



Legislative and Regulatory Report

A monthly review of the latest information of importance to retirement plan sponsors

December 2022

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SECURE 2.0 becomes law

On December 29, 2022, President Biden signed into law [H.R. 2617](#), the Consolidated Appropriations Act, 2023. Importantly, the law includes SECURE 2.0, which consists of dozens of retirement security improvements. Passage of SECURE 2.0 is a major accomplishment. Building on the success of 2019's SECURE Act, SECURE 2.0 expands access to retirement plans, increases retirement savings, provides more investment options for participants and simplifies retirement plan operations. The bill containing SECURE 2.0 is over 4,000 pages, with SECURE 2.0 provisions themselves being over 300 pages. Legislative text can be viewed [here](#). The retirement provisions begin on page 2,046. A section-by-section summary of the retirement provisions can be viewed [here](#).

Effective dates for the numerous provisions vary. While some provisions are effective immediately or early 2023, some provisions that require significant compliance steps, such as requiring Roth catch-up contributions, have been delayed. Provisions with Q1 2023 effective dates:

- Option for employees to take nonelective or matching contributions on a Roth basis
- Increase in RMD age to 73 (for those attaining the age of 73 on or after 1/1/23)
- Changes to QLAC income and premium limits
- Allowance for small immediate financial incentives for contributing to a plan
- Elimination of the 457(b) "first day of the month" rule
- Annual notice of eligibility to unenrolled participants

The shift to required Roth catch-up contributions (for employees whose wages exceed \$145,000 in the prior year) is effective for 2024.

IRS proposes remote spousal consent rule

On December 30, the IRS published a [proposed rule](#) titled, “Use of an Electronic Medium To Make Participant Elections and Spousal Consents.” The proposal would make permanent remote witnessing rules that are very similar to the temporary rules that were put in place in response to the COVID-19 pandemic. The IRS’s temporary relief from the “physical presence” requirement for witnessing spousal consents was originally announced in Notice 2020-42 and subsequently extended 3 times. That temporary relief, which allows for remote witnessing under specified conditions, was set to expire December 31, 2022. While the proposal does not technically extend the temporary relief described in Notice 2020-42, the proposal’s conditions are very similar to the conditions described in the IRS’s temporary relief, and taxpayers may rely on the rules set forth in this notice of proposed rule-making.

Bipartisan group introduces TSP (Thrift Savings Plan)-for-all-style retirement proposal

On December 8, Sens. John Hickenlooper (D-CO) and Thom Tillis (R-NC) and Reps. Terri Sewell (D-AL) and Lloyd Smucker (R-PA) [introduced](#) the Retirement Savings for Americans Act. The bill would establish a new federally run retirement program that gives eligible workers access to portable, tax-advantaged retirement savings accounts. It would also offer federal matching contributions for low- and middle-income workers, with the match beginning to phase out at median income. Despite the bipartisan sponsors, the bill does not currently have broad support and importantly is not part of the SECURE 2.0 negotiations. Now that SECURE 2.0 has become law, the Retirement Savings for Americans Act could attract more attention in the next Congress.

References and source material used in this publication

“H.R. 2617 – Consolidated Appropriations Act, 2023,” 117th Congress (2021-2022). [H.R.2617 - 117th Congress \(2021-2022\): Consolidated Appropriations Act, 2023 | Congress.gov | Library of Congress.](#)

“H.R. 2617 – Consolidated Appropriations Act, 2023,” Senate Appropriations, [appropriations.senate.gov/imo/media/doc/JRQ121922.pdf](#) (Dec. 19, 2022).

“SECURE 2.0 Act of 2022,” Senate Finance Committee, [finance.senate.gov/imo/media/doc/Secure%202.0_Section%20by%20Section%20Summary%2012-19-22%20FINAL.pdf](#) (Dec. 19, 2022).

“Use of an Electronic Medium To Make Participant Elections and Spousal Consents: A Proposed Rule by the Internal Revenue Service on 12/30/2022,” [federalregister.gov/documents/2022/12/30/2022-28327/use-of-an-electronic-medium-to-make-participant-elections-and-spousal-consents](#) (Dec. 30, 2022).

“Hickenlooper, Tillis, Sewell, Smucker Introduce Bill to Expand Retirement Savings for Working Americans,” [hickenlooper.senate.gov/press_releases/hickenlooper-tillis-sewell-smucker-introduce-bill-to-expand-retirement-savings-for-working-americans](#) (Dec. 8, 2022).

Keeping watch

You can find the most recent information on issues affecting governmental defined contribution plans, plan sponsors and plan participants on the Employer page of our plan website, [NRSforu.com/plansponsor](#).



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