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Breaking down SECURE Act 2.0

Late last year, Congress passed the *Consolidated Appropriations Act of 2023*. This is what's known as an "omnibus spending bill". (The word *omnibus* means that multiple measures were packaged into a single document.) The bill authorizes \$1.7 trillion in government spending on everything from disaster relief to supporting Ukraine to workplace protections for pregnant mothers.¹

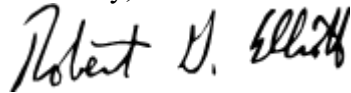
As you can imagine, this was a massive bill. In fact, it contained over four *thousand* pages. That's because, as an omnibus, it's really multiple bills combined into one. Among those many bills is one that will have a profound impact on retirement called SECURE Act 2.0.

Back in 2019, Congress passed a law known as the **Setting Every Community Up for Retirement Act**. This was the original SECURE Act. The law made important changes to IRAs and 401(k)s, among other things, and was designed to help more Americans save for retirement.

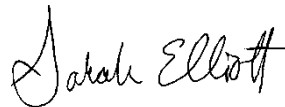
SECURE Act 2.0 widens the scope of several provisions from the original law. It also comes with a variety of new ones. To help you understand this law and how it may affect your finances, I've written this special letter. So, while some of the information you're about to read may not apply to you right now, it *could* apply to members of your family. If so, feel free to share this letter with them!

There's a lot to unpack here, so please take a few minutes to read about these new provisions. Most are fairly simple, and I've done my best to explain them all in plain English. But if you have any questions or concerns, please let me know.

Sincerely,



Robert G. Elliott, CFP
Vice President



Sarah L. Elliott, CFP

Important Provisions of the SECURE Act

Before we dive in, understand that SECURE Act 2.0 is over 20,000 words long. That means there isn't room to cover *every* aspect of the law, and many won't apply to you anyway. So, what follows is a brief overview of the significant provisions relating to individual retirement planning.

Are you ready? Then take a deep breath as we go over...

CHANGES TO RMDs²

One of the most notable changes from the original SECURE Act was raising the age at which retirees need to take **required minimum distributions**, or RMDs. SECURE Act 2.0 raises the age again. Beginning on January 1 of this year, retirees may now wait until age 73 (up from age 72). This is important, because it gives retirees an additional year to benefit from the tax advantages that come with IRAs before making mandatory withdrawals. (Note that anyone who turned 72 last year will still need to continue taking RMDs as previously scheduled.)

Per the new law, the RMD age will increase to 75 beginning in 2033.

Another noteworthy change is the penalty applied to those who fail to take their RMD, or don't withdraw enough. Previously, the penalty was 50% of what the retiree *should* have withdrawn. Beginning this year, that penalty has now been reduced to 25%. And if the mistake is corrected within the proper "Correction Window", it will be reduced further to a mere 10%.

The Correction Window

The Correction Window is usually defined as beginning January 1st of the year *following* the year of the missed RMD and ending when a Notice of Deficiency is mailed to the taxpayer or penalty is assessed by the IRS.

Finally, the law eliminates the need to take RMDs for Roth IRAs that are inside qualified employer plans. What does that mean in English? It means that if a retiree owns a Roth IRA *through their old employer*, they need never make mandatory withdrawals during their lifetime. This change begins in 2024.

(Note, of course, that regular Roth IRAs *not* part of an employer plan were never subject to RMDs to begin with, so this change does not apply.)

CHANGES TO CATCH-UP CONTRIBUTIONS²

Under the new law, employees aged fifty or older can make extra "catch-up" contributions of up to \$7,500 per year to their 401(k) or 403(b). Beginning in 2025, individuals aged **60 through 63** will be able to contribute up to \$10,000 annually. Furthermore, that amount will be indexed to inflation, meaning it will go up as inflation does.

For people who are 50 or older – but not between the ages of 60-63 – the catch-up limit will remain \$7,500 per year.

People aged 50 and older who own IRAs can also make catch-up contributions, albeit at a smaller amount. Currently, the catch-up contribution limit for IRAs is \$1,000 per year. In 2024, that number will be indexed to inflation, too. Again, that means the limit could increase each year as cost-of-living expenses rise.

CHANGES FOR BUSINESSES²

Beginning in 2025, the law requires businesses to automatically enroll employees in any new 401(k) or 403(b), with some exceptions for small businesses. Furthermore, unless the employee opts out or elects to contribute a different amount, they would automatically contribute 3% of their pay.

Another change: Starting in 2024, employers can help workers with their student loan payments! Because it can be so difficult to both save for retirement *and* pay off college debt at the same time, employers can “match” an employee’s loan payment with an equal contribution to their retirement account. This is a great option for younger investors, so if this provision applies to you or a loved one, make sure to inquire whether your employer plans to take advantage of it! And for business owners around the country, they will be looking to use this provision to compete and retain top talent.

OTHER PROVISIONS TO NOTE²

Here’s an interesting provision: Starting in 2024, individuals may transfer money from a 529 plan into a Roth IRA. This could be useful if you own a 529 plan that has more funds than you or your loved one needs to pay for an education. Think of it as a way to add more flexibility to your long-term finances.

It’s important to note, however, that this provision comes with a lot of terms and conditions. For example, the Roth IRA must be in the same name as the beneficiary of the 529 plan. Furthermore, no transfers can be made until the 529 plan has been maintained for at least fifteen years. There are also very specific limits on how much money can be rolled over. Please note that these are the requirements as we understand them today based on the language in the Secure Act 2.0 legislation and are not reflective of official and final guidance provided by the U.S. Treasury or IRS. The IRS will likely issue clarifications on the new 529 rules before they take effect in 2024. So, if you ever intend to make use of this provision, my advice is to talk to me first so my team can help you through the process.

Let’s move on to another interesting provision. As a financial advisor, I’ve long recommended that all investors have a Rainy-Day Fund. But sometimes, even this isn’t enough to handle unexpected expenses, like a health crisis or loss of income. Under SECURE Act 2.0, there are new or expanded ways to access your retirement account savings in an emergency. Typically, there is a 10% penalty for withdrawing money from a retirement account prior to reaching age 59½. (This is to prevent people from using their retirement savings for something other than retirement.) However, there *are* some exceptions, such as when you need the money to pay for certain medical expenses. The new law has expanded the list of exceptions. Here are some examples where the 10% penalty will no longer apply:

- Recovering from a natural disaster, like an earthquake or hurricane. Effective for distributions associated with disasters whose incident period began on or after January 26, 2021. A detailed listing of disaster relief qualifications and information can be found on the IRS website.
- Dealing with a terminal illness. Effective in 2023, the 10% penalty will not apply for individuals whose physicians certifies that they have a terminal illness or condition that is reasonably expected to result in death in 84 months (7 years).
- Being the victim of domestic abuse. Effective in 2024, a victim of domestic abuse can withdraw up to the lesser of: \$10,000 (indexed for inflation) or 50% of their vested account balance without being assessed the 10% early withdrawal penalty.

Beginning in 2024, the law also allows for emergency withdrawals for a retirement account holder who needs to meet “*unforeseeable or immediate financial needs relating to necessary personal or family emergency expenses.*”² Now, what the law does *not* do is specify what situations qualify as an emergency. However, distributions cannot exceed \$1,000 and are limited to one emergency distribution per calendar year.

I know, I know – that sentence is Washington legalese at its finest. Basically, this means people just need to be reasonable at determining for themselves what qualifies as an emergency. For example, if a loved one has been injured in an accident? That’s an emergency. Desperately want to buy the newest PlayStation before it goes out of stock? Not an emergency.

Hopefully, you will *never* have to make use of this provision. But it’s nice to know that it’s there in case you ever do!

The final provision I want to address in this letter involves **qualified charitable distributions**, or QCDs. A QCD is a direct transfer of funds from your IRA to a qualified charity. They are a popular tool for retirees who want to contribute to a worthy cause, because QCDs also double as RMDs under most situations. The new law links the maximum annual QCD amount to inflation rather than capping it at \$100,000 like before.

CONCLUSION

As you can see, SECURE Act 2.0 is loaded with provisions for those saving for retirement. With legislation the size and scope of SECURE 2.0, expect additional guidance on provisions where the legislative text may be subject to further interpretation. We will be monitoring for additional insights and implications of this bill. So, again, if you have any questions or concerns, please don’t hesitate to contact me!

If there is anything else we feel you need to know, we’ll reach out to you, or go over them with you during our next review.

In the meantime, remember that I’m here to help you work toward your financial goals. Please let me know if there’s ever anything I can do – in 2023 and beyond.

Sources

¹ “Here’s what’s in the \$1.7 trillion spending law,” *CNN*, December 29, 2022.

² Text of “CONSOLIDATED APPROPRIATIONS ACT OF 2023,” (beginning page 817), *Congress.gov*.
<https://www.congress.gov/117/bills/hr2617/BILLS-117hr2617enr.pdf>

Disclosure

Please note that these are the requirements as we understand them today based on the language in the Secure Act 2.0 legislation and are not reflective of official and final guidance provided by the U.S. Treasury, IRS, or the U.S. Department of Labor. The material included in this transmission is for informational or educational purposes only, is not intended to provide tax, legal or investment advice. This material does not take into account any specific objectives or circumstances of any particular investor or suggest any specific course of action. Any views presented in this commentary are solely those of the author and do not necessarily represent those of Wiley Bros. - Aintree Capital, LLC. While the information contained in this commentary is believed to be reliable, no representation or warranty, whether expressed or implied, is made by Wiley Bros. - Aintree Capital, LLC, and no liability or responsibility is accepted by Wiley Bros. - Aintree Capital, LLC or its affiliates as to its accuracy. Past performance is not indicative of future returns.