



SECURE 2.0 Act of 2022

Provisions for specific plan types



Building on the SECURE Act of 2019, the SECURE 2.0 Act is a law designed to help Americans save more for retirement with more options and improved access to retirement plans. It includes several provisions that impact specific types of retirement plans, including the following.

403(b) plans

§ 128: Enhancement of 403(b) plans

Custodial 403(b)(7) accounts may be invested in group trusts intended to satisfy the requirements of Revenue Ruling 81-100 (i.e., collective trust funds), in addition to mutual funds.

Effective: Amounts invested after December 29, 2022

Impact/actions: Not operative until the SEC amends its rules

§ 602: Hardship withdrawal rules for 403(b) plans

Aligns hardship withdrawal rules for 403(b) plans with those for 401(k) plans. 403(b) plans may now permit hardship distributions without requiring the participant to take any available plan loans first, and may allow hardship withdrawals to be taken from Qualified Nonelective Contributions (QNECs), Qualified Matching Contributions (QMACs), and earnings on deferrals, QNECs, and QMACs.

Effective: Plan years after December 31, 2023

Impact/actions: Discretionary

§ 106: Multiple employer 403(b) plans

Section 403(b) is amended to permit multiple employer plans (MEPs), including PEPs, except for church plans; the “one bad apple” rule relief is extended to 403(b) MEPs and PEPs.

Effective: Plan years after December 31, 2022

Impact/actions: 403(b) plans may, generally, join MEPs or PEPs

Defined benefit plans

§ 335: Corrections of mortality tables

For purposes of the minimum funding rules, a pension plan is not required to assume beyond the plan's valuation date future mortality improvements at any age greater than 0.78% (i.e., the weighted average previously used by the SSA).

Effective: Regulatory changes needed; deemed effective as of December 29, 2022

Impact/actions: Mandatory

§ 348: Cash balance plans

Clarifies that, for all applicable purposes, the interest crediting rate that is treated as in effect and as the projected interest crediting rate is a reasonable projection of such variable interest rate, subject to a maximum of 6%.

Effective: Plan years after December 29, 2022

Impact/actions: Mandatory for cash balance plans

§ 606: Enhancing retiree health benefits in pension plans

Extends date until which defined benefit plans may allow transfers to pay retiree health and life insurance benefits to December 31, 2032. If certain requirements are met, transfers are permitted for defined benefit plans for which plan assets exceed 110% (reduced from 120% or 125%) of the sum of the funding target and the target normal cost of the plan.

Effective: Transfers after December 29, 2022

Impact/actions: Discretionary

§ 343: Defined benefit annual funding notices

Simplifies the information required to be included in a defined benefit plan's annual funding notice. Plans will be required to present the plan's funded status based on end of the year spot asset values and interest rates, but must continue to show (for the current and prior two years) the plan's beginning-of-year funded status, funding shortfall, and minimum required contribution (using both smoothed and unsmoothed interest rates and the actuarial value of the assets as applicable). Adds new PBGC-related disclosure language.

Effective: Plan years after December 31, 2023

Impact/actions: Mandatory

§ 349: Termination of variable rate premium indexing

Eliminates the indexing of the Variable Rate Premium (VRP) and freezes the VRP rate at the 2023 level (\$52 per \$1,000 of unfunded vested benefits).

Effective: Plan years after December 31, 2023

Impact/actions: Applicable to defined benefit plans

§ 342: Enhanced disclosures for lump sum windows

Enhances notice and disclosure requirements for defined benefit plans that are being amended to provide a lump-sum window option instead of future monthly payments. Notices must include information that will allow participants to better evaluate their options.

Effective: No later than one year after issuance of final regulation by DOL

Impact/actions: No current action required; will apply to defined benefit plans offering lump sum windows

§ 119: Application of § 415 limit for rural electric cooperatives

If elected by the plan, non-highly compensated participants in an eligible rural electric cooperative plan may be exempted from the compensation limit under 415(b) applicable to defined benefit plans.

Effective: Limitation years ending after December 29, 2022

Impact/actions: Discretionary provision

MEPs, PEPs, and/or Group of Plans

§ 105: Modification to pooled employer plans

Pooled employer plans (PEPs) may now designate any named fiduciary (other than an employer in the PEP) to be responsible for collecting contributions and implementing written contribution collection procedures that are reasonable, diligent, and systematic. This provision removes the requirement that the fiduciary for this purpose be the PEP's trustee.

Effective: Plan years after December 31, 2022

Impact/actions: PEPs may be amended to reflect this change

§ 106: Multiple employer 403(b) plans

Section 403(b) is amended to permit multiple employer plans (MEPs), including PEPs, except for church plans; the "one bad apple" rule relief is extended to 403(b) MEPs and PEPs.

Effective: Plan years after December 31, 2022

Impact/actions: 403(b) plans may, generally, join MEPs or PEPs

§ 345: Annual audits for group of plans

The DOL's proposed trust-level audit of a Group of Plans is eliminated; any audits with respect to a Group of Plans may relate only to each individual plan that would otherwise be subject to an audit were it not participating in the group.

Effective: December 29, 2022

Impact/actions: Applicable to Form 5500 filings for Groups of Plans

§ 111: Application of startup credit when joining an existing plan

Three-year startup credit available to employers participating in a MEP/PEP is based on when the participating employer joins the MEP/PEP, not when the MEP/PEP was started, subject to the credit's general conditions.

Effective: Taxable years after December 31, 2019

Impact/actions: Eligible employers may claim applicable credits

SIMPLEs and SEPs

§ 116: Additional nonelective contributions to simple plans

Employers may make additional nonelective contributions to SIMPLE plans of up to 10% of pay, not to exceed \$5,000 (as indexed for inflation), for eligible participants.

Effective: Taxable years after December 31, 2023

Impact/actions: Discretionary

§ 117: Contribution Limit for SIMPLE plans

For employers with 25 or fewer employees, annual deferral and catch-up limits are increased by 10%, relative to the 2024 calendar limit. Employers with 26-100 employees may apply the higher limits if they provide a 4% match or 3% nonelective contribution.

Effective: Taxable years after December 31, 2023

Impact/actions: Employers with 26-100 employees may use higher limit only if providing the specified increased contribution rate

§ 118: SEP tax treatment of certain non-trade or business contributions

The exception to the 10% excise tax on contributions that are not deductible solely because the contribution is not made in connection with the employer's trade or business now includes SEPs.

Effective: Taxable years after December 29, 2022

Impact/actions: Exception applies if conditions are met

§ 332: Replacement of SIMPLE IRAs during plan year

Employers may terminate a SIMPLE IRA plan at any time during a year if adopting a safe harbor plan in its place. Replacement safe harbor plans include SIMPLE 401(k), basic 401(k) safe harbor plan, auto enroll 401(k) safe harbor plan, or secure deferral arrangement 401(k) safe harbor plan.

Effective: Plan years after December 31, 2023

Impact/actions: Employers may utilize this provision after its effective date

§ 601: SIMPLE and SEP Roth IRAs

SIMPLE IRAs may accept Roth contributions and employers may offer employees the ability to treat employee and employer SEP contributions as Roth (in whole or in part).

Effective: Taxable years after December 31, 2022

Impact/actions: Discretionary

ESOPs

§ 123: Certain securities treated as publicly traded in case of ESOPs

IRC section 401(a)(35) is amended to provide that certain employer securities that are traded on an alternative trading system are treated as publicly traded, provided the securities meet the requirements specified in the provision.

Effective: Plan years after December 31, 2027

Impact/actions: No current action required

457 Plans

§ 306: Remove 'first day of the month' requirement for certain 457(b) plans

Governmental 457(b) plans may be amended to permit participants to defer or make changes to deferral rates at any time, provided that the deferral agreement is entered into before the compensation is made available to the individual.

Effective: Taxable years after December 29, 2022

Impact/actions: Discretionary

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