SECURE ACT 2.0—FINALLY

SECURE Act 2.0 Signed into Law on December 29, 2022—What You Should Know Now

The Enhancing American Retirement Now (EARN) Act, also known as the SECURE Act 2.0, has passed as part of the Consolidated Appropriations Act of 2023 and will contain many provisions with varying dates of enactment. Keep in mind that not all retirement plan providers or IRA custodians will be able to implement these new provisions upon passage, so check with providers to determine availability.

While there is nothing as noteworthy as the "death of stretch" from the original SECURE Act, there are several rules set to go into effect over the coming years that will impact retirement planning. Many popular provisions, such as allowing 401(k) matching contributions for student loan payments as well as transfers from 529 plans to Roth IRAs, are effective as of 12/31/2023 or later.

Listed are several pertinent provisions that go into effect either immediately or later in 2023.

New RBD for RMDs

Effective 1/1/2023, Section 107 changes the required beginning date (RBD) to April 1 of the year following the year the account owner turns 73. That is, participants who turn 72 in 2023 will have one more year before their RBD. The RBD will be extended further but not until 1/1/2033. Note that additional guidance is needed for those who turn 73 in 2033.

TIP! Reach out to clients who expected to start required minimum distributions (RMDs) in 2023 and determine whether a distribution is still desirable.

COLAs Now Allowed for Certain Annuities

Note that Section 201 removes the RMD barriers for life annuities, allowing annuities with increasing payments of less than 5%, that is, cost of living adjustments (COLAs), to satisfy RMD rules. Effective for calendar years ending after the date of enactment of the Act, this should make creating lifetime income with qualified assets a more attractive option.

TIP! As traditional qualified accounts are "spend down" accounts, it's important to determine whether some clients may benefit from additional lifetime income with a COLA.

Improved QLACs

Effective 2023, Section 202 allows for more lifetime income through qualifying longevity annuity contracts (QLACs). The 25% limit has been eliminated, and the new maximum limit is $200,000 (adjusted for inflation).

TIP! Clients with traditional qualified accounts may want to consider whether a QLAC might be a good addition to their income plan.

Penalties Lowered for Missed RMDs

Section 302 reduces the excise tax on certain accumulations in qualified retirement plans—that is, missed RMDs. Effective for taxable years beginning after the date of the enactment of this Act, the penalty for failure to take an RMD has been reduced from 50% to 25%. A bonus—the penalty is just 10% if the missed RMD is corrected in a timely manner.

QCDs Get a COLA

This is effective in taxable years after the date of enactment of this Act. Section 307 also adds indexing to qualified charitable distributions (QCDs). This will be more significant as time passes.

TIP! Reach out to clients who are 70 or older to inform them about indexing and remind them that QCDs can be a great way to give to charity.

Roth Option Now Available for SIMPLE or SEP

Effective for taxable years beginning after 12/31/2022, Section 601 allows the Savings Incentive Match Plan for Employees (SIMPLE) and simplified employee pension (SEP) plans to offer a Roth option. As SEP contributions are made by the employer, it will likely be treated as taxable income to the employee. Note that while the provision is effective after 12/31/2022, custodians may not be ready to accept contributions until their systems are updated.

TIP! This is a great opportunity for small businesses to re-evaluate their IRA-based retirement plans. Reach out to clients to determine if adding a Roth option is beneficial or if another option, such as a 401(k), might work better.

Employer Matching Allowed as a Roth Contribution

Effective as of the date of enactment, for employer matching or nonelective contributions that are immediately vested, Section 604 give the employer the option to treat those as Roth contributions. As this makes the match or non-elective contribution after-tax, plan participants will be subject to income tax on matching contributions. Note that plans have the option to add this provision, so some may choose not to. And while this provision has an immediate effective date, plans may not be able to fulfill requests until their systems can support the change.

More to Come

As noted above, this is a summary of some of the immediate provisions that are pertinent to retirement planning. Other provisions have effective dates later in 2023 and even beyond 2024. We will cover these in the coming weeks.

Act Quickly to Help Clients Negotiate the New Rules

This is an act with several effective dates, which can cause a great deal of confusion for clients. Be alert and aware, as there are more big changes coming. Be sure to reach out to clients as soon as possible to help them understand the new rules and maximize the benefits available to them under these new provisions.

For more information about retirement planning, please contact our Retirement Strategies Group at RSG@PacificLife.com or (800) 722-2333, ext. 3939.

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