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SECURE 2.0 Considerations for 2025

Several mandatory and optional elements of SECURE 2.0 become effective in 2025, including the following:

Ages 60–63 (or "Super") Catch-ups

This optional provision allows 401(k), 403(b), governmental 457(b), and SIMPLE plans that offer catch-up contributions to permit participants who attain ages 60–63 during the year to contribute up to 150% of the regular (age 50+) catch-up limit. Be aware of the following:

Most plan recordkeepers are assuming plan sponsors want to implement this provision and may send "opt-out" election notifications rather than an "opt-in" election. These notifications are often mass-emailed and could get caught in an enterprise's spam filter.

Implementation requires careful coordination and preparation by the plan sponsor and its payroll system and the plan's recordkeeper. Individuals who will turn at least 60 (but not 64) during the plan year must be identified so they can contribute up to the "super" catch-up limit. Participants who turn age 64 during the year may contribute only up to the age 50+ catch-up limit.

This provision does not change the 2026 requirement that catch-up contributions by participants whose prior year wages were more than $145,000 must be made on a Roth (post-tax) basis.

Auto-Portability

Recordkeepers and other third parties may begin offering plans a way to transfer force-out distributions (i.e., amounts of up to $5,000 (or $7,000 under SECURE 2.0)) from a prior employer's automatic IRA to the new employer's plan. This *optional* provision applies to 401(a) (other than defined benefit plans), 401(k), 403(b), and governmental 457(b) plans. Be aware of the following:

The U.S. Department of Labor (the "DOL") issued a proposed rule in January 2024 that provided some guidance on how service providers may implement this provision.

However, the DOL has not issued any guidance on what features and factors a plan sponsor/fiduciary must consider in selecting a portability provider. Some of the portability products we have encountered call into question the ability to comply with existing DOL and IRS fiduciary safe harbors/guidance for force-out distributions and accepting rollovers into the plan.

Implementing this provision is likely a fiduciary decision and fiduciaries would need to engage in a fact-intensive inquiry before implementing this optional feature.

Long-Term, Part-Time ("LTPT") Rules

This *mandatory* provision applies to 401(k) plans and ERISA 403(b) plans.

SECURE 1.0 required 401(k) plans to allow LTPT employees to make deferrals starting in 2024, after completing three consecutive years with 500 or more hours of service. SECURE 2.0 shortens the 2025 requirement to two years and extends the requirement to ERISA 403(b) plans. Employers are still not required to make matching or nonelective contributions to LTPT employees, but if LTPT employees are eligible for employer contributions, they earn vesting credit for years with 500 or more hours of service.

Starting in 2025, LTPT employees who worked at least 500 hours in two consecutive years between 2021 and 2024 must be allowed to make elective deferrals to 401(k) plans. The IRS recently confirmed that 403(b) plans must allow LTPT employees to defer, effective January 1, 2025, if they worked at least 500 hours in 2023 and 2024, even if they are not scheduled to and did not work 20 hours a week. However, exclusions of certain classifications, including students and nonresident aliens, are still permitted.

Amendments

The deadline to amend most plans for SECURE 1.0, the CARES Act, and SECURE 2.0 is December 31, 2026. Nongovernmental 457(b) plans must still be amended by December 31, 2025. Later deadlines apply to collectively bargained plans, governmental plans, and 403(b) plans sponsored by public schools. If you have questions about SECURE 2.0 compliance, please reach out to a member of our Employee Benefits and Executive Compensation group.

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