THE SECURE 2.0 ACT OF 2022

(SECURE 2.0) made sweeping changes to laws affecting retirement plans. This reference chart provides a brief description of some of the changes that affect **403(b) plans**.

Red denotes TRA's defaults for optional provisions.

Effective Immediately	**Required Minimum Distributions (RMDs)** *Mandatory*	The penalty for failing to take an RMD decreased to 25% of the RMD amount, from 50% currently, and 10% if corrected in a timely manner. The age to start taking RMDs increased to age 73 in 2023 and will increase to 75 in 2033.
	Self-certification for hardship withdrawals *Optional* *Permitted*	Participants can self-certify the existence of a financial need. For example, they no longer need to present medical bills to prove medical expenses.
	Increased tax credits for plan start-up expenses *Optional* *Not Permitted*	Employers with 50 or fewer employees receive a tax credit increase from 50% to 100% for eligible start-up costs. The 50% credit remains the same for Employers with between 51 and 100 employees. The credit is subject to a dollar cap. The minimum credit is $500, and the maximum is $250 times the number of eligible non-highly compensated employees, with a maximum credit of $5,000.
	Additional tax credit for percentage of plan contributions *Optional* *Not Permitted*	Employers with up to 50 employees: additional tax credit of 100% of employer contributions up to $1,000 per participant for the first two years. The cap decreases by 25% in years 3, 4, and 5. Employers with 51 to 100 employees: the credit decreases by 2% for every employee over the 50-employee threshold. **Credit is not available with respect to those employees earning over $100,000 (indexed) with deferrals or if there are defined benefit plan contributions.*
	De minimis financial incentives to encourage enrollment *Optional* *Permitted*	Employers can now entice employees to start making 401(k) deferrals by offering "de minimis" financial incentives. A de minimis financial incentive may not exceed $250 in value. The cost of incentives cannot be paid for with plan assets, is includible in the employee's gross income and wages, and is subject to applicable withholding and reporting requirements for employment tax purposes.

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Effective Immediately	**Roth treatment for employer-matching and nonelective contributions** *Optional* *Not Permitted*	Employers can permit employees to designate employer matching or nonelective contributions as Roth contributions. Student loan matching contributions may also be designated as Roth contributions. Matching and nonelective contributions designated as Roth contributions are not excludable from the employee's income and must be 100% vested when made.
	Special distribution/loan provision for federally declared disasters *Optional* *Permitted*	Established permanent rules for natural disasters, permitting up to $22,000 in "qualified disaster recovery distributions" that are not subject to the 10% tax on early distributions. Qualified disaster recovery distributions are eligible to be taken into income over three years and can be repaid to the plan. In addition, for individuals who experience a qualified disaster, the maximum plan loan limit can be increased up to $100,000 (or 100% of the participant's account balance, if less), and a one-year extension of any loan repayment period can be provided.
	Recovery of Overpayments of Benefits *Optional* *Permitted*	SECURE 2.0 amends ERISA to permit both pension plans and individual account plans to recover benefit overpayments, and the requirements are different. SECURE 2.0 provides new guidance to fiduciaries and plan sponsors on recovery of overpayments, and when overpayments can be permitted to exist as long as the employer makes corrective contributions or has forfeitures to make up the funds lost to the plan. There are restrictions on how the overpayments would be corrected and when they must be corrected.
	Repayment of Birth or Adoption Distributions *Mandatory*	Effective for birth or adoption distribution after December 29, 2022, such distributions must be repaid within three years from the date of the distribution. For birth or adoption distributions that occurred prior to the December 29, 2022, the distribution, or the elected withdrawal, must be repaid before January 1, 2026.
	EPCRS Changes *Mandatory*	EPCRS, an Internal Revenue Service (IRS) program that provides rules for correcting retirement plan errors, to among other things, has been significantly expanded. The changes include an increased availability of self-correction of retirement plan errors and provide for expanded options for correcting plan loan issues.
	Additional Investment Options: Common Investment Trusts (CIT) *Optional* *Permitted*	A CIT is a tax-exempt pooled investment vehicle that holds assets attributable to certain types of employer-sponsored retirement plans. Current securities laws prevent CITs from holding 403(b) plan assets. However, SECURE 2.0 expanded 403(b) plan investment options to include CITs. We expect the securities laws to be fixed with later legislation to align with SECURE 2.0.

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Effective 2024	**Required Minimum Distributions (RMDs)** *Mandatory*	RMDs will no longer be required from Roth accounts in Employer retirement plans. This means Roth balances will no longer be included in the RMD calculation.
	Increased dollar limit for Mandatory Cash-Outs for terminated participants *Optional* *Increased if plan's current limit is $5,000*	$5,000 maximum limitation will be increased to $7,000
	Matching student loan payments *Optional* *Not Permitted*	Employers will be able to "match" employee student loan payments with matching payments to a retirement account, giving workers an extra incentive to save while paying off educational loans.
	Emergency savings (PLESA) *Optional* *Not Permitted*	Employers will be able to offer the emergency savings account to their 401(k) plan. Employees could access the account at least once a month to cover unforeseen expenses, without incurring any taxes or penalties. These are only available for non-highly compensated employees (NHCEs) and must be made as PLESA Roth. NHCEs can be automatically enrolled at 3% or less and can contribute until the account reaches a balance of $2,500. If the plan provides for matching contributions, these emergency savings contributions would be eligible for a match as well.
	Allowing $1,000 emergency withdrawal penalty free *Optional* *Not Permitted*	Certain withdrawals from 401(k) and 403(b) plans for emergency expenses will not be subject to the 10% tax on early distributions. Only one emergency expense withdrawal of up to a maximum of $1,000 is permissible each year. The participant must be allowed to repay the withdrawal within the following three years. Additional emergency expense withdrawals within the three-year period are limited if repayment has not been made or additional contributions have not been made equal to or exceeding the repayment amount.
	Hardship Source Expansion Withdrawal Availability *Optional* *Permitted*	SECURE 2.0 brings 403(b) hardship regulations in line with 401(k) hardship requirements. 403(b) plans can now allow hardship withdrawals of earnings attributable to the employee's elective deferrals as well as distributions from qualified non-elective and matching contributions sources.

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Effective 2024	**Domestic Abuse Distributions** *Optional* *Not Permitted*	A distribution may be made to a participant that self-certifies that they are a victim of domestic abuse. These distributions are exempt from the additional 10% tax on early distributions and can be repaid for up to 3 years following the distribution. There are restrictions related to these types of distributions, such as the amount and sources available.
	Surviving Spouse Election Regarding RMDs *Optional* *Permitted*	This provision allows a surviving spouse who is the participant's sole beneficiary for required minimum distribution (RMD) purposes, to elect to use the uniform lifetime table for the applicable distribution calendar years after the calendar year of the participant's death Additional guidance is needed if this election can only be made by the participant or if the spouse will be able to make this election.

Effective 2025	**Long-Term Part-Time (LTPT) Employees** *Mandatory for ERISA plans only*	The long-term, part-time (LTPT) employee rules apply if the 403(b) plan excludes employees who normally work less than 20 hours per week (or designates hours less than 20) from making elective deferral contributions. There are two other exclusions permitted in 403(b) plans that may also subject the plan to the LTPT employee rule: 1) student employees working for a school, college, or university; and 2) employees whose contribution would be $200 or less. Until guidance is received, it is not clear whether continuing these two exclusions will cause the plan to be subject to the LTPT rules. An employee would be considered an LTPT employee if they reached age 21 and worked at least 500 hours in two consecutive years.
	Higher catch-up contributions *Optional* *Undetermined*	For 401(k), 403(b), and governmental plans, individuals ages 60 through 63 years old will be able to make catch-up contributions up to $10,000 (indexed). The catch-up limit for people age 50 and older in 2023 is $7,500; this remained the same for 2024.
	Automatic Enrollment Requirement *Mandatory*	All 401(k) and 403(b) plans newly established on or after December 29, 2022 will be required to have an Eligible Automatic Contribution Arrangement (EACA) feature. This includes automatic enrollment at a default rate of between 3% and 10% with a 90-day withdrawal option and automatic escalation of 1% per year up to a maximum of at least 10%, but no more than 15%. This new provision will not apply to governmental plans, church plans, small employers with 10 or fewer employees, SIMPLE plans, or new employers that existed for less than three years.

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Effective 2026	**After-tax Roth Treatment for Catch-up Contributions** *Mandatory*	Participants who earned over $145,000 (indexed) in the prior year can only make Catch-up Contributions as after-tax Roth.

Effective 2027	**Qualified Long-term Care Distributions** *Optional* *Undetermined*	This provision permits retirement plans to provide for distributions for the payment of premiums for certain specified Qualified Long-Term Care Distributions. Such distributions are exempt from the additional 10% tax on early distributions.

Other provisions that do not have a specific effective date:

Lost and Found: By December 29, 2024, the Secretary of Labor is to establish a searchable database for retirement savings lost and found for participants and beneficiaries to use to locate the administrators of plans, and to assist individuals in locating those plans. This allows Secretary of Labor to update that database with information on plan mergers, consolidations, bankruptcy, termination or to change the plan or change to the plan name. Searches of the database to locate new retirement benefits found, and it is established under ERISA for ERISA plans. The database will require a recording of the name of the plans and changes in the names of plans. Administrators must provide information on when participants' benefits transfer to an annuity or when they were reported on the Form SSA and provide such information to the Department of Labor.

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