SECURE 2.0 ACT OF 2022

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The SECURE 2.0 Act of 2022 was signed into law on December 29, 2022, and represents some of the most sweeping retirement plan legislation since the SECURE Act of 2019. Here's a high-level overview of some of the new law's key provisions and how ADP is responding.

SECURE 2.0 ACT PROVISION	EFFECTIVE DATE	EXPLANATION	HOW ADP IS RESPONDING
Start-up Tax Credit *(optional provision)*	Tax years beginning after 2022	Increases this credit to 100 percent of qualified start-up costs for employers with up to 50 employees. An additional credit of up to $1,000 per employee for eligible employer contributions may apply to employers with up to 50 employees, but phases out from 51 to 100 employees.	ADP will prepare a tax credit package that includes an explanation as to how the credit was calculated. You can use this package to work with your CPA on obtaining the credit.
Employer Matching and Nonelective contributions as Roth *(optional provision)*	December 29, 2022	Employees can elect some or all their employer match and nonelective contributions to be Roth. Essentially, your employees can elect to pay the income tax now on the employer contributions they receive instead of when they are distributed. If selected, the Roth employer contributions must be fully vested.	ADP is re-evaluating this provision in conjunction with the new guidance and will release more comprehensive information when this feature becomes available. ADP will address this provision in an Interim Amendment for plan sponsors using the ADP Prototype Plan Document.
Auto portability *(optional provision)*	December 29, 2022	Participants may have their balances, up to $7,000, transferred to their new employer plan, which may help foster account consolidation and mitigate plan leakage.	ADP is currently evaluating solutions to offer this service. We believe it is imperative to approach this provision with careful consideration of data privacy and participant asset security. Additional guidance from the DOL is necessary in order to proceed. Additional guidance from the DOL is necessary in order to proceed.
Self-certification for hardship withdrawal *(optional provision)*	Plan years beginning after December 29, 2022	Participants can self-certify in writing that they are experiencing an immediate and heavy financial need that does not exceed the amount needed.	ADP currently offers this feature. This provision formally puts into law previously provided informal guidance by the IRS.
Small Incentives *(optional provision)*	Plan years beginning after December 29, 2022	Employees may now receive small (de minimus) gifts, like gift cards, for attending enrollment meetings. The incentives can be used to encourage eligible, unenrolled employees to participate in the retirement plan. However, plan assets cannot be used to pay for incentives. The maximum incentive dollar amount is defined as $250 and can be paid over time. It may be taxable income if provided by the employer.	If you're interested in developing an incentive program, ADP can help.

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Notices to Eligible, Unenrolled Participants *(optional provision)*	Plan years beginning after December 31, 2022	Plan notices are no longer required for employees who are eligible for the plan but have opted not to enroll. Instead, employers will only need to provide an annual eligibility notice, letting employees know they are eligible for the plan.	For plans that participate in ADP's Plan Notice Delivery Services, we have updated procedures to remove delivery of unrequired notices to eligible, unenrolled participants. We have also developed the new required annual notice that was made available in the fourth quarter of 2023. The new notice has been incorporated into our Plan Notice Delivery Service.
Federally declared disaster withdrawal options *(optional provision)*	Effective January 1, 2023 and retroactive to disasters that occurred on or after January 26, 2021.	***Withdrawals*** — Participants may withdraw up to $22,000. The distribution is not subject to the 10% penalty on early withdrawals. Participants can repay the withdrawal over a 3-year period. ***Loans*** — Participants can take the lesser of 100% or $100,000. Repayment can be delayed up to one year.	ADP is reviewing this rule and will add a withdrawal option for participants on the website and app once more guidance is available.
Terminal illness withdrawal *(optional provision)*	Distributions made after December 29, 2022	Participants who have been certified by a physician as having an illness of physical condition that can reasonably expect to pass away within 84 months may receive an early terminal illness withdrawal. The distribution is not subject to the 10% penalty on early withdrawals. Participants can repay the withdrawal over a 3-year period.	Since recent IRS guidance provides that participants can avail themselves to this special tax treatment outside of the plan, ADP will not be adding this as an optional provision at this time. There is currently pending legislation that would make terminal illness a new distribution reason and we will re-evaluate this provision if it does become a reason for distribution.
Qualified Birth or Adoption distribution (QBAD) *(optional provision)*	Distributions made after December 29, 2022 Effective January 1, 2023	Participants may take a penalty free distribution, up to $5,000, for the expenses related to the birth or adoption of a child. The distribution must be requested within 1 year after the birth or adoption. The SECURE 2.0 Act clarified that participants have 3 years to repay the QBAD distribution These contributions would be limited to $2,500.	ADP currently has a process in place for this withdrawal type. The provision clarifies that the withdrawal can be repaid within 3 years. We have updated our participant form to include the repayment period.
Required Minimum Distributions (RMDs) age increase *(mandatory provision)*	January 1, 2023, for individuals who attain age 72 on or after such date	The age requirement for participants to begin taking RMDs increased to age 73 beginning in 2023 and will increase again to age 75 in 2033.	ADP has procedures in place to implement this provision for 2023. ADP communicated with Plan Sponsors and participants who are subject to these rules beginning in the fall of 2023.
RMD penalty reduced *(mandatory provision)*	Taxable years beginning after December 29, 2022	The penalty for failing to take an RMD will decrease from 50% to 25% of the RMD amount not taken, and in some cases can be further reduced to 10%, if corrected timely.	ADP updated communications in the fall of 2023.

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Employer Matching for Student Loan Repayments *(optional provision)*	Plan years beginning after December 31, 2023	Beginning in 2024, student loan payments would count as retirement contributions for the purpose of qualifying for matching contributions in a workplace retirement account. In addition, employers will be able to make contributions to their company retirement plan on behalf of employees paying student loans instead of saving for retirement. The matching contributions for student loan payments must vest under the same schedule as other matching contributions. Employees must be eligible for a match in order to receive the student loan matching contribution.	ADP has partnered with a third party specializing in student loans to provide an all-in-one digital solution for recordkeeping purposes. We will provide more information once this feature is available.
Required Minimum Distribution (RMD) from designated Roth accounts *(mandatory provision)*	Taxable years beginning after December 31, 2023	Roth amounts will no longer be subject to the RMD rules during their lifetime. Prior to Secure 2.0, participants would have to roll their assets to a Roth IRA to avoid the RMD rules.	ADP has updated systems and procedures to exclude Roth from future RMD calculations. We have also updated plan sponsor and participant communications accordingly.
Small balance cash out limit increased *(optional provision)*	Distributions made after December 31, 2023	Terminated participant's vested account balances can be distributed if under $7,000 without the participants consent. This is an increase from $5,000. Participants who previously exceeded the $5,000 threshold but are still under $7,000 will be included under the new cash out provision.	ADP has updated its procedures and communications to incorporate the higher limit operationally. Additional details were sent out November, 2023.
Top Heavy rules modified *(mandatory provision)*	Plan years beginning after December 31, 2023	Plans that cover otherwise excludable employees (employees who have not attained age 21 or worked a year of service) can perform separate Top-Heavy tests for excludable and non-excludable employees.	ADP is updating compliance testing procedures to support this option.
Domestic abuse victim withdrawal *(optional provision)*	Distributions made after December 31, 2023	Participants experiencing domestic violence may take a withdrawal for the lesser of $10,000 or 50% of their account balance. The participant can self-certify and the distribution must be taken within 12 months of the domestic abuse incident. The distribution is not subject to the 10% penalty on early withdrawals. Participants can repay the withdrawal over a 3-year period.	ADP is reviewing this rule and will add a withdrawal option for participants on the website and app once more guidance is available.
Emergency Withdrawals *(optional provision)*	Distributions made after December 31, 2023	Plan participants will be able to withdraw up to $1,000 per year from their retirement savings account for emergency expenses without having to pay the 10% tax penalty for early withdrawal if they're under age 59½. The participant has the option to repay the distribution within 3 years. No further emergency distributions may be made during the 3-year repayment period until any amounts previously taken are repaid.	ADP will add a withdrawal option to the participant website and ADP Mobile Solutions app in the Fall of 2024.

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RMDs for surviving spouses of deceased participants *(mandatory provision)*	Calendar years beginning after December 31, 2023	Surviving spouses, who are the sole beneficiary of their deceased spouses' retirement account, can elect to delay the RMD payment until the deceased spouse would have reached RMD age had they lived, if later than the surviving spouse's RMD age. RMDs for the surviving spouse will be calculated using the Uniform Lifetime Table, resulting in a lower RMD amount.	ADP is currently evaluating this provision and will release more comprehensive information once final guidance from the IRS is announced.
Long-term, part-time (LTPT) expanded eligibility *(mandatory provision)*	The two-year eligibility requirement for LTPT employees is effective for plan years beginning after December 31, 2024 (the original 3-year provision is still in effect through 2024).	Secure 1.0 Act required plans to allow part-time employees who work between 500 and 999 hours for three consecutive years to allow them to make contributions into the retirement plan. Secure 2.0 Act reduced that time period to two years.	ADP has enhanced the Plan Sponsor Website with functionality to help you track part-time employee hours to easily monitor eligibility. Additionally, we are updating procedures and communication materials.
Automatic Enrollment & Escalation *(mandatory provision)*	Effective January 1, 2025	Employers will be required to automatically enroll employees in their retirement plan at 3% minimum deferral rate, not to exceed 10%. The deferral must increase by 1% each year, up to 10%, if it starts lower than that. Employees have the option to opt out of participation at any time.	For plans using the ADP Prototype Plan Document, ADP has made the necessary adjustments to plan provisions to accommodate these requirements for plans subject to the automatic enrollment provisions. If your plan is currently exempt, you must monitor when the provisions may apply to your plan (i.e. you have been in business for more than 3 years) and take the necessary steps to comply when this becomes applicable for your plan.
Expand Catch-up Contributions *(mandatory provision)*	Tax years beginning after December 31, 2024	Increases the annual catch-up contribution amount for participants ages 60-63 to at least $10,000 or 150% of the regular limit on catch-up contributions, if higher. Proposed regulations clarify that the catch-up contribution limit for ages 60-63 will be $11,250 for 2025 and will adjusted annually for cost of living changes.	For clients that use ADP payroll services, ADP has enhanced our payroll systems in anticipation of these increased catch-up contributions for the 2025 tax year.
Saver's Match *(optional provision)*	Taxable Plan years beginning after December 31, 2026	Low to middle-income employees will be eligible for a Federal matching contribution of up to $2,000 per year that must be deposited in their retirement savings account. The match phases out based on income.	ADP is currently evaluating this provision and will release more comprehensive information as we approach the effective date.

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Catch-up contributions as Roth *(mandatory provision)*	Taxable years beginning January 1, 2026 The Internal Revenue Service issued guidance providing a two-year administrative transition period to implement the SECURE 2.0 Act's mandatory requirement that catch-up contributions be made on a Roth basis for high-wage earners (those earning over $145,000 in FICA wages in the prior year).	For any participant earning over $145,000 (indexed) in FICA wages for the previous tax year with the same employer, their catch-up contributions must be made as Roth contributions. The 2025 Guidance clarifies that FICA wages are Social Security Wages and wages are counted only for the employer that sponsors the plan. In addition, the $145,000 limit will be indexed for inflation.	ADP is enhancing its payroll services to review prior year FICA wages. Catch-up contributions will automatically be deposited into a Roth source for impacted participants. NOTE: Plan sponsors who use third party payroll providers will need to work directly with them to ensure that they are updating their systems accordingly, if you want to continue to allow your highly paid employees to make catch-up contributions. In the months ahead, ADP will provide additional guidance on how employee data will need to be formatted and transmitted to us in order to ensure that this information is properly integrated into our recordkeeping system.
Long-term care premiums *(optional provision)*	Distributions made after December 29, 2025	Participants may request up to $2,500 a year, penalty free, to pay their premiums for qualified long term care insurance contracts.	ADP is currently evaluating this provision and will release more comprehensive information as we approach the effective date.
Emergency savings *(optional provision)*	Plan Years beginning after December 31, 2023	Participants, classified as Non-Highly Compensated Employees, can make Roth contributions to a separate Emergency Savings Account within a retirement plan through automatic payroll deductions. Participants must be allowed to make one withdrawal a month of $2,500.	ADP has added Emergency Expense withdrawals as an available provision on the recordkeeping platform. Additional communications will be provided about how this provision will be rolled out to existing plans.

Timeline for provisions starting (M = Mandatory; O = Optional)

DECEMBER 29, 2022	2023	2024	2025	2026	2027
O Auto portability **O** Self-certification for hardship withdrawal **O** Terminal illness withdrawal **M** RMD penalty reduced **O** Employer Matching and Nonelective contributions as Roth	**O** Small incentives **O** Eligible, unenrolled participant notice requirements **O** Federally declared disaster withdrawal options **O** Qualified Birth or Adoption distribution (QBAD) repayment **M** RMD age increase	**O** Employer matching contribution for student loan payment **O** Pension-Linked Emergency Savings Accounts **M** Changes to RMDs from Roth assets **O** Small balance cash out limit increased **O** Domestic abuse victim withdrawal **O** Emergency Expense withdrawal **M** Changes to RMDs for surviving spouses **M** Top-Heavy rule modification	**M** Catch-up contributions increase for participants ages 60 – 63 **M** Long-term, Part-time expanded eligibility **M** Automatic Enrollment & Escalation for new plans	**O** Long-term care premiums **M** Annual paper statement required **M** Catch-up contributions as Roth	**O** Saver's match

LET'S TALK.

The SECURE 2.0 Act of 2022 brings big changes to retirement plans, and many of these changes are complex and involve long-term planning. In the weeks ahead, we will continue to provide communications on the SECURE 2.0 Act as new information from the IRS and DOL become available. ADP is committed to helping employers and their workers become financially prepared for retirement. For more information, please visit adp.com/401k.

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