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SECURE 2.0: Consulting opportunities for retirement professionals

In the Loop

The Consolidated Appropriations Act of 2023, a spending bill that includes the retirement bill known as the SECURE 2.0 Act of 2022 (commonly known as SECURE 2.0), was signed into law by President Joe Biden on December 29, 2022. SECURE 2.0 provides advisers, consultants, and financial professionals with opportunities to engage their clients—both small businesses and individuals—on a host of significant changes to retirement policy. The legislation builds upon changes made by the original SECURE Act of 2019 by providing additional incentives to small businesses and financial planning options for individuals.

Key Highlights

- SECURE 2.0 provides advisers, consultants, and financial planners with opportunities to engage their clients on a host of significant changes to retirement policy.
- The legislation builds upon the original SECURE Act of 2019 by providing additional incentives to small businesses and financial planning options for individuals.
- SECURE 2.0 is designed to help increase retirement plan adoption and access, as well as to allow participants to save more and longer for retirement.

Considerations for counseling small businesses or employers without retirement plans

SECURE 2.0 includes provisions that simplify administrative responsibilities and offer tax credits, which are designed to encourage plan adoption by making it easier for small businesses and sole proprietors to sponsor and maintain a retirement plan. The provisions include:

Expanded start-up credits for small businesses

The modification of the tax credit available for small businesses relating to their retirement plan start-up costs was one of the significant changes. Effective in 2023, SECURE 2.0 expanded the credit to cover 100% of start-up costs (subject to the maximum annual cap of $5,000) for businesses with 50 or fewer employees.

SECURE 2.0 also provides an additional start-up credit of up to $1,000 per employee earning up to $100,000 in Federal Insurance Contributions Act (FICA) eligible wages (indexed). This credit is available for five years and is based on a percentage of contributions made to the plan by the employer. The applicable percentage is 100% in the first year and reduces in stages to 25% in the fifth and final year. This credit is phased out for employers with between 51 and 100 employees.

If a small business without a retirement plan joins a multiple employer plan (MEP), including a pooled employer plan (PEP), SECURE 2.0 clarifies that the start-up credit is available for three years following when an employer joins that plan, regardless of how long the MEP or PEP has been in existence.

Tax credit for small businesses with plans covering military spouses

SECURE 2.0 also provides small business plan sponsors with a tax credit for non-highly compensated military spouses who are made immediately eligible for plan participation and any employer contributions (including matching contributions) within two months of hire. Employer contributions must be 100% vested to receive the tax credit, which applies for three years for each military spouse. The annual tax credit equals the sum of $200 per military spouse plus 100% of all employer contributions (up to $300) made on behalf of the military spouse, for a maximum credit of $500. The military spouse tax credit is also effective for tax years beginning in or after 2023.

Flexibility for sole proprietors

The original SECURE Act allowed an employer flexibility to adopt a plan after the end of the year but before the due date of the employer's tax return (including extensions). As a result, an employer could fund a newly adopted plan with employer contributions for the preceding plan year. However, the legislation did not impact rules requiring elective deferrals to be made by the end of each year. SECURE 2.0 allows new 401(k) plans that are sponsored by sole proprietors or single-member LLCs to receive employee contributions up to the date of the employee's tax return filing date for the initial plan year.

Deferral-only "starter" plans

Beginning in 2024, SECURE 2.0 permits an employer of any size that does not sponsor a retirement plan to offer a "starter" deferral-only 401(k) plan (or safe harbor deferral-only 403(b) plan), where the contribution limits are similar to individual retirement accounts (IRAs) and are indexed for inflation. These starter plans are exempt from nondiscrimination and top-heavy testing and require an auto-enrollment deferral rate of between 3% and 15%.

Considerations for counseling clients that sponsor retirement plans

SECURE 2.0 contains a whopping 92 provisions, nearly all of which have an impact on the retirement savings system. Advisers of, and consultants to, employers that already sponsor a retirement plan should help their clients understand any necessary changes to existing retirement plans and evaluate new features that are available to plan sponsors.

For example, the auto-enrollment and auto-escalation requirements are a significant change. Beginning in 2025, all new 401(k) and 403(b) plans will have to offer auto-enrollment at 3% or more and auto-escalation to at least 10% (but no more than 15%). It's important to understand that existing plans established prior to the enactment of the legislation are exempt from these requirements. However, any plan established on or after December 29, 2022, will need to be in compliance with these requirements by 2025. Those assisting clients with establishing new plans should help ensure that their clients understand the need to incorporate auto-enrollment and auto-escalation features within the required time frame.

Considerations for financial planners and wealth managers

SECURE 2.0 offers financial planners and wealth managers a host of considerations to discuss with their individual clients. While a number of these changes encourage Roth savings within retirement plans and IRAs, financial planners and wealth managers will be interested to know that earlier legislative proposals to eliminate so-called backdoor Roth savings for high-income earners were not included. Also, beginning in 2024, required minimum distributions will no longer be required from Roth sources within a retirement plan—creating parity with Roth IRAs—and eliminating one significant advantage for maintaining Roth balances in an IRA.

Final thoughts

While there is no single blockbuster provision included in SECURE 2.0, such as a mandate that most businesses sponsor a retirement plan, the breadth of incremental changes included in SECURE 2.0 make it one of the most significant pieces of legislation impacting the retirement industry in recent memory. As such, the legislation offers abundant opportunities for those advising plans, employers, and individuals to provide value to their respective clients.

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