RAYMOND JAMES

10 key personal financial planning takeaways of the SECURE Act 2.0

In a further attempt to expand and promote retirement savings, Congress passed SECURE Act 2.0 as part of an overall spending bill, the 2023 Consolidations and Appropriations Act. President Biden signed the bill into law on December 29, 2022.

OVERVIEW

The SECURE Act 2.0 is a follow-up bill to the original SECURE Act passed in late 2019. Although the SECURE Act 2.0 does not contain any changes as drastic to retirement planning as the original SECURE Act, it does include a comprehensive set of provisions that are intended to help a large swath of Americans and employers with retirement saving. While there are over 90 provisions in the act, many are geared towards changes to employer sponsored retirement plans. Many of the key provisions are effective between 2024 and 2025 but some, such as the increase in RMD age to 73, are effective in 2023. This paper highlights some key financial planning takeaways of the SECURE Act 2.0 and how they impact you.

REQUIRED MINIMUM DISTRIBUTION CHANGES

INCREASED REQUIRED MINIMUM DISTRIBUTION (RMD) AGE

SECURE Act 2.0 seeks to extend the savings time frame before RMDs are required. Individuals that turn 72 in 2023 and beyond, can delay taking RMDs from their IRA until the year they turn 73. The RMD start age will move to age 75 in 2033. While the vast majority of Americans take distributions from retirement accounts before RMD age, the increase in RMD age allows some people to continue with tax deferral on their qualified accounts. This also provides an expanded time frame for strategic Roth conversions.

BIRTH YEAR	AGE RMD MUST BEGIN
July 1, 1949 – 1950	72
1951 - 1959	73
1960+	75

REDUCED PENALTY FOR MISSED RMD

If an RMD is not satisfied for the current year, a 50% penalty can be assessed on the amount not withdrawn. The SECURE Act 2.0 decreases that penalty to 25% on the amount not withdrawn. If the missed RMD is taken within a "correction window" the penalty is reduced to 10%. The reduction is effective immediately and is a welcome relief for what was previously a very high penalty.

QUALIFIED CHARITABLE DISTRIBUTION RULE CHANGES

Qualified Charitable Distributions (QCD) are a very valuable tool for those 70 1/2 and older to carry out their charitable intentions. When executed correctly, up to $100,000 can be transferred from the individual's IRA directly to a qualified charity and the distribution is excluded from Adjusted Gross Income (AGI). There is no charitable deduction, but since the distribution is excluded from AGI, the full tax benefit of the charitable gift is achieved. This is beneficial as most retirees do not itemize their deductions. In addition, for those of RMD age, the distribution can be applied towards the annual RMD withdrawal.

ENHANCED QCD RULES

- While the RMD age increased to 73, the age an individual can use QCDs remains at 70 1/2. This is good news for those wishing to begin QCDs before RMD age.
- For those eligible, QCDs are currently capped at $100,000 annually. With the passage of the SECURE Act 2.0, QCDs will be indexed for inflation.
- Beginning in 2023, a one-time QCD of up to $50,000 can be directed towards a split-interest entity, such as a Charitable Remainder Annuity Trust (CRAT), Charitable Remainder Unitrust (CRUT) or Charitable Gift Annuity (CGA). To qualify, the distribution cannot be added to an existing CRAT, CRUT or CGA but must fund a new one.

EDUCATION PLANNING RULE CHANGES

TRANSFER OF EXCESS 529 FUNDS TO A ROTH IRA

Effective in 2024, a beneficiary's unused 529 funds may be transferred to a Roth IRA in the name of the beneficiary subject to several rules:

- The lifetime amount that can be transferred is $35,000 and is subject to the annual contribution limits (a Roth contribution for the year will reduce the amount that can be transferred from the 529 for that year).
- The 529 plan has to be established for at least 15 years and no funds (or associated earnings) that were contributed in the previous five years prior to the transfer may be used.
- There are no income limits or phase-out restrictions when making a 529 to Roth transfer. This is a benefit when compared with annual Roth IRA contributions that do have such income restrictions. This is a benefit when compared with annual Roth IRA contributions, which have income restrictions.

This is a unique planning opportunity for families who over-fund 529 accounts for certain beneficiaries.

STUDENT LOAN REPAYMENT AS AN EMPLOYEE ELECTIVE DEFERRAL

Employers now have the option to make a matching contribution into an employee's retirement plan based on that employee's qualified student loan repayments. The student loan payment is treated as an employee elective deferral. This provision, effective in 2024, will allow employees to simultaneously save for retirement while also paying down student loan debt.

ROTH RULE CHANGES

The provisions below expand Roth strategies. However, Roth account contributions require taxation of contributed amounts during the current tax year, whereas contributions to tax-deductible accounts allow for a deduction now and taxation later. Whether one should contribute to a Roth-type account or a tax-deductible account (and perhaps convert to a Roth account later in life when income is lower) can be a difficult planning decision.

AMEND ROTH EMPLOYER PLAN DISTRIBUTION

Prior to the SECURE Act 2.0, Roth IRA owners were exempt from taking RMDs. However, Roth accounts in employer plans, such as 401(k)s and 403(b)s were not exempt from the RMD rule. Effective 2024, individuals will no longer be required to take distributions from Roth accounts from employer plans. This is an important provision that eliminates an incentive for retired employees to roll over their Roth account balances to a Roth IRA in order to avoid RMDs.

CREATE A ROTH-STYLE VERSION OF SEP AND SIMPLE IRA ACCOUNTS

Effective in the 2023 tax year, the SECURE Act 2.0 authorizes the creation of both SIMPLE Roth IRA accounts and SEP Roth IRA accounts. Prior to this change, SIMPLE and SEP plans could only include pretax funds. This change helps employees of small businesses by providing them with a Roth savings option that was already available to employees under retirement plans such as a 401(k).

ROTH MATCHING CONTRIBUTIONS FROM EMPLOYERS

This provision allows employers to make matching contributions and nonelective contributions to the Roth side of the retirement plan, e.g., Roth accounts in 401(k) and 403(b) plans. Previously, matching contributions were only allowed to be made as pretax contributions. However, employees will be subject to income tax on the deferral amount in the year of the contribution. In addition, such contributions are not allowed to be part of a vesting schedule (must be non-forfeitable).

CATCH-UP CONTRIBUTIONS REQUIRED TO BE ROTH FOR HIGH WAGE EARNERS

SECURE Act 2.0 requires that catch-up contributions for high income earners be made in Roth accounts starting in 2024. The new rule applies to catch-up contributions for 401(k), 403(b) and governmental 457 (b) plans, but not to catch-up contributions for IRAs, including SIMPLE IRAs. The Roth restriction on catch-up

contributions imposed by the SECURE Act 2.0 applies to those with wages in excess of $145,000 (adjusted for inflation in the future) in the previous calendar year.

At this time, it appears that the use of the word "wages" excludes self-employed individuals (e.g., sole proprietors and partners) from this rule and they will continue to have the opportunity to make the pretax catch-up contributions, even if their income from self-employment is higher than $145,000.

BACKDOOR ROTH IRA

The back door Roth IRA was not eliminated in SECURE Act 2.0 and remains a viable financial planning strategy. The backdoor Roth IRA strategy allows an individual whose income is too high to effectively make Roth IRA contributions by first contributing to a traditional IRA on a nondeductible basis and then executing a Roth conversion.

RETIREMENT SAVING RULE CHANGES

SECURE Act 2.0 includes several provisions designed to encourage increased retirement savings. The new legislation goes well beyond the original iteration and seeks to expand participation in retirement savings plans. Below are changes relevant to individual financial planning.

HIGHER CATCH-UP CONTRIBUTION ALLOWANCES

For those age 60-63, the catch-up contribution limit will increase to the greater of $10,000 or 50% higher than the regular catch-up amount for 401(k) and similar type plans. The higher allowance is effective starting in 2025. Similarly, SIMPLE plan participants who are age 60, 61, 62 or 63 will have their plan catch-up contribution limit increased to the greater of $5,000 or 150% of the regular SIMPLE catch-up contribution amount for 2025 (indexed for inflation).

COST OF LIVING ADJUSTMENTS TO IRA CATCH-UP CONTRIBUTIONS

Individuals age 50 and older can currently contribute an additional $1,000 to either a traditional or Roth IRA. Beginning in 2024, catch-up contributions will be indexed for inflation.

TAX CREDIT FOR THE SMALL BUSINESS OWNER

Small businesses with up to 50 employees can now receive a federal tax credit for plan administrative costs up to $5,000 in each of the first three years of a new plan. Additional credits are available for employer contributions to these startup plans. In particular, a credit of 100% of the contribution, up to a maximum of $1,000 per employee, is available the first year of a plan's creation; a credit of 75% of the contribution, up to a maximum of$750 per employee, is available the second year; a credit of 50%of the contribution, up to a maximum of $500 per employee, is available the third year; and a credit of 25% of the contribution, up to a maximum of $250 per employee, is available the fourth year. These contribution credits are phased out for employers having between 51 and 100 employees at 2% per employee over 50 employees. In addition to being available to new plans, these credits are available for new employers joining a multiple employer plan (MEP) or a pooled employer plan (PEP).

RETIREMENT ACCOUNT WITHDRAWAL RULE CHANGES

EXPANSION OF 10% PENALTY EXCEPTIONS

Under SECURE Act 2.0, there is an expansion of the 10% penalty exceptions that apply to IRAs, employer plans or both.

- Effective immediately, employer plans increased the 10% penalty exception for those age 50 and above to include, among others, private firefighters and state and local corrections officers.
- Effective immediately, the age 50 Public Safety Worker exception to the 10% penalty is expanded to include plan participants who separate from service before they reach age 50, but who have performed 25 or more years of service for the employer sponsoring the plan.
- Emergency withdrawals for the expenses of individuals escaping domestic abuse situations are provided at the lesser of $10,000 or 50% of the value of the account. This can be repaid over three years with a refund of taxes on the repaid amount. Withdrawals under these rules avoid the 10% penalty and are permitted starting in 2024.
- Effective immediately, there is a new exception to the 10% penalty for those who are terminally ill.

- Effective in 2024, there is a new exception to the 10% penalty for family emergencies. Family emergencies are defined as "unforeseeable or immediate financial needs relating to necessary personal or family emergency expenses."
- Withdrawals of up to $22,000 from employer retirement accounts or IRAs are permitted for individuals affected by a federally declared disaster. These emergency-related withdrawals are permitted for disasters occurring on or after January 26, 2021. Taxes on the distribution may be spread over three years and may be repaid back to the retirement plan with a refund on taxes on the repaid amount.
- A new provision permits retirement plans to distribute up to $2,500 per year for the payment of premiums for certain long-term care insurance contracts. Distributions from plans to pay such premiums are exempt from the additional 10% tax on early distributions. Note that only a policy that provides high-quality coverage is eligible for the early distribution waiver of the 10% tax. This is effective three years after the enactment of the SECURE Act (December 29, 2025).

BENEFICIARY RULE CHANGES

A SURVIVING SPOUSE CAN BE TREATED AS THE DECEASED SPOUSE

Effective 2024, for the purpose of required minimum distributions (RMD) under a decedent spouse's retirement plan, the surviving spouse can elect to be treated as the decedent spouse. This allows the surviving spouse to delay taking RMDs until the decedent spouse would have reached the applicable starting age (73/75) and then take distributions using the Uniform Life Table and the decedent spouse's life expectancy.

This could be beneficial to surviving spouses that are older than the decedent as they can now wait until the younger deceased spouse would have reached RMD age to begin taking IRA distributions and therefore defer income longer.

Before this additional rule was added, a surviving spouse had two primary distribution options – to treat the decedent spouse's IRA as their own or treat the IRA as a beneficiary IRA. If the spouse treats the IRA as a beneficiary IRA, they can delay taking beneficiary IRA RMDs until the decedent spouse would have turned RMD age, but they are required to use their own life expectancy to calculate RMDs using the Single Life table.

ANNUITY CHANGES

INCREASED AMOUNTS FOR QUALIFIED LONGEVITY ANNUITY CONTRACTS

A qualified longevity annuity contracts (QLAC) is a retirement strategy in which a portion of RMDs are deferred until a certain age (maximum age is 85). The main benefit of a QLAC is a deferral of taxes that accompanies RMDs.

Under previous rules, an individual could use the lesser of 25% or $155,000 of their retirement savings account or IRA to buy a QLAC. Effective immediately, the SECURE Act 2.0 eliminates the 25% of account balance limit on QLACs and increases the purchase amount to $200,000. However, legacy QLACs are still subject to the lesser of 25% or 155,000 maximum amount.

INCOME ANNUITIES HELD WITHIN QUALIFIED ACCOUNTS

Effective immediately, income annuities held within qualified plans and IRAs are able to offer additional benefits without violating actuarial rules related to RMDs. Several new benefits are now available but the most notable one is the ability to offer an inflation adjusted increase to the income, not to exceed 5%.

SPECIAL NEEDS TRUST AND ABLE ACCOUNT CHANGES

MODIFICATION OF RMD RULES FOR SPECIAL NEEDS TRUST

The SECURE Act placed limits on the ability of beneficiaries of defined contribution retirement plans and IRAs to receive lifetime distributions after the account owner's death. Special rules apply in the case of certain beneficiaries, such as those with a disability.

The SECURE Act 2.0 clarifies that, in the case of a Special Needs Trust established for a beneficiary with a disability, the trust may provide for a charitable organization as the remainder beneficiary.

ABLE PROGRAM RULE CHANGES

Current law allows states to create ABLE programs, which are tax-advantaged savings programs for certain people with disabilities. Distributions from an ABLE account are tax-free if used for qualified disability expenses of the designated beneficiary. The SECURE Act 2.0 increases the age by which blindness or disability must occur for an individual to be eligible for an ABLE program. This is intended to expand the number of individuals who can use ABLE accounts.Effective in 2026, ABLE accounts will be able to be established for individuals who become disabled prior to 46 (an increase from age 26).

WORK WITH YOUR FINANCIAL ADVISOR

The goal of the SECURE Act 2.0 is to make changes that benefit individuals and help employers improve the country's retirement system. While no one provision in the SECURE Act 2.0 will affect all Americans, the legislation in its entirety is intended to help a majority of citizens improve their financial position before and into retirement. Many of the provisions were not listed here, so please contact your financial advisor to see how this new legislation can help your financial plan will affect all Americans, the legislation in its entirety is intended to help a majority of citizens improve their financial position before and into retirement.

The content provided herein is based on an interpretation by Raymond Jamesof the SECURE Act 2.0 and is not intended to be legal advice or provide a tax opinion. Please discuss these matters with the appropriate professional. This document is a summary only and not meant to represent all provisions within the SECURE Act 2.0.

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