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HOT TOPICS IN EMPLOYEE BENEFITS

SECURE Act 2.0: Groundbreaking Retirement Plan Legislation

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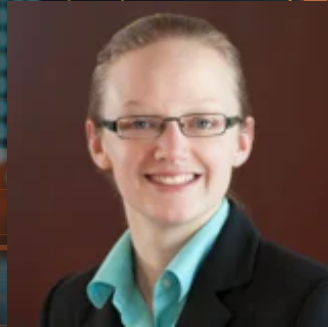
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Agenda

- Overview of significant provisions of SECURE Act 2.0
 - Roth Contribution and Catch-Up Changes: **Claire Rowland**
 - Retirement Savings Enhancement Changes: **Randy Tracht**
 - Corrections, Overpayments, and Defined Benefit Plans: **Claire Bouffard**
 - Distribution Changes: **Matt Hawes**
 - Multiple Employer Plans (MEPs) and Pooled Employer Plans (PEPs) and Group of Plans (GoPs): **Mike Gorman**
 - Grab Bag
 - Q&A

Introduction

- Consolidated Appropriations Act, 2023
 - Passed by Congress on December 23, 2022
 - Signed into law by President Biden on December 29, 2022 (“date of enactment”)
 - Division T – SECURE 2.0 Act of 2022 (“SECURE 2.0”)
- Some mandatory changes, but many changes are optional
- Some changes effective immediately, but also many with delayed effective dates
- Deadline for amending plans is no earlier than the end of the plan year beginning on or after January 1, 2025 (January 1, 2027 for governmental and collectively bargained plans)
 - Same deadlines now also apply for SECURE 1.0, CARES Act, and Taxpayer Certainty and Disaster Tax Relief Act of 2020
 - But plans must be operated in accordance with applicable requirements pending amendment

The background features a stylized world map composed of blue dots, overlaid with various financial data visualizations. These include orange and red candlestick-style bars, a white line graph, and vertical lines with circular markers in orange, red, and white. A numerical value '+11,000.00' is visible in the middle-left area. The overall color palette is dark blue, orange, and red.

Roth Contribution and Catch-Up Changes

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Increase in Catch-Up Contribution Limit

- Background: Catch-up contributions currently permitted to be made to an applicable plan by participants who are, or will be, at least age 50 by the end of the calendar year (up to a maximum of \$7,500 for 2023) (the “Age 50 Catch-Up Limit”)
- Description: For eligible participants who are, or will be, age 60, 61, 62, or 63 (but not age 64 or older) by the end of the calendar year, the maximum catch-up contribution limit is increased to the greater of \$10,000 or 150% of the “regular” catch-up contribution limit (the “Age 60-63 Catch-Up Limit”)
- Applicability/Effective Date: Most likely optional for plans that offer catch-up contributions; effective for tax years beginning after 2024 (January 1, 2025)

Increase in Catch-Up Contribution Limit

- Observations:
 - Accelerated savings rate for older employees and improved retirement readiness
 - Added administrative complexity for plans and recordkeepers to track transitions between the Age 50 Catch-Up Limit and Age 60-63 Catch-Up Limit
 - Targeted communications needed to inform and educate catch-up eligible participants
- Action Items:
 - Review current administration of Age 50 Catch-Up Limit
 - Coordinate with service providers in advance of effective date to address communication strategies, procedural changes, and system updates

Rothification of Catch-Up Contributions

- Description: Requires catch-up contributions made by a participant with wages above \$145,000 (a “High-Paid Participant”) to be made on a Roth (after-tax) basis (rather than on a traditional pre-tax basis)
 - Wages defined under Code section 3121(a)
 - Amount determined during the immediately preceding plan year (e.g., 2024 for catch-up contributions made in 2025)
- Applicability/Effective Date: Mandatory for plans that offer catch-up contributions (except SARSEP and SIMPLE-IRA plans); effective for tax years beginning after 2023 (January 1, 2024)

Rothification of Catch-Up Contributions

- Observations:
 - High-Paid Participants may no longer make pre-tax catch-up contributions
 - Added administrative complexity and plan design implications
 - Guidance needed for catch-up contribution election changes by participants determined to be High-Paid Participants after elections made; also recharacterizations
- Action Items:
 - Establish procedures for identifying High-Paid Participants
 - Coordinate with service providers in advance of effective date to evaluate current procedures for Roth and catch-up contribution elections, implement changes, and communicate changes to participants

Optional Rothification of Fully Vested Employer Matching and Nonelective Contributions

- Description: Permits employees to elect that all or a portion of the employer matching or nonelective contributions made to their plan account be treated as Roth contributions (provided that such contributions are fully vested when made to the plan)
- Applicability/Effective Date: Optional; can be effective for fully vested contributions made after December 29, 2022 (although it may take longer for recordkeepers to be ready to administer, communications need to be sent to participants, etc.)

Optional Rothification of Fully Vested Employer Matching and Nonelective Contributions

- Observations:
 - Expands Rothification currently available under plans offering “in-plan Roth conversion”
 - Plan administration and design implications for plans that contain vesting schedules
 - Guidance needed for applicable reporting forms, procedures, and timing
- Actions Items:
 - Evaluate current plan design and need for changes
 - Establish process for soliciting and processing employees’ elections and reporting any Roth-designated matching or nonelective contributions as taxable income
 - Communicate optional Rothification and election procedures to participants

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Savings Enhancement Changes

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Enhancing Retirement Savings – Required Automatic Enrollment

- Description: With a few exceptions, **NEW PLANS** must include an “eligible automatic contribution arrangement” (EACA) that satisfies certain requirements:
 - Automatic enrollment percentage of between 3% and 10%
 - Automatic escalation of 1% every subsequent year up to at least 10% and max of 15%
 - Contributions invested in “qualified default investment alternative” unless participant elects otherwise
 - Must offer opportunity to withdraw contributions within 90 days of auto-enrollment
- Applicability:
 - Mandatory for “new” 401(k) and 403(b) plans established after December 29, 2022
 - Initial participation in a MEP/PEP after December 29, 2022 would be treated as a new plan

Enhancing Retirement Savings – Required Automatic Enrollment, cont'd.

- Exceptions: Required automatic enrollment does not apply to certain plans:
 - Existing plans! (as in existence before December 29, 2022)
 - Governmental or church plans
 - A plan sponsored by a “new” business for the first three years of existence
 - A plan sponsored by a “small” employer that normally has 10 or fewer employees (exception expires one year after close of tax year in which limit is exceeded)
- Effective Date: Effective for plan years beginning after December 31, 2024
- Observations:
 - While existing plan sponsors may not be directly impacted, interesting questions may arise with corporate transactions (e.g., acquiring a company that has a “new plan,” spinning off a new plan from an existing plan, etc.)

Enhanced Retirement Plan Savings – Long-Term Part-Time Employees

- SECURE 2.0 makes several significant changes to long-term part-time employee (“LTPT Employee”) rules first established in the Setting Every Community Up for Retirement Enhancement Act of 2019 (“SECURE 1.0”)
- Background: Under SECURE 1.0:
 - Employees with three or more consecutive years of at least 500 hours of service must be eligible to make elective deferrals to 401(k) plan
 - No requirement to provide employer-matching or non-elective contributions
 - Pre-2021 service excluded for eligibility purposes, but counted for vesting purposes
 - Does not apply to collectively bargained plans
 - January 1, 2024 the earliest a LTPT Employee could be covered under SECURE 1.0

Enhanced Retirement Plan Savings – Long-Term Part-Time Employees, cont'd.

- Description: SECURE 2.0 changes LTPT Employee rules as follows:
 - Shortens eligibility period from three to two years
 - Expands LTPT Employee rules to include ERISA and ERISA-covered 403(b) plans
 - For purposes of counting years of service:
 - Pre-2023 service not counted for purposes of ERISA and ERISA-covered 403(b) plans
 - Pre-2021 service disregarded for vesting (effective as if included in SECURE 1.0)
- Applicability: Mandatory for 401(k) and 403(b) plans
- Effective Date: Effective for plan years beginning after December 31, 2024
- Observations:
 - LTPT Employees satisfying SECURE 1.0 requirements still eligible to participate as early as January 1, 2024; January 1, 2025 earliest participation under SECURE 2.0 rules
 - New rules for 403(b) plans may be an adjustment for some 403(b) plan sponsors

Enhanced Retirement Plan Savings – Saver’s Match

- Description: Replaces existing saver’s tax “credit” with a saver’s “match” on qualified retirement savings contributions of up to \$2,000 that satisfies the following:
 - Matching percentage is 50%, but subject to income phaseout (e.g., \$41,000-\$70,000 phaseout range for joint filers)
 - Matching contribution paid by Treasury as a pre-tax contribution to any traditional IRA or retirement plan (401(k), 403(b), or 457(b))
 - Contribution is fully vested, subject to distribution limits, excluded from testing, and does not count against applicable contribution limits
- Applicability: Optional; only applies to IRAs or plans **that accept the contributions**
- Effective Date: Effective for tax years beginning after December 31, 2026
- Observation: Potentially significant administrative issues associated with accepting and recordkeeping saver’s match may discourage retirement plan sponsors from accepting such contributions

Matching Contributions on Student Loan Payments

- Background: Technical 401(k) plan rules complicate the ability to match student loan repayments. An existing IRS ruling position permits “non-elective” contributions, but not true matching contributions and administrative complications remain.
- Description: Employers may now match employee student loan repayments:
 - Permits employers to treat “qualified student loan payments” for “qualified higher education expenses” as elective deferrals and corresponding plan contributions as true matching contributions
 - Subject to certain requirements (e.g., payments subject to elective deferral limit, all matching eligible employees must be eligible for program, same rate as for other elective deferrals, etc.)
 - Employers can rely on employees’ certification of qualified student loan repayments
 - Employees receiving student loan repayment matching contributions can be tested separately
- Applicability: Optional for 401(k), 403(b), governmental 457(b) and SIMPLE IRAs
- Effective Date: Effective for plan years beginning after December 31, 2023
- Observations: Potentially valuable plan feature for some employers and employees, but employers will need to consider the potential impact on plan design and operation

Emergency Savings Accounts (ESAs)

- Description: In-plan emergency savings feature would permit employees to make contributions to a savings account within a defined contribution plan that satisfies the following requirements:
 - Only available to employees who are “non-highly compensated employees” (e.g., \$150,000 in 2023)
 - Contributions must be made as Roth after-tax contributions
 - ESA contributions balance capped at \$2,500 (adjusted for inflation)
 - Balances must be eligible for distribution at least once a month
 - ESA contributions must be invested in a capital preservation investment option
 - Employee contributions to an ESA must be eligible for matching contributions at the same matching rate as elective deferrals (but matching contributions are made to the general plan, not to the ESA)
- Applicability: Optional for 401(k), 403(b), and governmental 457(b) plans
- Effective Date: Effect for plan years beginning after December 31, 2023
- Observations: Potentially valuable feature for some participants, but plan sponsors will need to consider the administrative burdens and complexities of offering it



Corrections, Overpayments, and Defined Benefit (DB) Plans

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Expansion of Employee Plans Compliance Resolution System (EPCRS)

- Description: Expands the availability of self-correction through EPCRS to include any eligible inadvertent failure and plan loan failures-follows trend over last several years/revisions to EPCRS/pre-examination pilot program, but legislative fix is a departure from historical IRS domain
 - Removes distinction between “significant” and “insignificant” failures to determine whether “inadvertent eligible failures” may be corrected at any time or only during a limited time following the failure
 - Provides availability of self-correction of significant failures and insignificant failures that are identified while under examination
 - Expands plan types covered by EPCRS



Expansion of EPCRS, cont'd.

- Allows for self-correction of loans that violate Code Section 72(p) when made (violating limitations on amount, payment schedule, level amortization requirement).
 - Self-corrected loans must be treated as satisfying the DOL Voluntary Fiduciary Correction Program (VFCP) (provided that DOL may impose future requirements on corrections where VFCP has a similar correction method for the failure)
 - Includes relief from reporting corrected Form 1099-R for deemed distributions

The IRS is directed to issue further guidance, so will have some ability and discretion to interpret and set rules within the confines of SECURE 2.0.

Effective Date: Effective as of December 29, 2022

Recovery of Overpayments

- Description: Gives retirement plan fiduciaries discretion as to whether to seek recoupment of inadvertent overpayments by retirement plans, but, unless the recipient is “culpable,” also imposes many restrictions on ability to recoup overpayments from ongoing payments
 - Recovery from ongoing payments capped at 10% of the inadvertent overpayment per year and 10% of the ongoing payments
 - Participants must be notified of the inadvertent overpayment within three years
 - Interest and collection costs may not be recovered
 - May not be recovered from beneficiary or spouse



Recovery of Overpayments, cont'd.

- “Culpable” means the recipient has made misrepresentations or misstatements or knows that the inadvertent overpayments were materially in excess of the correct amount due under the plan terms
- Recipient must have the opportunity to contest repayment through plan’s claims and appeals process
- Provides relief for amounts rolled over (allow to stay in the plan if fiduciary decides not to recoup or treated as eligible rollover if transferred back to the issuing plan)
- Plan sponsor can self-correct by amending the plan to address inadvertent overpayments
- Effective Date: Effective as of December 29, 2022 (with relief for recoupment from ongoing payments that began prior to this date)

Surviving Spouse Treated as Participant for RMD Rules

- Description: Surviving spouse may elect to be treated as the participant for purposes of determining when required minimum distributions must begin (i.e., determination using surviving spouse age); if spouse dies, distributions at death will begin as if the spouse were the participant
- Applicability: Optional; plan could keep current timing and choose not to offer election
- Effective Date: Calendar years beginning after December 31, 2023

Participant Disclosure Requirements for Lump-Sum Distribution Windows

- Description: Imposes specific notice and disclosure requirements on the plan administrators for pension plans that permit temporary lump-sum distributions
 - Disclosure to DOL and PBGC part of the new requirement (30 days before election window opens)
 - Must include, among information specific to lump-sum calculation, number of participants and beneficiaries offered the lump sum
 - Disclosure to participants 90 days before election window opens
 - Content requirements for participant notices; the DOL is instructed to issue a model notice
- Applicability: Mandatory for plans offering these distributions
- Effective Date: Effective upon issuance of regulations by the DOL

420 Transfer Extension; *De Minimis* Transfers

- Description: Provides additional ability to transfer a portion of excess pension assets to pension plan's Code section 401(h) account to be used for qualified retiree liabilities
 - Availability of Code section 420 transfers slated to expire December 31, 2025 – SECURE 2.0 extends to December 31, 2032
 - 420 transfers available if excess pension assets (value of assets over 125% of the sum of funding target and target normal cost); SECURE 2.0 allows "*de minimis*" 420 transfers of 1.75% pension assets based on modified definition of excess pension assets (in each of the two years before transfer, the value of assets more than 110% of the sum of funding target and target normal cost)
 - Does not apply to collectively bargained plans
 - Cost maintenance period for level of qualified retiree liabilities increased from five to seven years following transfer
 - Period when minimum cost requirements apply following qualified future transfer increased from four to six years following transfer
- Applicability: Optional
- Effective Date: Transfers made after December 29, 2022

Cash Balance Interest Crediting Rate for Testing

- Description: Requires cash balance plans with variable interest crediting rate to use a “reasonable projection” of the interest crediting rate used to project the accrued benefit for purposes of accrual rule testing, and placing an overall limit of 6% on that rate
 - Provides more certainty in backloading testing
 - Discuss with plan actuaries
- Applicability: Required
- Effective Date: Plan years beginning after December 29, 2022

“Correction” of Mortality Tables

- Description: Limits fluctuation on mortality improvements for funding purposes - caps mortality improvement rates at 0.78%; may be further amended to reflect overall improvement projected by the Social Security Administration
 - Discuss with plan actuaries
- Applicability: Required
- Effective Date: December 29, 2022 (IRS directed to amend the “Mortality Tables for Determining Present Value Under Defined Benefit Pension Plans” regulations not later than June 29, 2024); but only applicable to valuation dates after 2023

Distribution Changes

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Enhancing Retirement Distributions – Self-Certification for Hardship Distributions

- Description: Except when the plan administrator “has actual knowledge to the contrary,” a plan administrator may rely on an employee’s written certification that a hardship distribution:
 - is for an immediate and heavy financial need;
 - does not exceed the amount required to satisfy the financial need; and
 - the employee has no alternative means reasonably available to satisfy the need.
- Applicability/Effective Date:
 - Optional for 401(k), 403(b), and eligible 457(b) plans for plan years beginning after December 29, 2022
- Observation:
 - Treasury can provide regulations addressing the exception based on plan administrator knowledge

Enhancing Retirement Distributions – Increased Required Minimum Distribution Age

- Description: Required minimum distribution (RMD) age increased:
 - from age 72 to age 73 for distribution beginning January 1, 2023
 - applies to participants who turned age 72 after December 31, 2022
 - from age 73 to age 75 beginning January 1, 2033
 - applies to participants who turn 74 after December 31, 2032
- Applicability/Effective Date: Optional/mandatory for all retirement plans and traditional IRAs for employees who reach age 72 after December 31, 2022
- Observations:
 - Individuals who reached age 72 in 2022 still have required beginning date in 2023
 - Mandatory for determining eligible rollover distribution and excise taxes
 - Technical correction will be required for a participant who is born in 1959 (will turn 73 before January 1, 2033 and 74 after December 31, 2032)

Enhancing Retirement Distributions – Cashout Limit Increase

- Description: The maximum amount that can be automatically cashed out is increased from \$5,000 to \$7,000
 - Amounts more than \$1,000 but not exceeding \$7,000 must be rolled over to an IRA unless the participant elects otherwise
- Applicability/Effective Date: Optional for all retirement plans for distributions after December 31, 2023
- Observation:
 - Requires revisions to recordkeeping systems, IRA rollover vendor agreements (don't forget to address cybersecurity and privacy), and participant communications

Enhancing Retirement Distributions – Automatic Portability

- Description: Amounts transferred from a defined contribution plan to a default IRA for the benefit of an individual may be automatically transferred into the retirement plan of the individual's new employer
 - Individual must:
 - be an active participant in the new employer's plan
 - be given notice and an opportunity to elect to not have the amount automatically rolled over
 - Providers must satisfy certain conditions (e.g., acknowledgment of fiduciary status)
- Applicability/Effective Date: Optional for all retirement plans beginning December 29, 2023 (one year after SECURE 2.0 enactment)
 - DOL must issue implementing guidance within one year
- Observation:
 - Requires plan amendments and agreements with providers and participant communications

Enhancing Retirement Distributions – Federally Declared Disaster Distributions

- Description: Establishes permanent rule permitting “qualified disaster recovery distributions” of up to \$22,000 (combined from all plans)
 - May be taken into income over three years
 - Can be repaid to the plan within three years
 - Not subject to 10% early distribution penalty
 - Limited to federally declared disaster areas (participant’s principal place of abode determination)
 - Maximum loan limit also increased to \$100,000 or 100% of the vested balance (if less)
- Applicability/Effective Date: Optional for all retirement plans for disasters occurring on or after January 26, 2021
- Observations:
 - Distributions to purchase a home prior to the disaster can be repaid
 - GAO required to report to Congress on utilization and adequacy of limits

Enhancing Retirement Distributions – Emergency Personal Expense Withdrawals

- Description: Plans can permit one withdrawal per year of up to \$1,000 for an unforeseeable and immediate financial need relating to necessary personal or family expense
 - May rely on individual's written self-certification unless actual knowledge to the contrary
 - Not subject to 10% early distribution penalty
 - Can be repaid within three years
 - Additional distributions with the three years dependent on repayment
- Applicability/Effective Date: Optional for all retirement plans for distributions after December 31, 2023
- Observation:
 - Distribution right different from self-certification of hardship and emergency savings account withdrawals

Enhancing Retirement Distributions – Other Withdrawal Provisions

- Penalty-Free Withdrawal from Retirement Plans for Cases of Domestic Abuse
 - Lesser of \$10,000 or 50%
 - Optional and effective for distributions after December 31, 2023
- Penalty-Free Distribution to Participant Who Is Terminally Ill
 - Requires certification from physician and allowed to be repaid (generally three years)
 - Optional and effective for distributions after December 29, 2022
- Clarification of Qualified Birth or Adoption Distribution (QBAD) Repayment:
 - Clarifies that repayment period following QBAD is three years
 - Optional and effective for distributions after December 29, 2022 (special rule for prior distributions)

Enhancing Retirement Distributions – Retirement Savings Lost and Found

- Description: DOL directed to establish a national online “lost and found” database
 - Intended to allow individuals to locate plan administrators and contact information for plans with respect to which the individual was a participant or beneficiary, in order for the individual to be able to make a claim for benefits
 - DOL must ensure security of personal and plan data and allow individuals to opt-out
 - Plan administrators will be required to provide DOL with information on current and former participants (in accordance with to-be-issued DOL regulations)
 - DOL must establish database by December 29, 2024 (two years from date of enactment)
- Applicability/Effective Date: Mandatory (plans provide data for plan years beginning after December 31, 2023)
- Observation:
 - Privacy protections implemented by the DOL may inform data security standards for recordkeepers and other service providers

The background features a complex financial data visualization. It includes a world map composed of blue dots, overlaid with various charts: a candlestick chart with orange and red bars, a line graph with a fluctuating orange line, and several vertical lines with circular markers in orange, purple, and red. The overall color palette is dominated by dark blues, oranges, and reds, creating a high-tech, data-driven aesthetic.

Multiple Employer Plans, Pooled Employer Plans, and Groups of Plans

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MEPs, PEPs, and GoPs – Oh My!

- For more than a decade, politicians on both sides of the aisle have recognized closing the retirement coverage gap as a worthwhile policy objective. Certain plan structures may provide a powerful tool in achieving this objective
 - Multiple Employer Plans (MEPs) – centrally administered, require commonality
 - Pooled Employer Plans (PEPs) – centrally administered, no commonality required
 - Groups of Plans (GoPs) – separate single-employer plans, consolidated Form 5500 filing
- The SECURE Act brought PEPs and GoPs into existence
- SECURE 2.0 brings some changes to these plans and to the marketplace more broadly

403(b) MEPs and PEPs

- Description: MEPs and PEPs structured as 403(b) plans are now permitted
 - For years some practitioners have taken the position that 403(b) MEPs are permitted under the Code. However, prior to SECURE 2.0 this position was not without risk
 - Tax-exempt entities appear relatively well suited for PEPs (budget constraints, desire to outsource or streamline administration, desire to rely on professional fiduciaries)
 - But some tax-exempt entities appear to prefer 403(b) plans (with which they're familiar) over 401(k) plans
- Effective Date: Plan years beginning after December 31, 2022



Expansion of Entities Permitted to Be Responsible for Monitoring Contributions to the PEP

- Description: Allows any named fiduciary (other than a participating employer) to be the entity or individual responsible for collecting contributions to the PEP and for implementing written contribution collection procedures that are reasonable, diligent, and systematic
 - SECURE 1.0 specifically required that the PEP trustee bear this responsibility
 - But many directed trustees pushed back on this responsibility and some charge more to take it on
 - Moreover, the trustee may not be the fiduciary best suited for performing these tasks
- Effective Date: Plan years beginning after December 31, 2022

Clarification of Group of Plans Audit Requirement

- Description: Clarifies that a GoP's consolidated Form 5500 must include an auditor's opinion for each "large plan" participating in the GoP and that each auditor's opinion shall relate only to such "large plan" (not the GoP itself)
 - Shortly after SECURE 1.0 became law, some practitioners began to posit that GoPs may only require one auditor's opinion
 - However, the DOL proposed regulations clarifying that the GoP was not eligible to file a consolidated auditor's opinion
 - SECURE 2.0 codifies this position for GoPs, but some PEP audit issues remain open
- Effective Date: Effective as of December 29, 2022



Congressional Studies on PEPs

- SECURE 2.0 instructs the Secretary of Labor to conduct a study on the PEP industry addressing a number of specific issues, including the extent to which PEPs have decreased the coverage gap, the manner in which employers select and monitor PEPs, the fees charged, and the investment options available
- The Secretary of Labor is further instructed to publicly post a report not later than 5 years after enactment of SECURE 2.0 that discusses this study, including recommendations on how PEPs can be improved, through legislation, to serve and protect retirement plan participants
- The Secretary of Labor is further instructed to publicly post a report on this subject every 5 years thereafter

Startup Costs Tax Credit – Clarification

- Description: SECURE 2.0 amends Code Section 45E to clarify that employers become eligible for the small employer pension plan startup tax credit based on the year in which they join a MEP or PEP as a participating employer
 - Code Section 45E provides that employers with fewer than 100 employees that adopt a new retirement plan may qualify for an annual tax credit for up to three years equal to the lesser of (1) 50% of the administrative cost of establishing the plan and (2) \$5,000
 - Previously, one could read the credit to apply based on when the MEP or PEP came into existence, not when the employer began participating in the MEP or PEP
- Effective Date: Retroactive to the effective date of SECURE 1.0



Startup Costs Tax Credit – Enhancements

- Description: For employers with 50 or fewer employees, the credit described on the previous slide is increased to 100% of the administrative cost of establishing the plan up to \$5,000
- Description: A generous new tax credit is available to cover some or all of the contributions made by small employers to a newly established retirement plan (other than a defined benefit plan), subject to certain limitations and phase-outs
- Effective Date: Effective for tax years beginning after December 31, 2022

Grab Bag and Q&A

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Grab Bag

- PBGC variable rate premium frozen at \$52 per \$1,000 of unfunded vested benefits (mandatory; December 29, 2022)
- Collective investment trusts investment by 403(b) plans (securities law changes likely still necessary) (optional; takes effect plan years after December 31, 2023)
- Conforming hardship rules for 403(b) plans with respect to earnings, QNECs, QMACs (optional; plan years beginning after December 31, 2023)
- Provisions requiring information collecting by government agencies on various disclosures: 319 (review of overall disclosure requirements), 324 (rollover forms), 336 (402(f) notice), 340 (participant fee disclosure), 341 (consolidation of 401(k) notices), 343 (defined benefit annual funding)
- Streamlined notices to unenrolled employees (optional; plan years beginning after December 31, 2022)
- Paper benefit statements (mandatory; plan years beginning after December 31, 2025)
- Deferral of Tax for Certain Employer Stock Sales to S-Corp-sponsored ESOP (N/A; sales after December 31, 2027)
- Certain securities treated as publicly traded for ESOPs (N/A; plan years after December 31, 2027)

Grab Bag

- Starter 401(k) – deferral-only arrangement for employers without plans (optional; plan years beginning after December 31, 2023)
- Elimination of “first day of the month” requirement for deferral elections under governmental 457(b) plans (optional; taxable years beginning after December 29, 2022)
- Exclusion of employees not meeting plan’s age and service requirements for Top Heavy Rules (mandatory; plan years beginning after December 31, 2023)
- Amendment to increase benefit accruals until employer tax return due (optional; plan years beginning after December 31, 2023)
- Retroactive elective deferrals in first plan year for sole proprietors (optional; plan years beginning after December 29, 2022)
- DOL to prepare regulations to allow benchmarks for mixed asset class DIAs (N/A; within two years of December 29, 2022)
- DOL to report to Congress on risk transfer/annuity purchase (N/A; within one year of December 29, 2022)
- Elimination of additional tax on corrective distribution of excess contributions (N/A; any determinations regarding tax liability on or after December 29, 2022)

SECURE Act 2.0 Resources

- We have launched a centralized portal, [SECURE Act 2.0: Updates and Developments](#), which will be updated to add our publications closely examining SECURE Act 2.0 as they are published and aggregate our insights and analyses of the act.

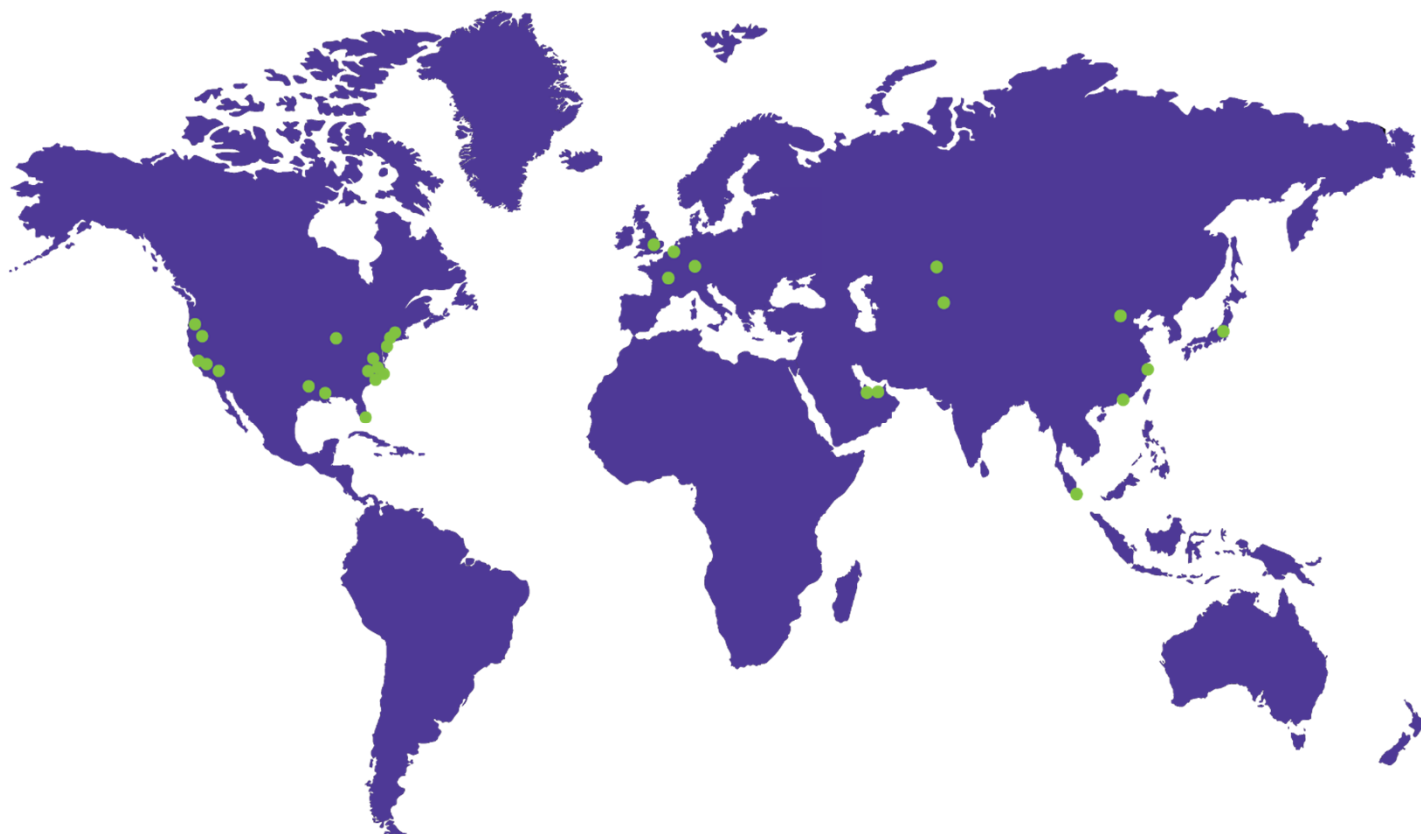


Our Global Reach

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