

The Blue Chip Blast – May 2023

AVAILABILITY OF THESE PROVISIONS IS STILL BEING DEVELOPED WITH PAYROLL VENDORS, RECORDKEEPERS AND OTHER SERVICE PROVIDERS. ADDITIONALLY THE IRS HAS NOT YET ISSUED FULL GUIDANCE ON THESE PROVISIONS. AS UPDATES BECOME AVAILABLE WE WILL COMMUNICATE ANY CHANGES.

Long-Term Part-Time Employees -are you ready?

As we have previously discussed, the original SECURE act changed the requirements for part time employees for plan years beginning after December 31, 2020. Beginning on that date, any employee who is age 21 and has worked three consecutive years (as defined by your Plan) with at least 500 hours of service must be given the opportunity to contribute to your retirement plan. It does not mean they worked every month, just that they work 500 or more hours each year. So effective 1/1/2024 any participant that meets that requirement must be given enrollment information and be allowed to contribute if they wish. If your plan has automatic enrollment in place, this will apply to the long-term part- time employees as well. SECURE 2.0 reduces the requirement to 2 years.

Under the law, you are only required to give them the opportunity to contribute. There is not a requirement that you provide a match or safe harbor contribution for these employees. You can if you wish to do so, but it is not required under the law. These participants can also be excluded from testing and Top Heavy calculations. Please review the part time employees currently employed to see if the meet the requirements and be prepared to offer them entry on the below earliest entry date.

	SECURE 1.0	SECURE 2.0
Consecutive Years begins	1/1/2021	1/1/2023
Earliest Entry	1/1/2024	1/1/2025

Please contact your Compliance Consultant with any questions or concerns.

Catch-up or be leave Roth behind

Another provision of SECURE 2.0 is changes made to Catch-Up contributions. Beginning 1/1/2024, employees who earned \$145,000 or more in 2023 will need to have Catch-up contributions made as Roth (after-tax). If your plan does not currently allow Roth deferral then you will need to amend the plan to either add Roth contributions or remove Catch-up Contributions.

Additionally, this will need to be accounted for in payroll processing so you don't erroneously have pre-tax deferral contributions made after the regular limit in the current year. If you outsource your payroll to a vendor, then you need to ensure the mechanism is in place beginning 1/1/2024 to match this change in law.

Student Loan Match perhaps

An optional provision that will become effective 1/1/2024 is known as the Student Loan Match. This is not required, but could help with employee retention. Under this provision, the Plan Sponsor can make match contributions to the plan based on certified student loan payments. The employee would provide annual certification of the amount paid toward student loans on behalf of the employee for qualified higher education expenses. The Match made to the plan would be at the same rate as paid toward elective deferrals and have the same vesting schedule as regular plan contributions. Eligibility for this match is limited to employees otherwise eligible to make deferrals. If you are interested in exploring this provision please contact your Compliance Consultant.

Emergency Savings Accounts – is it worth it?

One of the new optional provisions is the allowance of an emergency savings account (ESA) linked to a 401(k) plan. Plan Sponsors can choose to allow this feature, which will then allow a plan participant to open an ESA that is tied to their 401(k) account. The Plan Sponsor would set a limit (up to \$2,500 and subject to IRS indexing) and the participant would contribute on a Roth basis to the ESA. Once the ESA hits the maximum limit, additional contributions would stop. Highly Compensated Employees (HCEs) would not be allowed to contribute to the ESA. Contributions to the ESA would be subject to the IRS annual employee deferral limit (\$22,500 for 2023).

Contributions made to the ESA would be subject to the plan's matching contribution but the matching amount would be deposited to the Match Contribution "bucket" of the participant 401(k) plan account. It would not be deposited to the ESA, which only allows employee Roth contributions. Plan Sponsors can further define this provision by auto-enrolling participants to the ESA at a withholding rate up to 3% of compensation.

The ESA account would be subject to investment gain/loss but is designed to be safe with regards to investment rate of return. The account must be invested in principal-protected assets (investments designed to preserve capital consistent with liquidity). Distributions from the ESA would be treated as tax-free qualified Roth distributions. As such, the 10% premature distribution penalty would not apply. Participants would be able to withdrawal from their ESA at their own discretion at least once a month and would not be charged a withdrawal fee for the first four withdrawals of the calendar year.

Plan Sponsors can terminate this provision at any time. Participants would have the option to either move their ESA funds to another Roth account in the plan (and could be rolled from there to a Roth IRA or other Roth account) or to be paid back to the participant.

Distributions - Changed and New

There were 2 major changes to current legal provisions on distributions from qualified retirement plans. We discussed the increase in age for Required Minimum Distributions (RMD's) beginning in 2022. Beginning in 2024, you are no longer required to take RMD's from Roth accounts. Pre-Tax sources (such as deferral, match, safe harbor) are still required to distribute minimum amounts, but Roth sources will be exempt.

Force out provisions optionally can be increased from a maximum of \$5,000 to a maximum of \$7,000. Therefore, any participant with a balance of under \$7,000 can be forced out of the plan without consent in accordance with the mandatory distribution provisions of the plan.

Two new distributable events have been added to legislation and can optionally be adopted and allowed in your plan. Effective 1/1/24 you can adopt a provision to allow for Emergency Distributions for personal expenses. These are defined to be unforeseeable or immediate financial needs relating to personal or family emergency. In general, these are restricted to 1 time per year, can't exceed the lesser of \$1,000 or vested benefit, and can be repaid within 3 years. If not repaid, they can't get another emergency distribution for 3 years.

Effective 1/1/2024, the Domestic Abuse Victim (DAV) Withdrawal can be allowed to victims of abuse. The withdrawal is limited to the lesser of \$10,000 or 50% of the participants vested benefit, is made during the 1 year period beginning on the date the participant was abused by spouse or domestic partner. The employee can self-certify as to abuse. As with the Emergency distribution, the money can be repaid to the plan. This is a single occurrence distribution in that participant can only take this once.

Both the emergency distribution and domestic abuse withdrawals are exempt from the 10% early withdrawal penalty.