A List of Current "To Do's" for Retirement Plan Sponsors – SECURE 2.0 Act of 2022

Related Professionals

Michael T. Brittingham
803.253.8289
mbrittingham@maynardnexsen.com

Jim P. Rourke
803.540.2030
jrourke@maynardnexsen.com

Practices

Employment & Labor Law

Article
02.14.2023

President Biden signed The Consolidated Appropriations Act, 2023 in late December 2022. The final bill included the SECURE 2.0 Act of 2022 ("SECURE 2.0"). As we reported in a prior article, SECURE 2.0 contains a host of wide-ranging provisions that impact retirement plans, plan sponsors, and plan participants. We promised to provide additional discussion of SECURE 2.0 in our Mid-Week Memos. This piece is intended to provide a current "to-do" list of SECURE 2.0 provisions for employers/plan sponsors to follow over the near term.

Provisions that Require Action:

→ **Increased Age for Required Minimum Distributions (RMD).** Starting January 1, 2023, the RMD age increased from 72 to 73. On January 1, 2032 the RMD age will increase from 73 to 74. Employers should work with plan providers to change administrative procedures to address this change during 2023.

Effective for distributions made after December 31, 2022.

→ **Coverage of Long-Term, Part-Time Workers**. In 2019, the original iteration of the SECURE Act required employers to treat long-term part-time employees as eligible to participate in retirement plans after three consecutive years of having at least 500 hours of service in each year. SECURE 2.0 reduces the three-year consecutive service requirement to two years. Note that part-time service prior to 2021 is not counted for eligibility or vesting purposes. Employers should develop a process now to identify long-term part-time employees who will qualify under these new rules in future years and make sure to send notice of plan eligibility to those employees who will be eligible.

MAYNARDNEXSEN

Effective for plan years beginning after December 31, 2024.

→ **Simplified Notice Requirement for Unenrolled Employees.** This SECURE 2.0 provision reduces the periodic notification burdens required of plan sponsors related to employees who are eligible to participate in a retirement plan but choose not to participate. Now employers are allowed to provide an annual notice reminding employees of their eligibility, the deadlines and process to enroll, and the key benefits and rights of the plan with a focus on employer contributions and vesting provisions.

Effective for plan years beginning after December 31, 2022.

→ **New Roth RMD Rule for Employer Plans.** Starting January 1, 2024, employer retirement plans will be allowed an RMD exemption for Roth accounts. This is the same tax treatment currently allowed for Roth IRA accounts. This change will allow plan participants to retain Roth accounts in tax qualified plans retaining the tax exclusion for earnings on the Roth accounts.

Effective for tax years beginning after December 31, 2023.

→ **Surviving Spouse Election to be Treated as Participant for RMD Purposes.** Effective January 1, 2024, employer retirement plans will be required to permit a surviving spouse to elect to be treated as the participant for RMD purposes if plan distributions have not already begun. This change will allow a delay in the required beginning date for RMDs due to surviving spouses.

Effective for calendar years beginning after December 31, 2023.

<u>Provisions to Consider:</u>

→ **Treatment of Student Loan Repayments as Elective Deferrals.** Effective January 1, 2024, employers will be allowed to make matching contributions for plan participants who make Qualified Student Loan Payments (QLSPs). Employers are allowed to rely on certification of QSLP provided by participants. These matching contributions must be made to all participants eligible for the employer matching contribution and at the same rate that applies for regular elective deferrals. This new rule applies to 401(k), 401(b), SIMPLE IRAs, and governmental 457(b) plans. Further, the QSLP matching contributions can be used in safe harbor 401(k) plans and may be subject to any applicable vesting schedule. Employers should consider this available plan design feature during 2023 for implementation at the start of the new year.

Effective for plan years beginning after December 31, 2023.

→ **Increase of Cash-Out Dollar Limit.** Beginning January 1, 2024, retirement plans will be allowed to increase the mandatory cash-out limit from $5,000 to $7,000.

Effective for distributions made after December 31, 2023.

→ **Hardship Withdrawal – Employee Certifications.** For the first plan year following the enactment of SECURE 2.0, employers are allowed to rely on employee certification of the deemed hardship conditions needed to support a plan's hardship distribution. This new rule should reduce some of the administrative burdens and risks associated with the administration of hardship distributions.

Effective for plan years beginning after December 29, 2022.

Employers should consider these SECURE 2.0 changes and develop plans to address each issue, as applicable. For some items, employers will need to provide employee communications, and for other issues employers will need to make plan-related decisions regarding plan administration and compliance.

In addition to the above-listed items, SECURE 2.0 ushered in a host of additional changes intended to enhance tax-favored retirement savings opportunities workers. SECURE 2.0 also addresses many retirement plan administration obligations expected of the employers that sponsor these plans. Many of the other SECURE 2.0 changes have effective dates that apply in later years and we intend address those items with later effective dates in future editions. We encourage you to monitor our Mid-Week Memos for future articles and reach out to Mike or Jim with any questions as we continue to track SECURE 2.0 and related developments.