

**SECURE 2.0 Act of 2022 –
What it Means for 403(b) Plans**

| SECURE 2.0 Provision | Description of Change | Effective Date | Required or Optional | Comment |
|--|--|---|----------------------|---|
| Changes Affecting Only 403(b) Plans | | | | |
| Hardship Withdrawals (Section 602) | Expands the contribution sources available for hardship withdrawals from just elective deferrals (exclusive of earnings), allowing 403(b) plans to permit hardship withdrawals to be made from elective deferrals (plus earnings), qualified matching contributions (plus earnings), and qualified nonelective contributions (plus earnings). Also provides that a participant need not take a loan from his or her 403(b) plan account before taking a hardship withdrawal. | Effective for plan years beginning after 12/31/2023 | Optional | Aligns 403(b) and 401(k) hardship distribution rules as to the contribution sources available for withdrawal |
| 403(b) MEPs and PEPs (Section 106) | Permits 403(b) plans (other than church plans) to participate in multiple employer plans (MEPs) and pooled employer plans (PEPs). Provides relief from the unified plan rule (also known as the “one bad apple rule”), so that one participating 403(b) plan’s loss of tax-qualified status will not adversely affect that of the other participating 403(b) plans. | Effective for plan years beginning after 12/31/2022 | Optional | Consistent with SECURE 1.0’s 401(k) MEP and PEP provisions |
| Investments in CITs (Section 128) | Amended IRC Section 403(b)(7) to permit custodial accounts to invest in collective investment trusts (CITs), also known as Revenue Ruling 81-100 group trusts | Effective for amounts invested after 12/29/2022 | Optional | SECURE 2.0 did not also amend federal securities laws to permit such investments in CITs, so such investments are unlikely at present |

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| Changes Affecting 403(b) Plans and Other Types of Retirement Plans | | | | |
| Changes Expanding Plan Coverage and Increasing Retirement Savings | | | | |
| Expansion of Automatic Enrollment (Section 101) | <p>New 403(b) plans established after 12/29/2022 must include an eligible automatic contribution arrangement (EACA), under which:</p> <ul style="list-style-type: none"> ▪ A participant's automatic contribution percentage for the first year of participation must be at least 3%, but not more than 10%, of compensation (unless he or she affirmatively opts out or elects a different contribution percentage); and ▪ For each subsequent year of participation, the participant's contribution percentage generally must increase by 1%, to at least 10% but not more than 15%. <p>These requirements do not apply to plans sponsored by employers with 10 or fewer employees or that have been in business for fewer than 3 years, or to church or governmental plans.</p> | Applies to new 403(b) plans established after 12/29/2022, effective for plan years beginning after 12/31/2024 | Required | These requirements also apply to new 401(k) plans established after 12/29/2022, effective for plan years beginning after 12/31/2024 |
| Safe Harbor Deferral-Only 403(b) Plans for Employers with No Retirement Plan (Section 121) | An employer that does not already sponsor a retirement plan may establish a safe harbor deferral-only 403(b) plan, which would be deemed to meet otherwise-applicable nondiscrimination requirements, if the plan includes an automatic enrollment feature which auto-enrolls participants at a 3% to 15% deferral rate (unless they affirmatively opt out or elect a different deferral rate) | Effective for plan years beginning after 12/31/2023 | Optional | The same SECURE 2.0 provision also authorizes "starter 401(k) deferral-only plans" for employers with no retirement plan, effective for plan years beginning after 12/31/2023 |

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| Changes Affecting 403(b) Plans and Other Types of Retirement Plans (continued) | | | | |
| Changes Expanding Plan Coverage and Increasing Retirement Savings (continued) | | | | |
| Expansion of Coverage for Part-Time Employees (Section 125) | ERISA-subject 403(b) plans must allow part-time employees to begin making salary reduction contributions after they complete two consecutive years of service during each of which the employee completes 500 hours of service. For such 403(b) plans, pre-1/1/2023 service is disregarded for eligibility and vesting purposes. | Effective for plan years beginning after 12/31/2024 | Required | These SECURE 2.0 requirements also apply to 401(k) plans, which, under SECURE 1.0, were required to allow part-time employees to begin making elective deferrals after completing 3 consecutive years of service during each of which the employee completes 500 hours of service. Under SECURE 2.0, for 401(k) plans, pre-1/1/2021 service is disregarded for eligibility and vesting purposes. |
| Plan-Linked Emergency Savings Accounts (Section 127) | ERISA-subject 403(b) plans may allow non-highly compensated employees (NHCEs) to contribute to a plan-linked emergency savings account, subject to these rules, among others: <ul style="list-style-type: none"> ▪ The account balance cannot exceed \$2,500 or a lower limit set by the employer ▪ Contributions must be Roth contributions ▪ Contributions in excess of the account balance limit may be stopped or redirected to a designated Roth account under the plan ▪ Participants can be auto-enrolled in emergency savings accounts, up to 3% of compensation ▪ Contributions must be held in an interest-bearing deposit account designed to preserve principal and provide a reasonable rate of return ▪ Participants must be able to make account withdrawals at least once per calendar month, and may not be charged for the first 4 withdrawals in any plan year | Effective for plan years beginning after 12/31/2023 | Optional | If the employer makes matching contributions under the plan, it must also match contributions made to plan-linked emergency savings accounts Withdrawals from plan-linked emergency savings accounts are exempt from the 10% additional income tax on early distributions Also applies to ERISA-subject 401(k) plans |

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| Changes Affecting 403(b) Plans and Other Types of Retirement Plans (continued) | | | | |
| Changes Affecting Plan Contributions | | | | |
| Higher Catch-Up Limit for Participants Aged 60 to 63 (Section 109) | 403(b) plans may include a higher catch-up contribution feature, permitting any participant who reaches age 60, 61, 62 or 63 (but not 64) by 12/31 of any taxable year to make catch-up contributions equal to the greater of: <ul style="list-style-type: none"> ▪ \$10,000 (indexed after 12/31/2025); or ▪ 150% of the regular (age 50) catch-up contribution limit for 2024 | Taxable years beginning after 12/31/2024 | Optional | Also applies to: <ul style="list-style-type: none"> ▪ 401(k) plans ▪ Governmental 457(b) plans |
| Matching Contributions for Student Loan Payments (Section 110) | 403(b) plans may permit employer matching contributions made on account of “qualified student loan payments”, which are payments a participant makes to repay a “qualified education loan” incurred to pay “qualified higher education expenses”, but only to the extent that the loan payments do not exceed the regular salary reduction contribution limit under IRC 402(g) for the year, reduced by the salary reduction contributions the participant makes to the 403(b) plan for that year. An employer may rely upon the participant’s annual certification that he or she has made such loan payments. | Effective for contributions made for plan years beginning after 12/31/2023 | Optional | Also applies to: <ul style="list-style-type: none"> ▪ 401(k) plans ▪ Governmental 457(b) plans ▪ SIMPLE IRAs |
| Small Immediate Financial Incentives for Contributing to a Plan (Section 113) | Provides an exception to the anti-conditioning rule (which provides that no benefits, other than matching contributions, may be contingent upon a participant’s election to make salary reduction contributions), permitting a 403(b) plan to offer a <i>de minimis</i> financial incentive (e.g., a low-dollar gift card), not derived from plan assets, to employees who elect to make salary reduction contributions to the plan | Effective for plan years beginning after 12/29/2022 | Optional | Also applies to: <ul style="list-style-type: none"> ▪ 401(k) plans |

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| Changes Affecting 403(b) Plans and Other Types of Retirement Plans (continued) | | | | |
| Changes Affecting Plan Contributions (continued) | | | | |
| Roth Catch-Up Contributions for Higher Income Participants (Section 603) | Requires that catch-up contributions made by any participant whose wages for the preceding calendar year exceed \$145,000 (indexed after 12/31/2024) must be made on an after-tax Roth basis | Effective for taxable years beginning after 12/31/2023 | Required | Also applies to: <ul style="list-style-type: none"> 401(k) plans Governmental 457(b) plans |
| Roth Employer Matching or Nonelective Contributions (Section 604) | 403(b) plans may permit participants to elect that any employer matching contributions or employer nonelective contributions that are made on their behalf be made as after-tax Roth contributions | Effective for contributions made after 12/29/2022 | Optional | Also applies to: <ul style="list-style-type: none"> 401(k) plans Governmental 457(b) plans |
| Changes Affecting Plan Distributions: Required Minimum Distributions (RMDs) | | | | |
| Increase in RMD Age (Section 107) | RMD age will increase from 72 to: <ul style="list-style-type: none"> 73, for participants who reach age 72 after 12/31/2022 and age 73 before 1/1/2033 75, for participants who reach age 74 after 12/31/2032 <p>For participants who reached age 72 before 1/1/2023, the RMD age is 72 (or age 70½ if they were born before 7/1/1949)</p> <p>There is a drafting glitch here: a participant born in 1959 will reach age 73 before 1/1/2033 and age 74 after 12/31/2032</p> | Effective for RMDs made after 12/31/2022, for participants who reach age 72 after 12/31/2022 | Required | Also applies to: <ul style="list-style-type: none"> 401(k) plans Other 401(a) DC plans 401(a) DB plans 403(a) plans 457(b) plans IRAs |
| Removal of RMD Barriers on Life Annuities (Section 201) | Allows plans to offer annuities with the following features without violating the RMD rules: <ul style="list-style-type: none"> Payments that increase annually by less than 5% Lump sum payments that shorten the annuity payment period, completely or partially commute future payments, or accelerate the receipt of future payments Dividends or similar distributions Refund of premiums, minus prior distributions or payments, at death | Effective for calendar years ending after 12/29/2022 | Optional | Also applies to: <ul style="list-style-type: none"> 401(k) plans Other 401(a) DC plans 403(a) plans Governmental 457(b) plans IRAs |

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| Changes Affecting 403(b) Plans and Other Types of Retirement Plans (continued) | | | | |
| Changes Affecting Plan Distributions: Required Minimum Distributions (RMDs) (continued) | | | | |
| Qualifying Longevity Annuity Contracts (QLACs) (Section 202) | <ul style="list-style-type: none"> ▪ Eliminates the rule that QLAC premiums not exceed 25% of the participant's plan account balance ▪ Increases the dollar limit on QLAC premiums from \$125,000 to \$200,000 (indexed starting in 2024) | Effective for QLACs purchased on or after 12/29/2022 | Optional | Also applies to: <ul style="list-style-type: none"> ▪ 401(k) plans ▪ Other 401(a) DC plans ▪ Governmental 457(b) plans ▪ IRAs |
| Elimination of RMD Penalty on Partial Annuitization (Section 204) | Participants may elect to aggregate distributions from the annuity and non-annuity portions of their individual accounts for purposes of determining the RMD due for the year | Effective on 12/29/2022 | Optional | Also applies to: <ul style="list-style-type: none"> ▪ 401(k) plans ▪ Other 401(a) DC plans ▪ 403(a) plans ▪ 457(b) plans ▪ IRAs |
| Reduction in Excise Tax Rate for Failure to Take RMDs (Section 302) | Decreases the excise tax rate applicable to a failure to take an RMD from 50% to 25% (or to 10%, if the failure is timely corrected during the applicable correction window) | Effective for taxable years beginning after 12/29/2022 | Required | Also applies to: <ul style="list-style-type: none"> ▪ 401(k) plans ▪ Other 401(a) DC plans ▪ 401(a) DB plans ▪ 403(a) plans ▪ 457(b) plans ▪ IRAs |
| Pre-Death RMDs No Longer Required from In-Plan Roth Accounts (Section 325) | To align with the rules applicable to Roth IRAs, this provision exempts designated Roth accounts in employer retirement plans from pre-death RMD requirements, including the incidental death benefit requirements | Generally effective for taxable years beginning after 12/31/2023 | Required | Also applies to: <ul style="list-style-type: none"> ▪ 401(k) plans ▪ Governmental 457(b) plans |
| Surviving Spouse Election to Be Treated as Employee (Section 327) | To align with the rules applicable to IRAs, for purposes of the RMD rules, a deceased participant's sole designated beneficiary surviving spouse may elect to be treated as the deceased employee | Effective for calendar years beginning after 12/31/2023 | Required | Also applies to: <ul style="list-style-type: none"> ▪ 401(k) plans ▪ Other 401(a) DC plans ▪ 401(a) DB plans ▪ 457(b) plans |

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| Changes Affecting 403(b) Plans and Other Types of Retirement Plans (continued) | | | | |
| Changes Affecting Plan Distributions: Early Distributions | | | | |
| Emergency Personal Expense Distributions (Section 115) | An emergency personal expense distribution, of up to \$1,000 and made only once per calendar year, is not subject to the 10% additional income tax on early distributions Plan administrators may rely upon a participant's written self-certification (absent actual contrary knowledge) that the distribution qualifies Distributions may be repaid within 3 years | Effective for distributions made after 12/31/2023 | Optional | Also applies to: <ul style="list-style-type: none"> ▪ 401(k) plans ▪ Other 401(a) DC plans (except money purchase plans) ▪ Governmental 457(b) plans ▪ IRAs |
| Extension of Exception to Private Sector Firefighters (Section 308) | Extends the exception from the 10% additional income tax on early distributions to such distributions made to private sector firefighters | Effective for distributions made after 12/29/2022 | Required | Also applies to: <ul style="list-style-type: none"> ▪ 401(k) plans ▪ Other 401(a) DC plans ▪ 401(a) DB plans ▪ 403(a) plans |
| Repayment Period for Qualified Birth or Adoption Distributions (QBADs) (Section 311) | A participant who receives a QBAD (first permitted under SECURE 1.0) and decides to repay it to the plan must do so within 3 years SECURE 1.0 did not impose a repayment deadline for QBADs that participants chose to repay to the plan | Effective for QBADs made after 12/29/2022 The deadline to repay QBADs made on or before 12/29/2022 is 12/31/2025 | Optional | Also applies to: <ul style="list-style-type: none"> ▪ 401(k) plans ▪ Other 401(a) DC plans ▪ 403(a) plans ▪ Governmental 457(b) plans ▪ IRAs |
| Eligible Distributions to Domestic Abuse Victims (Section 314) | Eligible distributions to domestic abuse victims of up to the lesser of \$10,000 (indexed, beginning after 2024) or 50% of the participant's vested accrued benefit are not subject to the 10% additional income tax on early distributions. Plan administrators may rely upon a participant's self-certification (absent actual contrary knowledge) that the distribution qualifies. Distributions may be repaid within 3 years. | Effective for distributions made after 12/31/2023 | Optional | Also applies to: <ul style="list-style-type: none"> ▪ 401(k) plans ▪ Other 401(a) DC plans ▪ 403(a) plans ▪ Governmental 457(b) plans ▪ IRAs |

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| Changes Affecting 403(b) Plans and Other Types of Retirement Plans (continued) | | | | |
| Changes Affecting Plan Distributions: Early Distributions (continued) | | | | |
| Clarification of Substantially Equal Periodic Payment Exception (Section 323) | Clarifies that the exception to the 10% additional income tax on early distributions for substantially equal periodic payments continues to apply after certain transfers, rollovers or exchanges | Effective for annuity distributions made after 12/29/2022 Effective for transfers, rollovers, and exchanges occurring after 12/31/2023 | Required | Also applies to: <ul style="list-style-type: none"> ▪ 401(k) plans ▪ Other 401(a) DC plans ▪ 401(a) DB plans ▪ 403(a) plans ▪ IRAs |
| Distributions to Terminally Ill Individuals (Section 326) | Distributions from retirement plans to participants who are terminally ill (i.e., certified by a physician as having a condition reasonably expected to result in death within 84 months) are not subject to the 10% additional income tax on early distributions. A participant must furnish sufficient evidence to the plan administrator that he or she is a terminally ill individual. Distributions may be repaid to the plan within 3 years. | Effective for distributions made after 12/29/2022 | Optional | Also applies to: <ul style="list-style-type: none"> ▪ 401(k) plans ▪ Other 401(a) DC plans ▪ 401(a) DB plans ▪ 403(a) plans ▪ Governmental 457(b) plans ▪ IRAs |
| Distributions to Qualified Public Safety Employees (Section 329) | Distributions from governmental plans to qualified public safety employees who terminate employment after the earlier of age 50 or the completion of 25 years of service will not be subject to the 10% additional income tax on early distributions | Effective for distributions made after 12/29/2022 | Required | Also applies to: <ul style="list-style-type: none"> ▪ 401(k) plans ▪ Other 401(a) DC plans ▪ 401(a) DB plans ▪ Governmental 457(b) plans |
| Expansion of Definition of Qualified Public Safety Employee (Section 330) | Expands the definition of “qualified public safety employee” to include corrections officers and forensic security employees | | | |

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| Changes Affecting 403(b) Plans and Other Types of Retirement Plans (continued) | | | | |
| Changes Affecting Plan Distributions: Early Distributions (continued) | | | | |
| Qualified Long-Term Care Distributions (Section 334) | A qualified long-term care distribution of up to \$2,500 (indexed beginning after 2024) used to pay premiums for certified long-term care insurance for the participant (or for his or her spouse or other family members) is not subject to the 10% additional income tax on early distributions. The participant must furnish a long-term care premium statement (issued by the insurer) to the plan. | Effective for distributions made after 12/29/2025 | Optional | Also applies to: <ul style="list-style-type: none"> ▪ 401(k) plans ▪ Other 401(a) DC plans ▪ 403(a) plans ▪ 457(b) plans |
| Changes Affecting Plan Distributions: Involuntary Cash-Outs | | | | |
| Increase in Involuntary Cash-Out Dollar Limit (Section 304) | Increases the involuntary cash-out dollar limit from \$5,000 to \$7,000 | Effective for involuntary cash-outs made after 12/31/2023 | Optional | Also applies to: <ul style="list-style-type: none"> ▪ 401(k) plans ▪ Other 401(a) DC plans ▪ 401(a) DB plans ▪ 403(a) plans ▪ 457(b) plans |
| Automatic Portability Services (Section 120) | Permits automatic transfers, from default IRAs holding involuntary cash-outs, into a participant's new employer's plan | Effective for transfers occurring on or after 12/29/2023 | | |
| Changes Affecting Plan Distributions: Hardship Distributions | | | | |
| Employer May Rely on Participant's Self-Certification that Deemed Hardship Distribution Conditions are Met (Section 312) | Plan administrators may rely (absent actual contrary knowledge) upon a participant's written self-certification that he or she has experienced a deemed hardship need (e.g., need to pay medical care expenses). Pre-SECURE 2.0 law already permitted reliance upon a participant's written self-certification (absent actual contrary knowledge) that the amount of the hardship distribution was necessary to meet the need. | Effective for plan years beginning after 12/29/2022 | Optional | Also applies to: <ul style="list-style-type: none"> ▪ 401(k) plans ▪ 457(b) plans |
| Changes Affecting Plan Distributions: Qualified Domestic Relations Orders (QDROs) | | | | |
| Recognition of QDROs Issued by Tribal Governments (Section 339) | Requires plans to recognize qualified domestic relations orders (QDROs) issued by or under the laws of an Indian tribal government, a subdivision thereof, or an agency or instrumentality of either | Effective for QDROs received by plan administrators after 12/31/2022, including any such orders submitted for reconsideration after that date | Required | Also applies to: <ul style="list-style-type: none"> ▪ 401(k) plans ▪ Other 401(a) DC plans ▪ 401(a) DB plans ▪ 403(a) plans ▪ 457(b) plans |

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| Changes Affecting Plan Distributions: Qualified Federally Declared Disaster Distributions | | | | |
| Qualified Federally Declared Disaster Distributions (Section 331) | Plans may offer relief to participants affected by qualified federally declared disasters, including qualified disaster recovery distributions up to certain dollar limits (which are not subject to the 10% additional income tax on early distributions), repayment to the plan of unused hardship distributions taken to purchase a principal residence in the disaster area, higher plan loan limits, suspension of loan repayments and extension of loan terms | Effective for federally declared disasters whose incident periods begin on or after 1/26/2021 | Optional | Also applies to: <ul style="list-style-type: none"> ▪ 401(k) plans ▪ Other 401(a) DC plans ▪ 401(a) DB plans ▪ 403(a) plans ▪ Governmental 457(b) plans ▪ IRAs |
| Changes Affecting Plan Distributions: Income Exclusion Rules for Certain Distributions | | | | |
| Exclusion of Certain Disability-Related First Responder Retirement Payments (Section 309) | Excludes from federal gross income service-connected disability distributions made to first responders even after they reach retirement age | Effective for amounts received with respect to taxable years beginning after 12/31/2026 | Required | Also applies to: <ul style="list-style-type: none"> ▪ 401(k) plans ▪ Other 401(a) DC plans ▪ 401(a) DB plans ▪ 403(a) plans ▪ Governmental 457(b) plans |
| Repeal of Direct Payment Requirement for Exclusion of Distributions from Governmental Plans for Health and Long-Term Care Insurance (Section 328) | Prior law permitted an eligible retired public safety officer to exclude from his or her federal gross income up to \$3,000 per taxable year for distributions from governmental retirement plans that were used to pay qualified health or long-term care insurance premiums, provided the premiums were paid directly from the plan to the insurer. SECURE 2.0 repeals the direct payment requirement. | Effective for distributions made after 12/29/2022 | Required | Also applies to: <ul style="list-style-type: none"> ▪ 401(k) plans ▪ 401(a) DC plans ▪ 403(a) plans ▪ Governmental 457(b) plans |

| Plan Amendment Deadlines | |
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| <p>Plan Amendment Deadlines for SECURE 2.0 and Previously-Enacted Laws (Section 501)</p> | <ul style="list-style-type: none"> ▪ General Deadline for SECURE 2.0 Plan Amendments. The general deadline for adopting plan document amendments reflecting applicable required and optional provisions of SECURE 2.0 is the last day of the first plan year beginning on or after 1/1/2025 (e.g., 12/31/2025 for a calendar year plan), provided that the plan is operated in accordance with SECURE 2.0's applicable required and optional provisions as of their respective effective dates. ▪ Deadline for SECURE 2.0 Amendments to Governmental Plans. The deadline for adopting governmental plan document amendments reflecting applicable required and optional provisions of SECURE 2.0 is the last day of the first plan year beginning on or after 1/1/2027 (e.g., 12/31/2027 for a calendar year plan), provided that the plan is operated in accordance with SECURE 2.0's applicable required and optional provisions as of their respective effective dates. ▪ Deadline for SECURE 2.0 Amendments to Certain Collectively Bargained Plans. For collectively bargained plans maintained pursuant to one or more collective bargaining agreements that were ratified before 12/29/2022 (SECURE 2.0's enactment date), the deadline for adopting plan document amendments reflecting applicable required and optional provisions of SECURE 2.0 is the last day of the first plan year beginning on or after 1/1/2027 (e.g., 12/31/2027 for a calendar year plan), provided that the plan is operated in accordance with SECURE 2.0's applicable required and optional provisions as of their respective effective dates. ▪ Deadline for SECURE 1.0, CARES Act and Taxpayer Certainty and Disaster Tax Relief Act Amendments. The above-described SECURE 2.0 plan amendment deadlines are also the deadlines for adopting amendments reflecting applicable required and optional provisions of the following previously-enacted laws: <ul style="list-style-type: none"> ➤ SECURE 1.0, the Setting Every Community Up for Retirement Enhancement (SECURE) Act, enacted on 12/20/2019 as Division O of the Further Consolidated Appropriations Act, 2020 (Public Law No. 116-64) ➤ CARES Act, the Coronavirus Aid, Relief, and Economic Security Act, enacted on 3/27/2020 (Public Law. No. 116-136) ➤ Taxpayer Certainty and Disaster Tax Relief Act of 2020, enacted on 12/27/2020, as Division EE of the Consolidated Appropriations Act, 2020 (Public Law No. 116-260) |