

## SECURE Act 2.0 Summary of Essential Changes

### General Changes

- The onset of Required Minimum Distributions (RMD) has been pushed to Age 73 for Tax Year 2023 and penalties reduced.
- From Tax Year 2024, all after-tax "Roth" balances will no longer be considered for purposes of RMD's.
- Employers who make "Operational Errors" will likely be excused so long as they are fixed within a "Reasonable Timeframe"
- Employers who have accidentally overpaid a participant now have 3 calendar years to reclaim the money.  
There is no legal obligation for Employers to attempt recoupment and they can in fact decide NOT to reclaim the money.
- As of 1/1/2024, all Forfeitures collected must be used within 2 years. Typically to pay fees or make employer deposits.
- The PBGC's premium calculation has been changed such that premiums are more predictable and expected to be lower.
- The AFTAP form was revised to require more information and this may raise costs for Defined Benefit Plans
- Those who currently file the full-sized Form 5500 may no longer need an independent Plan audit each year.
- Existing Profit Sharing only Plans that choose to add a 401(k) feature will be subject to the standard auto-enrollment rules.

### 401k (Required)

- Part time employees who work more than 500 hours each year for two consecutive years must be allowed to defer 401(k)
- They are called "Long-Term Part-Time Employees" (LTPT) and will not be entitled to any kind of employer contribution.
- Entry dates are the same as those for regular participants and if the plan has auto-enrollment that will also apply to LTPT's
- Auto-enrollment is effective from 2025. All Plans established before 2023 are exempt, otherwise see here for exemptions.
- (Optional) From Tax Year 2025, participants who are age 60, 61, 62, or 63 may contribute an additional 50% in Catch-up
- From Tax Year 2026, Highly compensated employees (\$145,000+) and 5%+ Owners (plus their direct relatives) can only make their Age 50+ Catch-up contribution on an after-tax "Roth" basis. This rule applies to the Age 60-63 bonus too.

### Safe Harbor Match and regular Matching (Optional)

- Plans with an employer matching feature (Match or Safe Harbor Match) can consider Student Loan repayments as a matchable contribution. The repayments would be added to the regular 401(k) and Roth deferrals and the participant would receive x% of that sum as per the Plan's matching formula.  
This feature is available from 2024 but we do not suggest it due to a number of outstanding questions about taxation.

### Profit Sharing (Optional)

- Participants who are 100% vested may choose to receive their employer contributions on an after-tax "Roth" basis.  
The participant would pay taxes on this but the employer still deducts the contribution regardless of the participant's choice.  
If investing in a brokerage account, you would need to open a segregated account to hold after-tax moneys.

### Defined Benefit (Optional)

- Plans can be amended retroactively so long as it is to improve the benefit formula.

### In-Service Distributions (Optional, typically N/A to Defined Benefit)

- Hardship distributions do not waive the 10% penalty but they are by far the simplest to administer and have just gotten easier.  
Participants can be allowed to self-certify that they meet at least 1 of the 7 IRS criteria to take a Hardship without providing any documentation.
- This means no proof is necessary and the employer (if audited) will not be held liable for improper hardships if they cannot produce any evidence.

**There are a variety of new in-service distributions that waive the 10% penalty if the conditions are met.**

**Quick shortlist: Qualified Birth or Adoption, Emergency Distribution, Domestic Abuse, Terminal Illness, Disaster Hardship**

Some of them also allow for lump-sum repayment within 3 years.

All of them are optional features and we do not suggest any of them until somebody asks the Plan Sponsor for it.

**Finally, there are new tax credits for employers who started a new Retirement Plan.**

**It is a large credit and a good summary by American Funds is on our website. <https://www.larpensions.com/links-resources>**

**The IRS page including the Form 8881 to claim: <https://www.irs.gov/retirement-plans/retirement-plans-startup-costs-tax-credit>**

It was intended for Plans effective from 1/1/2023, but it is possible that it may be claimed by Plans that started in 2022 or 2021.

There is little guidance about whether companies that started a Plan before 2023 may take it and we are not tax advisors.

If you believe you may be eligible for these tax credits, please ask your accountant about them.