Morgan Stanley

SECURE 2.0

Summary of Key Provisions for Plan Sponsors

Capitol Hill plays a critical role in shaping the corporate landscape. Now that SECURE 2.0 is law, read more about the provisions that may affect you as a plan sponsor and your employees as they build toward retirement readiness.

Expanding Automatic Enrollment in Retirement Plans

Requires newly established 401(k) and 403(b) plans to **automatically enroll eligible participants with an initial minimum enrollment amount of 3%** (unless the participant affirmatively elects otherwise). Such new plans are also required to automatically increase (or escalate) such amounts by 1% each year with a cap at 15% (although plans are permitted to cease the annual automatic escalation at 10%). Exempts from these requirements small businesses with 10 or fewer employees, new businesses that have been in business for less than 3 years, church plans and governmental plans. Effective for plan years beginning after December 31, 2024. (Section 101)

Modification of Credit for Small Employer Pension Plan Startup Costs

Increases the tax credit available to small employers with 50 or fewer employees starting a new plan from 50% to 100% per year for the first 3 years, capped at $5,000. An additional credit for certain small employers starting a new plan (excluding new defined benefit plans) is also available for the first 5 years (up to $1,000 per employee equal to the applicable percentage of employer contributions to an eligible employer plan). This full additional credit is available to employers with 50 or fewer employees and is phased out for employers with between 51 and 100 employees. Effective for tax years beginning after December 31, 2022. (Section 102)

Multiple Employer 403(b) Plans

Allows 403(b) plans to participate in, and be operated as, multiple employer plans (“MEPs”) and pooled employer plans (“PEPs”). Clarifies that, under certain circumstances, the failure of one employer participating in a 403(b) MEP (or PEP) to satisfy the 403(b) plan rules does not affect the tax treatment of the rest of the MEP. Directs the Treasury to issue regulations providing relief from the “one bad apple” rule for 403(b) plans and further instructs the Treasury to issue model plan language. Effective for plan years beginning after December 31, 2022. (Section 106)

Increase in Age for Required Beginning Date for Mandatory Distributions

Increases the age at which required minimum distributions ("RMDs") from retirement plans must commence from age 72 to age 73 in 2023 and to age 75 in 2033 ("RMD Age"). Specifically, the RMD Age is (a) age 70 ½ for individuals born before July 1, 1949, (b) age 72 for individuals born after June 30, 1949, but before 1951, (c) age 73 for individuals born after 1950, but before 1960, or (d) age 75 for all others – note, apparent drafting error in the statutory language, makes it unclear when age 75 starts to apply in lieu of age 73, but it appears age 75 is intended to apply if born after 1959. Effective for distributions made after December 31, 2022, for individuals who attain age 72 after that date. (Section 107)

Higher Catch-up Limit to Apply at Age 60, 61, 62 and 63

Increases the catch-up contribution limit for non-SIMPLE plans for individuals aged 60 to 63 to the greater of (i) $10,000 per year, or (ii) 150% of the regular catch-up contribution amount in 2024 (as indexed for inflation). The catch-up contribution limit for SIMPLE plans is similarly increased for individuals ages 60 – 63 to the greater of (i) $5,000 per year, or (ii) 150% of the regular catch-up amount in 2025 (as indexed for inflation), beginning for taxable years beginning after December 31, 2024. (Section 109)

Treatment of Student Loan Payments as Elective Deferrals for Purposes of Matching Contributions

Allows for employer contributions made on behalf of employees for "qualified student loan repayments" to be treated as matching contributions to 401(k) plans, 403(b) plans, SIMPLE IRAs, and governmental 457(b) plans. With respect to nondiscrimination testing, such plans are permitted to separately test the employees who receive matching contributions on student loan repayments. Effective for plan years beginning after December 31, 2023. (Section 110)

Small Immediate Financial Incentives for Contributing to a Plan

Permits the provision of de minimis financial incentives, such as gift cards, to **encourage participation and may be provided to participants for contributing to a 401(k) or 403(b) plan**, provided plan assets are not utilized to pay for such incentives. Provides an exemption to the contingent benefit rule and relief from the prohibited transaction rules under both the Code and ERISA. Effective for plan years beginning after the date of enactment. (Section 113)

Withdrawals for Certain Emergency Expenses

Allows **one tax free and penalty free withdrawal within a 3-year period up to $1,000 per year** for "unforeseeable or immediate financial needs relating to personal or family emergency expenses." Such withdrawal may be repaid within the 3-year period and if so repaid, more than one withdrawal may be permitted within the 3-year period. Effective for distributions made after December 31, 2023. (Section 115)

Optional Treatment of Employer Matching or Nonelective Contributions as Roth Contributions

Allows a 401(a) qualified plan, 403(b) plan, or governmental 457(b) plan to provide participants with the **option of treating employer matching and non-elective contributions as Roth contributions**. Effective for contributions made after the date of enactment. (Section 604)

Disclosures

SOURCE: Senate Finance Committee, https://www.finance.senate.gov/

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