NAIFA | Advocacy

Frequently Asked Questions (FAQs)
SECURE 2.0

Is there a chart that shows when RMD ages will change over the next 10 years?

Prior to Dec. 31, 2019	Prior to Dec. 31, 2022	After Dec. 31, 2022	After Dec. 31, 2032
Prior to the enactment of the SECURE Act of 2019, the RMD age was 70.5.	Prior to December 31, 2022, RMDs, generally, were required to begin by age 72.	SECURE 2.0 **increases the RMD age to 73** for those who attain age 72 after December 31, 2022 and 73 before January 1, 2033.	SECURE 2.0 **increases the RMD age to 75** for those who attain age 74 after December 31, 2032.

Are they saying if you have an IRA income annuity that counts towards the total amount of IRA RMD for each year?

Yes, distributions from IRA income annuity count towards meeting one's RMD obligation from that IRA.

Regarding the Qualified Longevity Annuity Contract (QLAC), what is the "indexed" after the $200,000?

The $200,000 amount that can be used to buy a QLAC is indexed for inflation.

Can someone do more than one QLAC?

There is not a limit on the number of QLAC contracts that someone could have as long as the amounts do not exceed the new allowable amount ($200,000 indexed). This provision is generally effective on or after date of enactment (Dec. 29, 2022). Some people may want to layer that deferral of time at different intervals.

Is it true that SECURE 2.0 inadvertently removed the catch-up contribution provision?

Yes, there was an error (in drafting) that dropped a paragraph, resulting in catch-up contributions for 2024 not being available. Congressional tax writers are aware of this, and have put the issue on the list of needed technical corrections. There is also a belief that Treasury can find authority (in other areas of the statute) to resolve the problem via regulation (or failure to enforce). Just what Congress/Treasury will do about this issue is currently uncertain, but there's unanimity of opinion that either a technical correction or regulatory action, or both, will resolve the issue prior to 2024.

When do catch-up contributions take effect, and how old do I have to be to take advantage?

The increased catch-up contribution limit takes effect in 2025. To take advantage you would have to be 60, 61, 62, or 63 in 2025.

If I am 63 in 2023 and turn 64 next year, can I utilize catch-up contributions?

It is effective in 2025, if you turned 64 next year you would not be eligible.

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Why was age 64 excluded from the increase in catch-up contributions?

There was not enough revenue for an additional year.

What happens to catch-up contributions for those older than 63? Is there really only a 3-year window for extra catch-up?

Regular catch-up rules apply to catch-up contributions made by those age 64 (and older), but the amounts will be indexed to inflation (as will all catch-up contribution amounts), starting in 2025.

How long will the credit to cover administrative costs for small employers providing retirement plans last?

The basic credit is three years and the new additional credit phases out in 5 years.

Does the new auto-enroll mandate for employer-sponsored retirement plans exempt all plans in place now?

Correct.

Can employees choose whether to make a traditional or Roth contribution to their employer retirement plan?

Yes, if the terms of the plan so permit. The plan would have to offer both and allow for participants to choose which one they want.

In addition, there is a new provision in SECURE 2.0 that allows qualified plans (as well as 403(b)s and 457(b)s) to permit employees to designate employer matching or nonelective contributions as Roth contributions. Student loan matching contributions may also be designated as Roth contributions. The provision is effective for contributions made after the date of enactment (Dec. 29, 2022).

Will long-term part-time employees be a part of the automatic enrollment provision?

Both we and the provision's authors believe that long-term part-timers will have to be auto-enrolled in new plans, but it's possible there will be guidance on this question.

Regarding the Long-Term Part-Timer Rule: Is 500 hours the floor or ceiling for part-timers?

The long-term part-timer rule applies to workers who put in at least 500 hours a year for the past two years. Someone who works less than full-time but more than 500 hours a year qualifies.

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Is there any concern about catch-up provisions on IRAs having to go to Roth? What if a client, due to income, does not qualify for Roth?

If a person is not eligible to contribute to a Roth IRA, that person cannot make a catch-up contribution.

Does the starter 401(k) require testing rules?

All employees must be default-enrolled with a deferral rate of 3 to 15%, with a $6,000 annual limit. This is a safe harbor plan design -- if an employer uses this design, no further discrimination testing is needed.

The Automatic Portability Rule seems a little confusing, could it be explained some more?

A retirement plan service provider can provide plan sponsors services such as the automatic transfer of a participant's default IRA into the participant's new employer's retirement plan, unless the participant affirmatively elects otherwise. Effective for transactions 12 months after date of enactment (2024).

Will small plans receive 100% credit up to $5,000?

Correct for the basic credit.

Is the emergency savings accessible before 5 years?

Both emergency savings provisions apply in 2024. The pension-linked account provision requires new contributions with a maximum employee contribution of $2500 per year. The employer must choose to offer the pension-linked account provision in its plan. It's the employer's choice whether to offer it.

Does Emergency Savings apply to IRAs or just employer plans?

There are two emergency savings provisions in SECURE 2.0. The pension-linked accounts (allowing for $2500) are for employer defined contribution plans only. The $1000 withdrawal from existing retirement accounts is for all retirement savings accounts, including IRAs.

Do new requirements apply to existing simple plans after 2024 or just new plans?

Employers are permitted to offer additional nonelective contributions to SIMPLE plans, subject to new higher contribution limits. So it would appear that plans could be amended to provide the additional benefits, up to the contribution limits.

Will savings Roth be available on SIMPLE plans?

A SEP and a SIMPLE IRA are permitted to be designated as Roth IRAs.

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Regarding 529 Plans: Does the new legislation mean that from 01/01/2024, policy owners can transfer the annual limit to a Roth IRA, with a max of $35,000?

Beneficiaries of 529 College Savings Accounts are permitted to rollover up to $35,000 over the course of their lifetime from any 529 account in their name to their Roth IRA. Effective with respect to distributions after December 31, 2023.

Can I change the beneficiary on 529 plans so that they could benefit from the $35,000 rollover?

The rules on changing beneficiaries do not appear to have been amended, so changes within those rules (to another qualifying family member) are possible. However, there is a rule that the account has to have been open for more than 15 years. We will have to await guidance on how that rule applies when the beneficiary of an account has changed during that 15-year period.

What guidance is expected to come regarding 529 rollovers?

Guidance will come on all of SECURE 2.0's provisions, including the 529 rollover rules. We anticipate that guidance will clarify many of the questions asked about the 529 provision including confirming that the distributions are made into the beneficiary's Roth IRA, whose lifetime the $35,000 cap is measured against, how the 15-year account existence rule applies to accounts with changed beneficiaries, and the mechanics of the rollover.

For the LTCI contribution do hybrid life insurance policies with LTC benefits qualify?

Whether a hybrid LTCI policy is a "certified policy" will depend on the policy. Certification requires compliance with qualified long-term care insurance policy consumer protection rules, and further clarification via regulation. Certified policies will have to be registered with the government (Treasury) and are subject to notice rules to the policyholder/prospective policyholder as well. A website listing certified policies will be built by Treasury.

So, a hybrid LTCI policy could be "certified" but we won't know if any particular policy is "certified" until regulations come out and carriers go through (or fail to go through) the policy certification process. This provision does not take effect until December 29, 2025.

Why the three year wait for the LTCI?

The reason for the delayed effective date is to allow time to build the infrastructure for certification. Treasury has to issue regulations, build a website to list certified policies and establish the procedures carriers must use to get their policies certified.

Is $2,500 the limit I can withdraw from my retirement account to help cover the costs of Long-Term Care Insurance (LTCI)?

Correct, so long as the LTCI is "certified." This provision takes effect three years after the date of enactment (i.e., after 12/20/2025).

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What is the SAVER's Tax Credit?

The SAVER's Credit provides a government-paid matching contribution to lower-income savers who contribute to a retirement savings plan (employer plan, IRA). The credit is 50% of the individual's contribution to an employer savings plan or an IRA, up to a maximum of $2,000, payable directly into the retirement plan. It is available to those with incomes under $35,000 ($71,000 for married couples filing jointly), but it phases down for incomes between $20,500 and $35,000 for single taxpayers ($1,000 and $71,000 for married couple filing jointly). The SAVER's Credit takes effect in 2027.

What type of retirement accounts will be eligible for the SAVER's Tax Credit government match?

Eligible accounts include employer-sponsored savings plans (e.g., 401(k)s, 403(b)s and SIMPLE Plans, IRAs and ABLE Accounts.

Is the small employer start-up tax credit limited to NHCEs only or was that restriction eliminated?

The changes made to the credit for small employer pension plan start-up costs do not appear to include the elimination of the non-highly compensated employee rules. Those rules have been retained. In addition, for purposes of the new additional credit, there is an added restriction that no contributions for employees earning in excess of $100,000 (indexed) can be counted towards the additional credit.

Are both of the credits phased down to 25% in the third year or is it just the additional credit?

The additional credit for employers with 50 or fewer employees phases down for employers with between 51 and 100 employees at 2% in credit amount for every employee in excess of 50. More generally, the applicable percentage for the additional credit is 100 percent in the first year, and is reduced by 25% each of the following three years until the credit reaches zero after the fourth year. This provision is effective for plan years beginning after December 31, 2022.

How do I get my hands on NAIFA's SECURE 2.0 Webinar?

A recording of the webinar and other supplementary materials can be found **HERE**.

The information contained in this document is based on the statute as enacted December 29, 2022, and the relevant committee summaries released December 22, 2022. Regulatory guidance is anticipated in the coming months which could modify our understanding of the Act's provisions.

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