CAISSA
wealth strategies

Summary of SECURE Act 2.0

SECURE Act 2.0 Theme: Increase Roths!!!!

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Recently signed legislation associated with the Consolidated Appropriations Act of 2023 is SECURE Act 2.0 of 2022 is focused on encouraging higher retirement savings and expanding retirement offerings. Highlights of the Act pertaining to individual retirement accounts are detailed below. The Act also includes legislation targeted at employer offered retirement accounts.

Starting in 2023

RETIREMENT ACCOUNT SAVINGS

- Employees have the option to receive employer matching contributions and employer nonelective contributions on a ROTH basis. This does not apply to profit sharing contributions. *Impact: Select employer contributions will be included in employee gross income resulting in a current tax burden. Waiting for adoption by employer plans. It is not clear how vesting in employer contributions will be impacted as the intent is to make these contributions nonforfeitable.*
- Roth SIMPLE and Roth SEP Accounts are now a retirement account type. *Impact: Waiting for adoption by custodians, employers, and guidance for how to elect by the IRS.*
- If excess contributions are made, the penalty previously imposed on the earnings is no longer assessed. The excess contributions and earnings must be corrected by October 15 of the year following the contribution year.
- Household employees are eligible to participate in SEP IRAs effective 2023.

RETIREMENT ACCOUNT DISTRIBUTIONS

- For QCDs, there is a one-time ability (2023 only) to fund a split-interest entity (CRUT, CRAT, CGA), limited to $50,000. The QCD funds cannot be commingled with other entities, meaning that the entity can only be funded with the QCD and no other funds. The income beneficiaries are limited to grantor and spouse. *Impact: Likely not an attractive opportunity considering the costs of creating and administering such an entity for a smaller funding dollar amount.*
- If you are turning age 72 this year, you now can wait another year to start your RMD. The new beginning age for mandatory distributions from retirement accounts is age 73 which applies to birth years 1951-1959. In 2033, the RMD age is delayed again to age 75 applying to birth years 1960 and later. The RMD age change does not impact to QCD eligibility. *Impact: For the years 2023 and 2033, there will be*

no first time RMDs. For those who can afford to wait on retirement account income, then the extra years prior to RMD can be used for tax planning purposes such as Roth conversions, leveraging possible lower tax brackets, QCDs, etc.

Required Minimum Distribution Schedule	
Birth Year	**RMD Age**
Born Pre-1951	Age 72
Born 1951 to 1959	Age 73
Born 1960 +	Age 75

- The penalty for missing an RMD is reduced to 25% (from 50%) and can be reduced further to 10% if it is taken within the IRS prescribed "correction window."
- Public safety workers (firefighters, corrections officers, etc.) can now access funds as early as age 50 as long as they served for 25 years and are retired.
- Tax penalty relief for specific events triggering the need for an early retirement account distribution (includes both plans and IRAs).
  - For qualified disasters (retroactive to 1.26.2021), individual may be able to access up to the lifetime limit of $22,000 without penalty. In order to qualify, the event must be a federally declared disaster and primary residence must be located in the disaster area. The income can be spread over 3 years or elect to take all in year of distribution for taxes purposes. Distribution can be repaid over three years.
  - For victims of domestic abuse, distributions up to lesser of $10,000 or 50% of vested balance are exempt from penalty. Distributions repayable for up to 3 years.
  - For terminal illness, distributions are exempt from penalty if death is expected within 84 months/ 7 years. Distributions repayable for up to 3 years.
- 72(t) distributions may now be satisfied with annuity payments.

Starting in 2024

RETIREMENT ACCOUNT SAVINGS

- IRA catch-up limits will be indexed annually in $100 increments.
- For individuals who earn more than $145,000 of wages, catch-contributions to a qualified retirement plan must be made to a Roth account. If you are self-employed, your catch-up contributions may not be impacted by this change as the rule is based on wages. *Impact: Increases amount of wages subject to taxes today as a cost of increasing Roth savings. Employer plans must have Roth option in the plan to accommodate all plan participants.*
- Treatment of student loan payments as elective deferrals for purpose of calculating employer matching contributions beginning after 2023. These employer contributions are permitted for defined contribution plans - 401(k), 403(b), SIMPLE IRA, or for government employers 457(b). *Impact: Encourages employee to pay off student loans and not be penalized for being unable to also contribute to their employer retirement plan.*

Summary of Secure Act 2.0 (cont.)

- If you are sole proprietor with a 401(k), you can establish and make retroactive contribution (salary deferral) for the prior year up until the regular tax filing deadline. *Impact: More time to consider establishing a Solo 401(k).*
- New employer plan accounts can be adopted and called Emergency Savings Accounts (ESAs) which are solely funded by employee contributions. Account balances cannot exceed $2,500. Distribution treatment is not entirely clear but appears to be similar to Roth accounts. HCE (highly compensated employees) cannot participate. Assets are to be held in cash like investments and participants must have access to funds. Employers must match contributions as if they were made to the employer provided retirement plan.
- For SIMPLE IRAs, employers can make additional contributions beyond required match/nonelective up to lesser of 10% of compensation or $5,000. More details apply based on number of employees.
- Starter 401(k) plans for employers with no retirement plan will be introduced effective 2024 and tax incentives are expanding too. Plan will include auto-enrollment, deferral limit equal to IRA contribution limit and no employer contributions.
- Assets from a 529 plan can be directly transferred ("rolled over") to the beneficiary's Roth IRA tax and penalty free. Key aspects of this change outlined below. *Impact: Reduces concern of overfunding Sec. 529 plans. May be considered a "loophole" for funding Roths which was likely not intended.*
    - Beneficiary must have earned wages, but Roth IRA income limits do NOT apply.
    - Rollovers are subject to the same contribution limits as the Roth IRA (2023: $6,500 and $1,000 for the age 50 catch-up). Maximum lifetime rollover (transfer to beneficiary) is $35,000, not indexed for inflation. The limit is per beneficiary. More clarity is needed on this provision.
    - 529 plan must have been maintained for 15 years or longer. Any contributions to the 529 plan within the last 5 years (and the earnings on those contributions) are ineligible to be moved into Roth IRA. Note: The expectation is that the change in beneficiary will not reset the 15-year clock, but it is not clear in the legislation and caution is urged to not use 529 plans to solely fund Roths.

RETIREMENT ACCOUNT DISTRIBUTIONS

- If you have a Designated Roth Account (Roth 401(k), Roth 403(b)), mandatory distribution rules will not apply before death. *Impact: Rollover decisions are now different beginning in 2024.*
- The annual limit for QCDs of $100,000 will be indexed for inflation.
- An early withdrawal up to $1,000 for certain emergency expenses which are unforeseeable, or an immediate financial need related to personal or family emergencies may avoid the 10% penalty. Only one distribution of this type is permissible per year up to $1,000. The distribution may be repaid within three years. Another distribution of this type cannot be completed during the repayment period unless it is paid back, or three years have passed since the last emergency withdrawal.
- 72(t) account may now be used for partial rollovers/transfers as long as the aggregated total from "old" and "new" accounts equals the 72(t) amount.

Starting in 2025

RETIREMENT ACCOUNT SAVINGS

- Higher catch-up limits for defined contributions plans will be available for individuals at age 60, 61, 62, and 63. Not age 64 or older. The limit is increased to the greater of $10,000 or 50% more than the regular catch-up amount. Amounts will be indexed for inflation. (Example – If this applied in 2023, then an individual age 60 could contribute $22,500 regular + $7,500 catch-up + $3,750 (or 50% of $7,500) for a total of $33,750.) Note: For individuals who earn more than $145,000 of wages, catch-contributions to a qualified retirement plan must be made to a Roth account. Specific guidance around age attainment calculation/eligibility (and potential partial year contributions) is unknown.
- Similar to defined contribution plans, SIMPLE IRAs catch-up limits will also increase for individuals at ages 60 to 63. The limit is increased to the greater of $5,000 or 50% more than the regular catch-up amount. Amounts will be indexed for inflation.
- To expand enrollment of plan participants, automatic enrollment for 401(k) and 403(b) plans once eligible to participate with some exceptions (church plans, government plans, etc.)
    - Initial enrollment contribution must be at least 3% of salary but no more than 10%.
    - After initial year, contributions must auto increase annually by 1% until the 10% minimum contribution level is achieved. Max is 15%.
    - Employees may opt out of coverage.
- For SIMPLE IRAs, a mid-year replacement can be made to a 401(k) with mandatory employer contributions.

RETIREMENT ACCOUNT DISTRIBUTIONS

- May avoid the early distribution tax penalty for qualified long-term care expenses limited to a lesser of $2,500 or 10% of the vested balance. A spouse's care needs may qualify if a joint return is filed.

Impact to Inherited IRAS by SECURE Act 1.0 and 2.0

- As introduced in SECURE Act 1.0, non-spousal IRA beneficiaries (generally referred to as "designated beneficiaries") can no longer "stretch" required minimum distributions but are instead subject to a modified 10-year payout. This Act is currently being reinterpreted by the IRS, potentially resulting in more stringent withdrawal mandates for Traditional IRAs. Details surrounding the Act, along with revised guidance from the IRS, are as follows:
    - Non-spousal beneficiaries of Traditional IRAs (who inherited accounts from decedents passing on or after 1/1/2020) were to fully deplete their account(s) within 10 years. However, the original guidance from the IRS did not indicate that RMDs were to be required during that 10-year period.
    - New guidance issued by the IRS in the fall of 2022 indicates that RMDs may in fact be applicable during the 10-year withdrawal period (challenging previously understood guidelines), however, no official rules have been published around how these RMDs should be calculated. As we await further clarification from the IRS, the following has been issued:

Summary of Secure Act 2.0 (cont.)

        - No penalties will be assessed for RMDs not taken prior to 2023.
        - RMD guidelines are not likely to impact Roth IRAs.
        - If the original Traditional IRA owner died on or after starting RMDs, the inherited IRA account balance must be distributed annually with full distribution set to occur by December 31 of the tenth year following year the IRA owner died. Guidance on how to calculate the RMDs for years one through nine and not been provided by the IRS as of this summary. (See IRS Notice 222-150)
        - If the original IRA owner had died before starting RMDs, the inherited IRA account balance must be distributed by December 31 of the tenth year following the year the IRA owner dies. Annual distributions between years one through nine are not required.
- For a surviving spouse sole beneficiary, Inherited IRA options include:

Suriving Spouse Options for Inherited IRAs	RMD Beginning Date *based on:*	RMD Amount *based on:*	Beneficial Assumes delaying RMDs is the objective
1. Account Owner - Treat the decedent's IRA as their own, designating themselves as account owner	Surviving Spouse's RMD Age	Surviving Spouse's age & life expectancy	If surviving spouse is **younger** than decedent spouse
2. Account Rollover - Roll the decedent's IRA into the surviving spouse's own IRA	Surviving Spouse's RMD Age	Surviving Spouse's age & life expectancy	If surviving spouse is **younger** than decedent spouse
3. Account Benefeicairy - Elect to be treated as the account beneficiary	Decedent Spouse's RMD age	Surviving Spouse's age & life expectancy	If surviving spouse is **older** than decedent spouse
4. Decedent (for RMD purposes) - Elect to be treated as the decedent - New option under SECURE Act 2.0	Decedent Spouse's RMD age	Decedent Spouse's age & life expectancy	If surviving spouse is **older** than decedent spouse

    - Option 4, electing to be treated as the decedent for RMD purposes, is new under SECURE Act 2.0 and effective as of 2024. Provisions under this option include:
        - RMDs are delayed until the decedent would have reached RMD age, allowing funds to continue to accumulate tax-deferred.
        - The RMD calculation is based on the decedent's account owner's age according to the Uniform Lifetime Table (providing a smaller RMD amount compared to the Single Lifetime Table calculation that would apply to spousal beneficiary IRAs).
        - If the surviving spouse dies prior to RMDs beginning, the IRA beneficiaries will be treated as original beneficiaries of the account providing for "eligible designated beneficiary" the advantage of stretching distributions over life expectancy instead of being subject to the 10-year rule. The circumstances and application of this scenario is unclear based on guidance provided in the Act.

Other Key Provisions

- The Labor Department may establish a directory allowing individuals to search for missing plan funds.
- Beginning in 2026, ABLE accounts have expanded eligibility to include individuals disabled prior to age 46. Currently, accounts are used for individuals who are disabled prior to age 26. This does not appear to require disability to occur prior to 2026.
- For 401(k) plans, barriers for using annuities have been removed which allow annuity distributions to not be in violation of RMD. *Impact: Aggregation of annuitized contracts for RMDs may help an individual take more from the annuity and less from other IRA accounts as long as the aggregated RMD suffices.*
- ETF type investments will be able to be included in variable life insurance policies beginning December 29, 2029.
- S-corporation owners may be able to defer up to 10% of gain on the sale of stock to an ESOP beginning 2028.
- Beginning in 2027, the saver's match (replacing the current saver's credit) will be changed to require the deposit be completed into the taxpayer's IRA or retirement plan. Current law provides a nonrefundable credit paid in cash as part of tax refund. The match is 50% of IRA or retirement plan contributions up to $2,000 per individual, resulting in a max credit of $1,000. The match is phased out at select income levels. This change only applies to IRAs and employer retirement plans and does not impact ABLE accounts' saver's match.

What is NOT Included

- Any extensions for expired or soon to be expiring tax preference provisions nor does it suspend the scheduled changes for the Tax Cuts and Jobs Act.
- Limits on back door Roth contributions, Roth conversions, etc.
- Clarity on how to implement SECURE ACT 1.0 of non-eligible designated beneficiaries.

Please consult your CAISSA team for more information and how SECURE Act 2.0 may impact your financial situation.

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