



GENERAL RELEASE

SECURE Act 2.0

Client Information Release

On December 29, 2022, President Biden signed into law the SECURE 2.0 Act of 2022 (“SECURE 2.0”). SECURE 2.0 included many significant changes to the Internal Revenue Code provisions that govern 403(b) and 457(b) plans. This wide-ranging legislation encourages more employers to offer opportunities to save for retirement at work, make it easier to offer retirement plans, and help ensure retirement savings last a lifetime.

Below is a summary of the SECURE 2.0 provisions that impact your organization’s 403(b) and/or 457(b) plans. **Please note that there are multiple effective dates for these provisions. OMNI/TSACG is working to adjust our processes and procedures to comply with SECURE 2.0’s requirements and its enactment deadlines. OMNI/TSACG will immediately begin administering your organization’s plan(s) in accordance with the mandatory provisions in Section A. In the absence of direction to the contrary from you, OMNI/TSACG will begin administering your organization’s plan(s) in accordance with the optional provisions in Section A on 2/20/23.**

A. Provisions Requiring Implementation After Date of Enactment (12/29/22)

Required Minimum Distribution Age Increase

Prior to SECURE 2.0, an individual who attained age 72 and separated from service was required to take a Minimum Required Distribution (RMD). SECURE 2.0 increases the RMD age to:

- (i) 73 for a person who attains age 72 after 12/31/22 and 73 before 1/1/33; and
- (ii) 75 for an individual who attains age 74 after 12/31/2032.

Birth and Adoption Distribution Repayment

The SECURE Act created a birth or adoption distribution and permitted the same to be repaid. SECURE 2.0 clarified the repayment time and requires a birth or adoption distribution to be recontributed within three years of the date of the distribution. Any distributions made prior to the enactment of SECURE 2.0 must be repaid by 12/31/25.

Distributions for Individuals with a Terminal Illness

SECURE 2.0 provides an exception to the 10% early withdrawal penalty for qualified distributions to individuals who have a terminal illness.

Special Rules for Federally Declared Disasters - OPTIONAL

FEMA Distribution

- (i) Up to \$22,000;
- (ii) Distribution is exempt from the 10% early withdrawal penalty;
- (iii) Amount can be recontributed during the 3-year period from the date of distribution;
- (iv) Allows certain home purchases to be recontributed if used to purchase home in disaster area and were not used because of the disaster.

FEMA Loans

- (i) Increases maximum loan amount to “qualified individuals” to the greater of (i) 50% of the vested balance or \$10,000, or (2) \$100,000, whichever is less.
- (ii) “Qualified individuals” may be able to extend repayment period (as set forth in Sec. 331(c)(1)).

457(b) Contributions

To conform to the rules for 403(b) plans, participants in a 457(b) plan may now change their contribution amount at any time prior to your organization’s payroll cutoff date. Therefore, 457(b) participants will no longer be required to submit contribution changes before the first of the month in which they want the change to occur.

Certification of Hardship/Unforeseeable Emergency Withdrawals - OPTIONAL

SECURE 2.0 eliminated the documentation requirement to determine eligibility to receive a hardship withdrawal in a 403(b) plan or an unforeseeable emergency withdrawal in a 457(b) plan. Now, an employer/TPA may rely on the employee's self-certification that he/she meets the required hardship/unforeseeable emergency conditions without submitting any documentation to substantiate the same.

Non-Elective and Matching Roth Contributions - OPTIONAL

Employers may permit employees contributing to a Roth account to have any employer non-elective contributions and/or matching contributions contributed as Roth.

B. Provisions Effective in 2024

Roth Catch-up Contribution Requirement

Starting in 2024, all catch-up contributions in 403(b) and 457(b) plans MUST be made on a Roth basis, except for eligible participants whose prior year wages don't exceed \$145,000, indexed for inflation.

This new provision will require all 403(b) and 457(b) plan sponsors to permit Roth contributions. OMNI/TSACG will provide further guidance on the implementation of this requirement later this year.

Student Loan Payments Count Toward Matching Contributions

On and after 1/1/24, 403(b) and/or 457(b) plan sponsors may include employees' "qualified student loan payments" as elective contributions for matching contribution purposes.

Early Withdrawal Penalty Exception for Certain Emergency Expenses

Beginning in 2024, individuals may be permitted to withdraw up to \$1,000 per year for certain emergency expenses and can repay the distribution within three years of the withdrawal.

Early Withdrawal Penalty Exception in the case of Domestic Abuse

Effective 1/1/24, individuals of domestic abuse may be permitted to certain penalty-free withdrawals not to exceed the lesser of \$10,000 or 50% of the value of the employee's vested account. These distributions can also be repaid.

C. Provisions Effective in 2025

Higher Catch-Up Contributions

Currently, individuals aged 50 and over are permitted to make catch-up contributions in 403(b) and 457(b) plans that are indexed for inflation. In 2023, the age 50 catch-up contribution is \$7,500.

On and after 1/1/25, the catch-up contribution amount for individuals aged 60-63 will increase to the greater of (i) \$10,000 or (ii) 150% of the regular catch-up amount for 2024, indexed for inflation.