

A vertical double-headed arrow with gold arrowheads at both ends and a small gold diamond in the center, spanning the height of the text block.

## TXCPA DALLAS CONVERGENCE 2024

MAY 10, 2024

Strictly Confidential. Not for Distribution.



## CONVERGENCE 2024

**STRATEGIC INSIGHTS FOR CPAS: UNLOCKING WEALTH EXCELLENCE  
WITH SECURE ACT 2.0**

## Agenda

- Retirement Benefit Plans
- Compensation Benefit Plans
- 2024 Plan Limits
- Summary of SECURE 2.0 Act of 2022
- Q & A



## Benefits

- Attract, reward, retain, and successfully retire talent
- Promotes long-term viability of company/organization
- Tax-advantaged retirement savings
- Tax deductions for employer
- Tax exclusion and deferral/exemption for employee
- Potential tax-free growth and distributions
- Asset and creditor protection afforded by ERISA

## Considerations

- Access and distribution restrictions
- Limited contributions
- Fiduciary responsibility
- Discrimination testing
- Annual filing requirements

## Plan Types – For Profit

- Defined Contribution
  - Owner-only 401(k) Profit Sharing Plan
  - Simplified Employer Pension (SEP)
  - SIMPLE 401(k) Plan
  - Profit Sharing or Money Purchase Pension Plan
  - 401(k) Deferral Plan
- Defined Benefit
  - Owner-only Cash Balance Pension Plan
  - Owner-only Defined Benefit Pension Plan
  - Cash Balance Pension Plan
  - Defined Benefit Pension Plan

## Plan Types – Not-for-Profit

- ERISA 403(b) Plan
- Governmental 457(b) Plan
- 401(k) Plan
- Defined Benefit Pension Plan

## Benefits

- Attract, reward, retain, and successfully retire mission-critical talent
- Promotes long-term viability of company/organization
- Tax-advantaged savings
- Tax deductions for employer
- Tax exclusion and deferral for employee
- Not subject to rules of ERISA

## Considerations

- Deferred tax benefit for employer
- Subject to rules of IRC 409A
- Substantial risk of forfeiture
- Assets owned by employer
- Plan informally funded
- Subject to general creditors in event of bankruptcy

## Plan Types

- For profit
  - Executive Non-qualified Deferred Compensation Plan
  - 401(k) Mirror Plan/Restoration Plan
  - Excess Benefit Plan
  - Supplemental Executive Retirement Plan (SERP)
  - Long-Term Incentive Plans (LTIPS)
  - Stock Appreciation Rights (SARs)
  - Phantom Stock
- Not-for-Profit
  - 457(b) Plan
  - 457(f) Plan

## 2024 PLAN LIMITS

The Internal Review Code provides for dollar limitations on benefits and contributions under qualified retirement plans. IRS Section 415 requires the limits to be adjusted annually for cost-of-living increases. The calculation of the limits is linked to Consumer Price Index data.

	2024	2023	2022	2021	2020	2019
Elective Deferrals	\$23,000	\$22,500	\$20,500	\$19,500	\$19,500	\$19,000
Catch-Up Contributions	\$7,500	\$7,500	\$6,500	\$6,500	\$6,500	\$6,000
Annual Contribution Limit	\$69,000	\$66,000	\$61,000	\$58,000	\$57,000	\$56,000
Annual Compensation Limit	\$345,000	\$330,000	\$305,000	\$290,000	\$285,000	\$280,000
Highly Compensated Threshold	\$155,000	\$150,000	\$135,000	\$130,000	\$130,000	\$125,000

## What you really need to know

Secure 2.0 was enacted on December 29, 2022, as a part of a larger omnibus spending bill. Building off SECURE Act of 2019, SECURE 2.0 includes the “bigger and better” provisions to expand coverage and encourage savings for Americans.

1. There are staggered effective dates for provisions of SECURE 2.0. Most of the provisions that started on January 1, 2024 are optional provisions, meaning that plans are not required to implement the provision.
2. One provision that is required is related to long-term part-time employees (LTPT) employees. Both SECURE Act of 2019 and SECURE 2.0 included requirements for LTPT employees which commences January 1, 2024 and is clarified in proposed guidance from November 24, 2023
3. The provisions for Roth catch-up contributions that were supposed to start on January 1, 2024 were delayed until January 1, 2026 due to guidance from the Internal Revenue Service (IRS).

## Let's Dive In

Structurally, SECURE 2.0 is bipartisan legislation, which is the compilation of three bills from the House and Senate. There are three key things to consider when reviewing the legislation:

1. **Effective dates:** The effective dates of the provisions are staggered. There are some provisions in SECURE 2.0 that started as soon as the legislation was signed into law on December 29, 2022, and there are other provisions that don't commence until a future effective date.
2. **Plan types and limited circumstances:** There are some provisions that only apply to certain plan types or only apply in very limited circumstances; for example, start-up plans only or 457(b) plans only.
3. **Required versus permissive:** Provisions are either required or permissive, meaning that the provision only applies if the plan elects that provision and many provisions in SECURE 2.0 are simply optional. However, if the plan decides to implement an optional provision, then the plan needs to ensure that the operations and the plan document align. This all requires coordination with those involved in running the plan.

## Technical Corrections

There were undoubtedly errors in combining the three bills that came together to form SECURE 2.0. One of the errors was the elimination of catch-up contributions starting in 2024. When congress drafted Section 603 for the Roth catch-up provision, they eliminated a sub-paragraph of the Internal Revenue Code (the Code) that would have removed all catch-up contributions. Additional legislation was required to correct the “glitch,” so this technical correction as well as others have been drafted and put into proposed legislation that congress is now considering.

## Long Term Part Time (LTPT) Employee Guidance

Think seasonal workers, hospitality, retail, and similar positions. SECURE Act of 2019 changed the eligibility requirements for 401(k) plans. With a few certain exceptions, starting in 2024, plans no longer can have a service condition that prevents employees from making their own salary deferrals if they have worked at least 500 hours for an employer for three consecutive years. Fast-forward to SECURE 2.0 which changed that requirement to cover employees that have worked at least 500 hours for an employer for just two consecutive years. On November 24, 2023, the IRS issued guidance related to when someone qualifies as a LTPT employee and if so, this proposed regulation outlines the special rules for vesting, testing and other items for when someone is a LTPT employee.

## Roth Catch-up Guidance

In August 2023, the IRS gave plan sponsors a surprise gift, which was a reprieve from implementing what is known as the “Roth Catch-up” provision. Section 603 of SECURE 2.0 requires that all catch-up contributions for qualified retirement plans are subject to Roth tax treatment, except for participants with social security tax wages of \$145,000 or less (indexed for inflation). This provision was starting January 1, 2024. The IRS’ announcement meant that, practically speaking, the provision will now be effective January 1, 2026.

## Roth Employer Contribution

Speaking of Roth provisions, there was an optional provision that started at the date of enactment in section 604, which would allow employer matching or nonelective contributions to be Roth contributions. This optional provision is not widely used at this time for a few reasons. First, there are outstanding tax questions as to how this should be captured on either a W2 or 1099R at the end of the year. Second, there are questions as to how payroll providers and recordkeepers will update their systems to accommodate this provision. Until there is additional guidance from the IRS on this provision, it is not anticipated to be widely utilized (at least not at this point given the circumstances), though it is technically an available provision plans can add.

### Optional Provisions for 2024

As mentioned above, there are many provisions of SECURE 2.0 that are optional provisions. For example, the following optional provisions become available starting January 1, 2024: student loan payments as elective deferrals for matching (section 110); emergency withdrawals (section 115); emergency savings account (section 127); updating dollar limit for mandatory distributions to \$7,000 (section 304); and domestic abuse withdrawals (section 314).

## Action Items for Plan Sponsors

Plan sponsors are encouraged to continue to pay attention to SECURE Act of 2019 and SECURE 2.0 even though it may seem like a nagging headache. Here's a few action items to consider:

1. Determine if there are any required provisions that apply to your plan that need your attention for 2024 such as the LTPT employee provision.
2. For those optional provisions that may interest your organization to attract and retain employees, for example, discuss with your service providers including your recordkeeper and payroll provider to determine if they can support such provisions yet (and if not, when those provisions will be available).
3. For optional provisions that are available, talk to the business stakeholders at your organization and determine if they will add available provisions, as some of the optional provisions may have financial impacts on the organization.
4. Work with a knowledgeable plan advisor or consultant to assist you as you continue to monitor for additional guidance and updates from the IRS and DOL, which will likely continue for months and years to come.

## SUMMARY OF SECURE 2.0 ACT OF 2022

### What & When

SECURE 2.0 Section	Provision	Description	General Effective Date
331	Natural Disasters	Provides permanent rules relating to the use of retirement funds in the case of qualified disaster. Distributions are limited to \$22,000 per disaster (rather than the usual \$100K). May be repaid in 3-year period after distributions. Income inclusion spread over 3 years. Additionally, amounts distributed prior to the disaster to purchase a home would be permitted to be recontributed, and an employer would be permitted to provide for a larger amount be borrowed from a plan by affected individuals and for additional time for repayment of plan loans owed by affected individuals.	2021
326	Distributions: Terminally Ill Exemption	Provides an exception to the 10% early distribution tax for distribution to a terminally ill individual. Must provide evidence required by plan administrator. May be repaid.	2022
333	IRAs: Elimination of Penalty	Exempts excess contributions to IRA (and earnings) that are timely returned from the 10% tax on early distributions.	2022
604	Optional Treatment of ER Contributions as Roth contributions	401(a) plan, 403(b) plan, or a governmental 457(b) plan may permit an employee to designate matching or nonelective contributions as designated Roth contributions.	2022

# SUMMARY OF SECURE 2.0 ACT OF 2022

## What & When

SECURE 2.0 Section	Provision	Description	General Effective Date
107	RMDs: New Required Beginning Dates	The required beginning date for required minimum distributions (RMDs) is age 73 beginning in 2023, and age 75 beginning in 2033. Hard cut-off; based on birthday (age 72 before 2023 = age 72; turn age 73 before 2033 = age 73; age 74 after 2032 = age 75).	2023
302	RMDs: Reduction in Retirement Plan Excise Taxes	Reduces the excise tax for failure to take a required minimum distribution (RMD) to 25% from 50%, and further reduces the excise tax to 10% for taxpayers who take the required RMD before an IRS audit or (if earlier) the second year after the year in which the excise tax is imposed.	2023
113	401(k)s: Small Immediate Financial Incentives for Contributing to a Retirement Plan	Allows de minimis financial incentives in 401(k)s and 403(b)s for employees "who elect to have [deferrals made]." Cannot be paid for by the plan. De minimis not defined.	2023, PYB
312	Distributions: EE Certification of Deemed Hardship Conditions	In determining whether a distribution is due to an employee hardship, plan administrator of a 401(k), 403(b), or 457(b) plan may rely on the employee's certification that the distribution is on account of an eligible hardship / emergency, not in excess of amount needed, and no alternative means to satisfy need. Treasury may restrict in regs for actual knowledge.	2023, PYB

# SUMMARY OF SECURE 2.0 ACT OF 2022

## What & When

SECURE 2.0 Section	Provision	Description	General Effective Date
102	Tax Credit: Small Employer Pension Plan Start-up Credit Modification	Establishes a new credit and expands an existing credit. Startup credit increased to 100% for companies with 50 or fewer employees. The existing cap of \$5,000 per employer would be retained. The new credit offsets up to \$1,000 of employer contributions per employee in the first year, phased down gradually over 5 years. Applies to companies with 100 or fewer employees, however, it is phased out for those with more than 50 employees. No credit for contributions to any employee making more than \$100k (indexed after 2023). NOTE: no deduction for employer contributions qualifying for credit.	2023, TYB
307	Distributions: Qualified Charitable Distribution Rule Modifications	Indexes the annual \$100,000 exclusion limit after 2022. Allows a one-time \$50,000 distribution from an IRA to a split-interest entity.	2023, TYB
601	SIMPLE and SEP: Roth Permitted	Under the provision, a SEP and a SIMPLE IRA are permitted to be designated as Roth IRAs.	2023, TYB

# SUMMARY OF SECURE 2.0 ACT OF 2022

## What & When

SECURE 2.0 Section	Provision	Description	General Effective Date
110	Student Loan Matching Program	Permits employers to match student loan payments under 401(k), 403(b), SIMPLE, and 457(b) plan as if those payments were elective deferrals. May rely on EE certification re: payment amount. * ER contribution treated as a match. * Can test ADP separately for those receiving loan match (repayment not treated as deferral).	2024, PYB
121	Starter 401(k)	Permits an employer that does not sponsor a retirement plan to offer a starter 401(k) plan (or safe harbor 403(b) plan). Requires that all employees be default enrolled in the plan at a 3% to 15% of compensation deferral rate. Could exclude union, non-resident aliens, and age/service excludable. No employer contributions permitted. The limit on annual deferrals is \$6,000 with an additional \$1,000 in catch-up contributions beginning at age 50. Indexed after 2024. No ADP or top-heavy testing required. <b>Future technical correction:</b> Text doesn't match summary/intent. Summary says limits will match IRA limits, but the text limits deferrals to \$6,000 rather than picking up the increased IRA limits for future years.	2024, PYB
315	Family Attribution Rule Fixes	Disregards community property rules for ownership under CG and ASG. Spouse not attributed options of a minor child. Disaggregates businesses if the only common ownership link is attribution of parental ownership to a child. A change in CG/ASG status is treated as 410(b)(6)(C) transaction	2024, PYB

## SUMMARY OF SECURE 2.0 ACT OF 2022

### What & When

SECURE 2.0 Section	Provision	Description	General Effective Date
125	Long-Term, Part-Time (LTPT) Worker Definition Modification	Requires part-time workers who work for at least 500 hours per year for two years to be eligible to make employee contributions to an employer's defined contribution retirement plan. Adds provision to ERISA, covering 403(b) plans. Such provision ignores service for vesting and eligibility prior to 2023. Changes 401(k) provision, to exclude vesting service prior to 2021. Effective 2025PY, but vesting change and top heavy exemption fix effective as if included in the enactment of section 112 of SECURE Act.	2025, PYB

# Questions & Next Steps

Q&A

Thank you!



**Christopher D. Cervantes, C(K)P®, CIMA®, CFP®, CRPC®, NQPA®**  
**Founder & Managing Partner**



5700 Tennyson Pkwy, Suite 250, Plano, TX 75024  
Main Phone: (214) 800-4450  
[christopher.cervantes@valorousadvisors.com](mailto:christopher.cervantes@valorousadvisors.com)  
[www.valorousadvisors.com](http://www.valorousadvisors.com)



## CONVERGENCE 2024