFC®, AEP®

Wealth Planning Team Leader

716.848.7564

mmancini@wilmingtontrust.com

As part of the Wilmington Trust Emerald Family Office & Advisory® team, Matthew is responsible for developing customized wealth management strategies and financial plans for successful individuals, families, and business owners. He works closely with other professional and family advisors to analyze financial positions and develop plans to help clients achieve future personal and financial goals.

Matthew, who joined M&T Bank in 2009, holds a bachelor's degree in finance from Canisius College and earned the CERTIFIED FINANCIAL PLANNER™ designation in 2011, and the CHARTERED FINANCIAL CONSULTANT® designation in 2015 from The American College. Matthew has also received the ACCREDITED ESTATE PLANNER® designation from the National Association of Estate Planners and Councils in 2019. He is an active member of the Financial Planning Association of Western New York and the Western New York Estate Planning Council.

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