# What's Changed in 2024 Under SECURE 2.0

The SECURE 2.0 Act of 2022 includes nearly 100 provisions related to retirement plans and IRAs that expand participant coverage, help participants preserve income and simplify plan rules and administrative procedures.

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**Some of the provisions are required, but many are optional for plan sponsors. Below are the highlights of what has changed in 2024**

## Mandatory changes

### Roth catch-up contributions

If a participant's prior-year Internal Revenue Code Section 3121(a) wages from the employer sponsoring the plan exceed $145,000, the participant's catch-up deferrals must be made as a Roth contribution. This means **plans that allow catch-up contributions now must also allow Roth contributions.** The $145,000 threshold is subject to IRS annual cost of living adjustments in $5,000 increments. This provision is mandatory for all 401(k), 403(b) and governmental 457(b) plans that allow catch-up contributions. ***The IRS recently published guidance confirming that for the 2024 and 2025 tax years, it will deem participants and plans as satisfying the Roth age 50+ catch-up contribution requirements,*** even if those catch-up contributions are not designated as Roth contributions.

## Clarifications

### Clarification of substantially equal periodic payment rule

SECURE 2.0 **clarifies two aspects of the substantially equal periodic payment (SEPP) exception to the 10% additional tax on early distributions from qualified plans,** IRAs, and non-qualified annuities. First, the exception still applies if there a tax-free rollover, transfer, or exchange to another eligible arrangement after SEPPs have commenced, provided the combined distributions from the old and new arrangements continue to satisfy the exception. Second, annuity payments may be SEPPs and will be deemed to be substantially equal if they satisfy the RMD rules for qualified plans and IRAs (that limit the extent to which annuity payments may increase). This reverses the IRS's previous position that the IRS-published guidance on SEPPs does not apply to such payments. This provision applies to 401(a), 401(k), 403(b) plans and traditional IRAs, and is effective for transfers, rollovers, exchanges and distributions (as applicable) occurring on or after December 31, 2023.

### Roth distributions

SECURE 2.0 included a significant change to the rules for RMDs from 401(k), 403(b) and governmental 457(b) plans to allow participants to preserve their retirement account balances for longer. Previously, RMDs had to consider all amounts (both Roth and non-Roth) from a participant's account within an employer-sponsored retirement plan. SECURE 2.0 eliminated this requirement so that **a designated Roth account within a plan is not subject to RMDs** during the participant's lifetime. This provision aligns in-plan Roth RMD rules with those of IRAs and eliminates RMDs for in-plan Roth accounts prior to a participant's death.

### Surviving spouse election treated as an employee for RMDs

If a participant dies before their Required Beginning Date for RMDs and designated their spouse as their sole beneficiary, **the spouse may choose to defer RMDs until the year in which that spouse attains RMD age.** The spouse's RMD will be calculated under the life expectancy table typically available only for a participant. This new provision applies to 401(a), 401(k), 403(b) and 457(b) plans.

### Safe harbor for elective deferral corrections

SECURE 2.0 provides a statutory safe harbor for the correction of reasonable administrative errors involving automatic contribution or auto escalation for 401(k), 403(b) and governmental 457(b) plans as well as traditional IRAs. In part, to the safe harbor **requires errors be corrected prior to 9½ months after the end of the plan year in which the error occurred,** corrected in a manner that is favorable to the participants and applied in a consistent manner.

## Optional changes: Increasing financial security

### Student loan repayment matching contribution

Employers may make a matching contribution into a retirement plan based on an employee's repayment of student loans for higher education. This provision is designed to **help employees who are unable to contribute to a retirement plan and receive the employer matching contribution because they are overwhelmed by student debt.** A qualified student loan repayment can include repayments for student loans of the employee, their spouse or dependents. Separate nondiscrimination testing is required for employees who receive matching contributions on student loan repayments. Plan sponsors may rely on

employee's annual certification of loan repayments. This provision applies to 401(k), 403(b) and governmental 457(b) plans and SIMPLE IRAs.

### Emergency savings account

Plan sponsors may now offer an optional in-plan emergency savings account in 401(k), 403(b), and governmental 457(b) plans to **prevent participants from tapping into their retirement savings.** This account allows non-highly compensated participants to defer up to 3% of their salary on a Roth basis. Contributions are limited to $2,500 and are counted towards the annual employee elective salary deferral limit. Withdrawals from the account are exempt from the 10% penalty and employees are permitted to take withdrawals at least monthly with no restriction. The first four withdrawals from the account each plan year may not be subject to any fees or charges solely based on such withdrawals.

### Emergency withdrawals for personal expenses

This provision permits **certain distributions for unforeseeable or immediate financial needs related to "personal or family emergency expenses."** Only one distribution is permissible per calendar year of up to $1,000. Participants have the option to repay the distribution within three years and will not be permitted to take further emergency distributions during the 3-year repayment period unless direct repayment occurs, or their aggregate elective plan deferrals equal the distributed amount that was not repaid. The plan administrator may rely on a participant's certification of need. The 10% early withdrawal penalty is waived. This provision applies to 401(a), 401(k), 403(b) and governmental 457(b) plans and traditional IRAs.

### Penalty-free withdrawals for domestic abuse victims

This provision allows participants who self-certify they experienced domestic abuse to obtain a withdrawal from their 401(k), 403(b) or governmental 457(b) plan. This provision **provides domestic abuse survivors with access to their retirement savings to escape an unsafe situation** or pay for related expenses. The withdrawal amount is limited to the lesser of $10,000 (indexed for inflation) or 50% of the participant's account balance.

### Modified hardship withdrawal rules for 403(b) plans

Permits hardship withdrawals from qualified matching contributions and qualified non-elective contributions (regardless of the 403(b) plan's investment product) and from earnings on contributions. This updated provision **aligns the 403(b) hardship rules with 401(k) hardship rules.**

## Other optional provisions

### Top-heavy testing for excludable employees

Allows plan sponsors to disregard otherwise excludable employees (those who are under age 21 and have less than one year of service) from receiving the top-heavy contribution. This new provision can **help prevent top-heavy test failures and reduce expenses for sponsors.**

### Increased small-balance distribution threshold (forced cash-outs)

**Increases the threshold of forced cash-outs from $5,000 to $7,000 for terminated participants with vested account balances.** This is option applies to 401(a), 401(k), 403(b) and governmental 457(b) plans.

### Starter 401(k)/403(b)

Small businesses may now establish a Starter 401(k) or 403(b) plan. This type of plan can be **a good option for employers that want to provide a retirement savings option without a lot of administrative complexity.** Employer matching contributions are not permitted in either plan. For 401(k) deferral-only plans, automatic enrollment is required for all eligible employees. The limit on annual employee contributions is $6,000 (indexed), plus an additional $1,000 in catch-up contributions when a participant turns 50. There are no testing requirements for either plan type.

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