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Arrow Point Tax Services

Duncan Kelm

707.280.0824

duncan@arrowpointtaxes.com

Secure Act 2.0 Summary

Just prior to the holiday weekend, the House and the Senate jointly passed a new bill that modifies many tax and retirement laws. This Bill is referred to as Secure Act 2.0, and is the "follow on" legislation to Secure Act 1.0 which became law in December of 2019.

The SECURE 2.0 Act, which is expected to be signed into law, includes a range of changes that are intended to improve the stability and security of the retirement system, as well as help Americans feel more financially prepared for retirement.

For those inclined, you may read the 2046-page Act here

Not in this Act:

- **No limits on back-door Roths**
- **No Roth conversion restrictions**
- **No change to charitable distribution age**
- **No clarifying the 10 year rule (Which killed the stretch IRA)**
- **No Qualified Small Business Stock ("QSBS") change**

Key Highlights of the Act:

- **Required Minimum Distribution ("RMD") age increases**
- **529-to-Roth IRA Transfers**
- **New Roth Rules**
- **Qualified Charitable Distribution ("QCD") changes**
- **Reduction in penalties for failing to take an RMD**
- **Roth 401(k)s no longer required to take RMDs (Similarly to IRAs)**
- **Increased catch up contributions for all retirement accounts**
- **Increased benefits for employers to offer retirement plans for employees**

Detailed Summary:

- **Required Minimum Distribution Age Changes**
  - Beginning in 2023 the new RMD age is 73 years old then ultimately moves to 75 years old
  - Simplified version:
    - Born 1950 or earlier – no change
    - Born 1951-1958 – RMDs start at age 73
    - Born 1959 – RMDs start 73 or 75 depending on when you turn 73
    - Born 1959 or later – RMDs start at 75
- **529-to-Roth IRA Transfers**
  - The transfer may only be made to the Roth IRA of the 529 Plan **beneficiary**, not the owner
  - The account must have been maintained for **15+ years** before transfers are allowed
    - Change in beneficiary does not appear to restart the clock – see planning item below
  - The maximum transfer in any given year is limited to the annual IRA contribution limit for that year (this adjusts semi-regularly)
    - In 2023 $6,500 or $7,500 for those over 50+ years old
  - $35,000 maximum transfer over the course of a lifetime for any single individual
  - May not transfer contributions made over the last five years
    - This includes earnings on the contributions, which makes this a very difficult item to track
  - Transfers may begin to be made in 2024 assuming the other requirements are met
  - No income restrictions on transfers
    - Unlike Roth IRAs which restrict who can contribute annually, there are no income limits
  - *Planning Item: If a beneficiary change won't restart a new 15-year hold period, owners should consider leaving a balance in a 529 plan to allow that beneficiary to convert to a Roth IRA in the future, as long as they can cover the cost outside of the 529*
    - *It also makes sense for those with a longer term horizon to open a 529 account in their own names to begin the 15+ year seasoning process*
- **RMD Requirements Removed for Roth 401(k)s & Roth 403(b)s**
  - Roth RMDs for both 401(k)s and 403(b)s are eliminated starting in 2024
  - This is in line with how Roth IRAs are treated and now reduces the need to rollover into a Roth IRA
- **Small Business Tax Credit for Retirement Plans – Aka Start Up Credit**
  - For employers with less than 50 employees the tax credit is increased to 100% of the start-up costs
  - Provides an additional credit for the next five years of $1,000 per employee, equal to the applicable percentage of employer contributions
- **SEP and SIMPLE Roth IRA Accounts Created**
  - Both account types are new and did not exist before
  - SIMPLE IRAs do not have the ability to convert to a SIMPLE ROTH IRA for the first two years of the plan
  - SEP IRA owners have the ability to convert immediately if they wanted to
  - Employer deposits into the accounts are taxable
- **Employer Roth Match Contributions**

  - Employers will have the flexibility to offer matching as Roth contributions for Roth retirement plans
  - The Employee will be taxed on these contributions as other income
  - This change is effective immediately
  - *Planning Item: For those in the higher income brackets, best to continue to take the match as a traditional amount and defer taxation*
- **Catch Up Contribution Changes – Roth Only**
  - Starting in 2024, anyone who had income greater than $145,000 will only be allowed to make catch up contributions as Roth contributions
  - Those interested in reading more Section 603 (Pg 2368)
- **Qualified Charitable Distribution Rule Changes**
  - The maximum QCD amount remains at $100,000, but begins to have Cost of Living Adjustments ("COLA") in 2024 and beyond
  - *Planning Item: Anyone considering a large charitable gift may want to consider redirecting RMDs as the threshold has now jumped substantially*
  - A new rule allows for a one-time contribution for $50,000 to one of the following:
    - Charitable Remainder Trust ("CRUT")
    - Charitable Annuity Trust ("CRAT")
    - Charitable Gift Annuity
    - Certain rules apply when doing this
      - With CRUTs and CRATs they can only be created to benefit the owner and/or spouse
      - The complexity and the cost to maintain these, likely far outweigh the benefits
- **Increased Contributions for Those Close to Retirement**
  - Starting in 2024 the IRA catch up contribution will begin to have COLAs associated with them
    - In the past it has always been stuck at $1,000
  - 401K catch ups for individuals who are age 60 – 63
    - Either $10,000 or 150% of the regular catch-up starting in 2025
- **New Emergency Withdrawal Provisions**
  - Starting in 2024, owners may take a $1K distribution from their accounts
    - Until it is paid back, or three years has elapsed you cannot take another
  - Age 50 benefit to allow earlier penalty free access expanded for certain sectors
    - State and local correction officers
    - Private firefighters
  - Penalty free distributions if under eligible retirement age if terminally ill
    - Terminally ill is defined as death expected within seven years
  - Domestic abuse victims can access some funds penalty free
    - The lesser of $10,000 or 50% of the balance beginning in 2024
  - Qualified Disaster Distribution – permanently implemented
    - Retroactive to disasters on or after 1/26/2021
    - Income is allowed to be spread over three years
    - It can be repaid
    - Limited to $22,000 maximum
  - Qualified Long-Term Care ("LTC") penalty free distributions

        - Up to $2,500 per year for LTC insurance premiums may be used
    - Modifications to 72(t) rules
        - Allows for partial splits between different accounts to complete the required 72(t) distribution
- **New Account Type – Emergency Savings Account**
    - Begins in 2024
    - They will be offered with a retirement plan
    - Highly compensated employees will be ineligible
    - Maximum contribution is $2,500
    - Employer must match contributions as if made to retirement account if they are not already maxing out the match through a retirement plan
    - Tax-free distributions for the employee
- **Spousal IRA Flexibility upon Death**
    - Begins in 2024
    - New rule allows for surviving spouse to take RMDs from a deceased spouse's IRA account as if they were the deceased spouse
    - They would be permitted to delay RMDs until the decedent would have taken them
- **SIMPLE IRA Changes**
    - Beginning in 2024 there will be an additional Non-elective contribution to SIMPLE that would the lesser of either be 10% of compensation or $5,000
        - This effectively is adding a mandatory profit sharing component to SIMPLE IRAs
    - Varying rules based on the number of full time employees
        - Employers with 25 or fewer employees would have deferral and catch-up limits increased by 10%
            - Employees could put more away
        - Employers with 25 or more employees would have regular limits unless they increased their match to 4% or their nonelective contribution to 4% (Generally 3% and 2%), then they would be eligible for the 10% increase
- **RMD Penalty Changes**
    - Starting in 2023 the penalty for missing an RMD is reduced from 50% to 25%
    - If the mistake is timely corrected, the 25% amount is further reduced to 10%
    - No longer an endless timeframe that the IRS may assess penalties
        - The statute of limitations for assessing penalties will now be tied to the 1040 and will be 3 years from that filing
            - Excess contribution statures will be for 6 years
    - Expansion of EPCRS (the system to fix retirement account mistakes)
- **New Starter 401(k) and 403(b) Plans**
    - Begins in 2024
    - A different type of account with alternate rules
    - Deferral elections only
    - Default auto-enrollment of 3% to 15%
        - Everyone is automatically enrolled to save, they have to elect to not withhold
    - Contribution limits pegged to IRAs
        - $6,500 / $7,500 in 2023

- **Savers Match Program**
  - A government match for certain income eligible people
  - Essentially replaced in the saver's tax credit, this is now a program that creates an income tax credit in the form of a contribution to a retirement account
  - Maximum match will be $1,000 annually
- **Qualified Lifetime Annuity Contract ("QLAC") Changes**
  - QLACs are a strategy to defer a portion of RMDs to a later age
  - The limits were increased to $200,000
    - 25% of retirement account rule repealed
- **New Threshold for Eligibility for Retirement Plans**
  - Part-time workers will only need two consecutive years of 500+ hours to qualify for plan participation starting in 2024
- **New Military Spousal Tax Credit for Employers**
  - Employers who provide military spouses special plan benefits will be entitled to a new credit of up to $500 for up to 3 years per spouse
- **Student Debt Payment with Match to Retirement Account**
  - Beginning in 2024 plans can treat student loan payments as elective deferrals for matching purposes
  - Employee pays student debt; employer will contribute to 401(k)
  - Matches must be at the same rate as if the money went directly into the 401(k)
  - Vesting schedule for matches would be the same for deferrals
  - Employees will be required to certify to Employers that they made their loan payments
- **S Corp Stock Sale**
  - Beginning in 2028 sales of certain S Corp stock to an Employee Stock Option Plan ("ESOP") will qualify for up to a 10% deferral
  - Currently, only C Corps are eligible for this
  - Existing rules will remain
    - ESOP must own at least 30%+ of the business after the transaction
    - Shares must have been owned for 3+ years
    - Will have 12 months to invest in qualified replacement property