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Congress passes SECURE 2.0

On December 23, Congress passed the massive $1.7 trillion Consolidated Appropriations Act, 2023 (the "Act"), which is expected to be signed by the President shortly. As anticipated, the Act includes the SECURE 2.0 Act of 2022 ("SECURE 2.0"), bipartisan legislation aimed at helping Americans save for retirement. SECURE 2.0 encompasses many provisions that will significantly impact employer-sponsored retirement plans.

Background

SECURE 2.0 is a consolidation of three bills, the Securing a Strong Retirement Act, which passed with broad bipartisan support by the U.S. House of Representatives in March of this year, and two pieces of draft legislation — the Enhancing American Retirement Now (EARN) Act and the Retirement Improvement and Savings Enhancement to Supplement Healthy Investments for the Nest Egg (RISE & SHINE) Act — approved by the Senate Finance Committee and the Health, Education, Labor, and Pensions Committee, respectively, in June of this year. (See our April 28, 2022 *FYI* on the House bill.) The three measures are collectively referred to as "SECURE 2.0," as they build upon the Setting Every Community Up for Retirement Enhancement (SECURE) Act of 2019. (See our December 23, 2019 *FYI Alert* on the original SECURE Act.)

Major retirement plan provisions in SECURE 2.0

SECURE 2.0 includes numerous provisions that significantly impact retirement plans. As the final legislation is primarily based on the three bills noted above, most of its provisions were expected by the retirement plan community. SECURE 2.0 expands employee coverage, provides ways for increased savings, and offers simplification and clarification to some retirement plan rules. Key provisions of SECURE 2.0 include:

- Automatic enrollment and escalation requirements. Most new 401(k) and 403(b) plans are required to enroll employees automatically at a minimum deferral rate of 3% of compensation with automatic increases of 1% each year until the deferral rate reaches 10%. Employees must be permitted to elect a different deferral rate or opt-out of coverage. Generally excluded from these requirements are existing plans, church and governmental plans, and new and small businesses. This provision is effective for plan years beginning after December 31, 2024.

- Changes to Required Minimum Distribution (RMD) rules. The RMD age is increased from 72 to 73 for distributions required after December 31, 2022, with respect to individuals attaining age 72 after such date. The RMD age will increase to 75 on January 1, 2033.
- Student loan repayments can be treated as deferrals. SECURE 2.0 permits employers to make matching contributions on student loan repayments, effective for contributions made in plan years beginning after December 31, 2023.
- Withdrawals for emergency expenses. Plans can permit distributions of up to $1,000 to plan participants for certain emergency expenses without the additional 10% tax that generally applies to early distributions. Only one emergency distribution is permitted annually, and the participant can repay the distribution within three years. This is effective for distributions made after December 31, 2023.
- Catch-up contribution changes. The limit on catch-up contributions is increased to $10,000 for employees in the years they attain ages 60 through 63, effective for taxable years beginning after December 31, 2024. Catch-up contributions must be made on a Roth (post-tax) basis for employees with compensation over $145,000 (as indexed), effective for taxable years beginning after December 31, 2023.
- Coverage for part-time workers. 401(k) plan coverage for long-term part-time employees is improved under SECURE 2.0 by changing the current rules to permit deferrals after two consecutive years of employment (currently three consecutive years) with at least 500 hours of service. These rules are also extended to 403(b) plans subject to ERISA. This provision is generally effective for plan years beginning after December 31, 2024.
- Other administrative simplification changes. SECURE 2.0 includes various provisions that are aimed at simplifying plan administration. Among other changes, the Employee Plans Compliance Resolution System will be expanded, a new “lost participant” database will be established, and specific notice requirements will be simplified.
- Changes specific to defined benefit plans. Included under SECURE 2.0 are provisions specific to defined benefit pension plans, such as changes related to PBGC variable rate premiums and annual funding notices.

In closing

It is critically important for plan sponsors, administrators, and other plan personnel to understand the new requirements prescribed in SECURE 2.0 and how they will impact their retirement plans. A

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forthcoming *FYI In-depth* will provide more details on this important legislation. Please contact your Buck consultant if you have questions about these or other retirement plan requirements.

Upcoming webinar

Save the date for Buck's January 26, 2023 webinar on SECURE 2.0 and its impact on plan sponsors and their employees.

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