# The Impact of the SECURE Act 2.0 on Retirement Accounts

January 5, 2023

On December 29, 2022, President Biden signed the Consolidated Appropriations Act of 2023, a $1.7 trillion omnibus federal spending bill for fiscal year 2023, which includes the Setting Every Community Up for Retirement Enhancement (SECURE) Act 2.0. The new SECURE Act 2.0 builds upon the prior SECURE Act that was enacted three years ago on December 20, 2019, which raised the required minimum distribution (RMD) age from 70 ½ to 72 and eliminated the age limit for traditional IRA contributions beginning in 2020.

The SECURE Act 2.0 offers the following increased opportunities for tax-efficient retirement savings and charitable donations:

INCREASED AGE FOR REQUIRED MINIMUM DISTRIBUTIONS (RMDS). The age for RMDs is raised from 72 to 73 as of January 1, 2023, and then again to 75 on January 1, 2033. This will permit individuals to defer RMDs, which could allow for more tax-free growth and the potential to delay RMDs for when the recipient may be in a lower tax bracket.

INCREASED CATCH-UP CONTRIBUTIONS.

- For 401(k) and Other Employer-Sponsored Plans. Currently, a participant aged 50 or older can make an additional “catch up” contribution of $7,500 in 2023, which amount increases with inflation. Beginning in 2025, participants aged 60 through 63 can make catch-up contributions equal to the greater of $10,000 or 150% of the regular catch-up limit. And that $10,000 amount will be indexed for inflation.

- For High Income Participants of 401(k) and Other Employer-Sponsored Plans. Starting in 2024, catch-up contributions for participants with compensation of more than $145,000 (indexed for inflation) from the plan sponsor in the prior year must be made to a Roth account—in other words, contributed on an after-tax basis.

- For Traditional and Roth IRAs. Currently, an individual aged 50 or older can make an additional catch up contribution to a traditional or Roth IRA up to $1,000. Starting in 2024, that $1,000 amount will be indexed for inflation on an annual basis—the first increase since 2006.

INCREASED QUALIFIED CHARITABLE DISTRIBUTIONS (QCDS).

- Annual $100,000 QCD Limit Indexed for Inflation. Currently, an individual who is 70 ½ or older can make QCDs up to $100,000 directly from an IRA to a qualified charity without recognizing any income on the donated amount, which also can count toward the individual’s RMD. Going forward, that $100,000 amount will now be indexed for inflation.

- New One-Time $50,000 Qualified Charitable Distribution. For individuals who are 70 ½ or older, a new provision—part of the Legacy IRA Act—would permit a one-time QCD of up to $50,000 from an IRA to a charitable gift annuity (CGA), charitable remainder unitrust (CRUT), or charitable remainder annuity trust (CRAT) that benefits the participant or their spouse. Like an annual QCD, the $50,000 one-time QCD also can count toward the individual’s RMD. The new $50,000 one-time QCD provision allows an individual to receive an income benefit for their lifetime with the remainder going to charity after they pass away. Given the $50,000 limit, it is likely that this new provision will be most effective with CGAs—since charitable remainder trusts typically involve greater cost and administrative burden.

- These two changes to QCDs could provide an increased benefit to charitably inclined individuals. By making a QCD, individuals can avoid being taxed on the distribution at higher ordinary income tax rates. In addition, by reducing adjusted gross income with a QCD, an individual may reduce the amount of their income subject to the 3.8% net investment income tax and they also may end up in a lower overall tax bracket, which could increase their eligibility for certain tax credits and deductions.

INCREASED BENEFITS RELATED TO EDUCATION.

- 529 Plan Roll Over of $35,000 to Roth IRA. There is a new provision that permits certain beneficiaries to roll over up to a lifetime limit of $35,000 from their 529 college savings plan to a Roth IRA—100% free of any tax or penalties. The good news for parents or grandparents funding 529 plans for loved ones is that this new rule could provide additional flexibility down the road for beneficiaries with 529 plans that are overfunded. However, there are several limitations to this new provision, such as:
  - The 529 plan must be open for at least 15 years.
  - Any contributions to the 529 plan within the last five years (and the earnings on those contributions) are ineligible to be rolled over to a Roth IRA.
  - The amount that can be rolled over to a Roth IRA is limited each year based on annual contribution limitations (currently, $6,500 for 2023, or $7,500 if age 50 or older), which will apply to the aggregate of any rolled over amounts from 529 plans plus any other contributed funds.

- Matching Contributions for Student Loan Payments. Starting in 2024, employers can choose to match student loan payments with contributions to an employee's retirement plan. As a result, an employee won't miss out on an employer's match because of their decision to pay down student debt instead of saving for retirement.

OTHER IMPORTANT CHANGES. The SECURE Act 2.0 contains more than 90 retirement provisions. In addition to the previous key provisions, some additional important changes include:

- No Mandatory RMDs from 401(k), 403(b) or 457(b) Roth Accounts. To better align the Roth IRA rules with Roth accounts maintained under a 401(k), 403(b) or governmental 457(b) plan, RMDs beginning in 2024 will no longer be required from a designated Roth account to a participant during the participant's lifetime—except for RMDs due by April 1 for those reaching their RMD age prior to 2024. The RMD rules that are applicable upon a participant's death still apply.

- Allowance of Employer Roth Contributions. Effective immediately, an employee may elect to have employer matching or non-elective contributions made on a Roth basis—meaning after-tax—to the extent permitted by a plan.

- Decrease of RMD Excise Tax. Currently, if an individual fails to take their RMD from a retirement plan, they will be subject to an excise tax of 50% of the RMD amount that should have been distributed. Effective on January 1, 2023, that excise tax is reduced to 25%. The excise tax is further reduced to 10% if the individual: (1) receives all their past-due RMDs; and (2) files a tax return paying such tax before receiving notice of assessment of the RMD excise tax and within two years after the year of the missed RMD.

- Automatic Enrollment for New Plans. For most 401(k) and 403(b) plans starting with the 2025 plan year, newly eligible employees must be automatically enrolled at a rate of at least 3% of pay with an automatic annual increase of at least 1% until the participant reaches a contribution level of at least 10% of pay. Certain exceptions apply to governmental plans, plans of small businesses with 10 or fewer employees, and plans of new employers in business for less than three years.

- Increased Flexibility for Federal Disaster Areas. For economic losses in connection with a federal disaster after January 25, 2021, participants can withdrawal up to $22,000 without a 10% early withdrawal penalty and may repay such withdrawal within three years to avoid income tax. In addition, such participants can take a loan from a defined contribution plan up to the lesser of $100,000 or 100% of the balance and can delay repayment for one year.

WHAT WAS NOT INCLUDED IN SECURE ACT 2.0? Despite previous proposed legislation, the new SECURE Act 2.0:

- Does not address whether annual RMDs are required for certain inherited IRAs during the 10-year period after the original owner's death.
- Does not create any mandatory RMDs based on large balances accumulated in retirement accounts.
- Does not eliminate new types of investments from being purchased by an IRA or Roth IRA—such as privately held investments.
- Does not address the use of so-called backdoor Roth IRAs.
- Does not change limitations on Roth IRA conversions.
- Does not change the minimum age of 70 ½ for QCDs.
- Does not implement any new restrictions on qualified small business stock (QSBS) under section 1202.

This summary addresses only a select portion of the SECURE Act 2.0. To determine how these new provisions may impact you and your financial goals, please do not hesitate to reach out to your team of advisors at Evercore Wealth Management and Evercore Trust Company.

To learn more about how we can help you, please visit us at evercorewealthandtrust.com or contact any of our Wealth and Fiduciary Advisors. We look forward to speaking with you.


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