

Game- Changing Opportunities

with Ernie Guerriero

CLU[®], ChFC[®], CEBS, CPC[®], CMS, AIF[®], RICP[®], CPFA



April 2024
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Consolidated
PLANNING

SECURE Act An Advisors Guide

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 - 2020
 - 2022 and 2023
 - 2024
- Looking to 2026

Overview



- Consolidated Appropriations Act, 2023 – 4,126 pages
- Signed into law by President Biden on December 29, 2022
 - Division T –Secure 2.0 Act of 2022
 - 92 Provisions
 - 350 pages
 - Provisions range from retroactive to 2033
 - Expect additional changes, clarifications, and guidance

Overview



Seven Titles

- I. Expanding Coverage and Increasing Retirement Savings
- II. Preservation of Income
- III. Simplification and Clarification of Retirement Plan Rules
- IV. Technical Amendments
- V. Administrative Provisions
- VI. Revenue Provisions
- VII. Tax Court Retirement Provisions



EGTRRA



Savers Credit (The Economic Growth and Tax Relief Reconciliation Act of 2001)

- Taxpayers must be 18 years of age and older.
- Not claimed as a dependent and not a full-time student
- Income limits based on a taxpayer's adjusted gross income and their marital or filing status.
 - 2023 Married filing joints up to \$73,000 (2024 up to \$76,500)
 - 2023 Single filers up to \$36,500 (2024 up to \$38,350)
- Maximum contribution amount
 - Married filing jointly \$4,000 (maximum credit \$2,000)
 - Single filers \$2,000 (maximum credit \$1,000)

Provisions



Defined Benefit Plan Asset Transfer – Section 606 began 2022

- Defined Benefit Plans can transfer excess pension assets to Retiree Health Accounts until Dec. 31, 2032 (extended from Dec. 31, 2025).
- The minimum level of plan funding for certain de minimis transfers (i.e., not exceeding 1.75% of Plan assets) has decreased to 110% (from 125%).
- The cost maintenance period for those transfers is extended from 5 to 7 years.

Provisions



Military Spouse Credit – Section 112 began 2023

- \$200 credit/spouse
- Up to \$300 credit for employer contributions
- Credit is for 3 years
- Only for small employers
- Not for HCEs
 - Employees self certification, must provide:
 - Active Duty
 - Name
 - Rank
 - Service Branch

Provisions



Small Business Credit, Section 102 began 2023

- Start Up Credit increased to 100% up to \$5,000
- New Contribution credit
 - Up to \$1,000/employee
 - Defined Contribution Plans only
 - Credit is 100% for plans with 50 or less employees
 - Phased out for 51-100 employees
 - Not eligible for employees making >\$100,000
 - Five-year credit, 100% first two years, 75%, 50%, 25%



Provisions



Required Minimum Distributions – Section 107 –2023 to 2033

- Secure Act increased RMD from 70 ½ to 72
 - Secure 2.0 increases RMD from 72 to 73
 - Must attain age 72 by 12/31/22, and age 73 before 1/1/2023
 - RMD age increases to 75 in 2033. Must attain age 74 after 12/31/32



Provisions



RMD Penalty Reduction – Section 302 begins 2023

- Penalty reduced 25% from 50%
- 2-year window
- Reduced to 10% if corrected in timely manner



Provisions



Qualifying Longevity Annuity Contract (QLAC) – Section 202 began 2023

- Treasury has 18 months to amend its QLAC regulations as follows:
 - Eliminate requirement that premiums not exceed 25% of a participant's account balance
 - Increase the dollar limitation on premiums to \$200,000 (from \$125,000) and provide for indexing starting in 2024
 - Allow ex-spouses to receive spousal benefits pursuant to a qualified domestic relations order (QDRO) or similar divorce or separation instrument
 - Allow “free look” rescission periods up to 90 days

Provisions



Increased SIMPLE IRA Deferral and Catch-up Contribution Limits – Section 117 began 2023

– SIMPLE IRA contribution limits are increasing as follows:

- Annual deferral and age 50 catch-up contribution limits will increase by 10%.
- For employers with 26–100 employees, increased limits apply only if employer increases its required SIMPLE match or nonelective contribution (as applicable) by 1 percentage point.
- Similar changes apply to SIMPLE 401(k) plans.

Provisions



Increased SIMPLE-IRA Catch-up Contribution Limits – Section 109 began 2023

- The catch-up contribution limit for participants ages 60–63 will increase to the greater of the following two amounts:
 - \$5,000
 - 150% of the 2025 catch-up contribution limit for other SIMPLE participants
 - Both amounts are indexed after 2025.

Provisions



SIMPLE and SEP Roth IRAs - Section 601 began 2023

- SIMPLE-IRAs may accept Roth contributions
- Grandfathered Salary Reduction SEPs (SARSEPs set up prior to 1997) may accept Roth contributions
- SEPs may offer employees the ability to treat contributions as Roth (in whole or part).



Provisions



Matching and Nonelective Contributions as Roth -
Section 604 began 2023

- Participants may have the option of receiving contributions as Roth



Provisions



403(b) Plan Investment in Collective Investment Trusts (CITs) – Section 128 began 2023

- IRC Section 403(b) now allows custodial accounts to invest in group trusts with qualified plans and IRAs.
- SECURE 2.0 DOES NOT include the changes to federal securities laws (SEC) needed to fully operationalize this provision.



Provisions



Student Loans – Section 110 in 2024

- Student loans treated as deferrals for matching purposes
- 401(k), 403(b), 457(b), SIMPLE IRA
- Employee self certification
- Employer match can be annually
- Deadline at least 3 months after plan year



Provisions



Emergency Expenses – Section 115 began 2024

- \$1,000/year
- Penalty free withdrawal
- Financial needs relating to personal or family emergency expenses
- 1 per 3 years unless paid back
- Employee self certification



Provisions



- Pension-linked Emergency Savings Account – Section 127 began 2024
 - Only for Non-Highly Compensated Employees (NHCEs)
 - Up to 3% of pay, \$2,500 cap
 - Roth contributions
 - Overcontributions can be transferred to Roth IRA, or stopped
 - Subject to match
- First 4 distributions/year must have no fees, allowed at least 1 withdrawal/month
 - “Side-car” account picked by sponsor
 - Money market
 - Interest bearing
 - Preserve principal

Provisions



Penalty-free withdrawal from retirement plans for individual case of domestic abuse – Section 314 began 2024

- A domestic abuse survivor may need to access his or her money in their retirement account for various reasons, such as escaping an unsafe situation.
- Self certification
- Lesser of \$10,000 or 50% of account balance
- Not subject to the 10% penalty
- Opportunity to repay over 3 years with refund for income taxes

Provisions



Penalty-free withdrawals for terminal illness - Section 326 begins 2024

- The early withdrawal penalty does not apply to distributions to participants certified by a physician as having a condition reasonably expected to result in death within 84 months after the date of certification.
- Statute does not limit the amount or number of distributions that can be made available.
- Distributions can be repaid within 3 years.
- The participant must furnish “sufficient evidence” to the plan administrator in the form and manner that Treasury may prescribe.

Provisions



Qualified Long Term Care Distributions - Section 334 began 2024

- Plans can offer distributions with no early withdrawal penalty to pay for certified long-term care insurance premiums for a participant or the participant's spouse.
- Distributions are limited each calendar year to the least of the following amounts:
 - The annual premium paid by or assessed to the participant
 - 10% of the participant's vested benefit
 - \$2,500 (indexed after 2024)
- Certified long-term care insurance means a qualified long-term care insurance contract covering qualified long-term care services.

Provisions



Sole Proprietor and Single Member LLC 401(k)
Deferrals – Section 317 began 2024

- Only for sole proprietors and single members of an LLC
- Only in their first year
- Deferral deadline is extended from end of year to tax filing deadline, no extensions

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Provisions



Additional Nonelective Contributions for SIMPLE IRA Plans – Section Sec. 116 began 2024

- Employer can make nonelective contributions to SIMPLE plans above the minimum contribution for employees with at least \$5,000 in compensation.
- The additional contribution must not exceed the lesser of 10% of compensation or \$5,000 (indexed).



Provisions



Catch-up Contributions Roth – Section 603 began 2024

- All catch-up contributions must be Roth
- Compensation is greater than \$145,000

.



Provisions



Mid-Year Replacement of SIMPLE IRAs with Profit Sharing Safe Harbor 401(k) Plans – Section 332 began 2024

- Contribution limits are prorated during the transition year.
- 2-Year SIMPLE IRA penalty waived



Provisions



Long Term Part Time Employees (LTPT) Section 125 begins 2025

- LTPTs are employees who are eligible to participate in a 401(k) plan solely by reason of having:
 1. Completed 2* consecutive 12-month periods during each of which the employee has at least 500 hours of service; AND
 2. Reached age 21 by the last day of the 2* consecutive 12-month periods.
- The following are excluded from LTPT status entirely:
 - Union employees if retirement benefits were bargained; and
 - Nonresident aliens with no U.S.-source income.
 - ??? Reasonable Job Classification ???

* For plan years beginning in 2024, the period is 3 years

Provisions



Auto Enrollment – Section 101 for 2025 required Amendment

- 401(k) and 403(b) plans
- Must start at 3%, can be up to 10%
- Must have escalation of 1% to 10% or max of 15%
- \$500 credit per year with the first taxable year the employer includes this feature
- Exemptions:
 - 10 or fewer employees
 - businesses less than 3 years old
 - Church and Government Plans

Provisions



Higher Catch-up limit to apply at age 60, 61, 62, and 63 – Section 109 begins 2025

- Increases the Catch-up limit to the:
 - Greater of \$10,000 or
 - 50 percent more than the regular catch-up amount in 2025 for individuals who have attained ages 60, 61, 62 and 63.

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Provisions



Tax deferral for certain sales of employer stock to an ESOP sponsored by an S-Corporation – Section 114 begins 2028

- Qualified Replacement Property under IRC Section 1042
- Limited to 10 percent on the deferral to sales of employer stock
- Effective after December 31, 2027



Changes Coming 2026



Section 103, Saver's Match.

- Repeals and replaces the credit with respect to IRA and retirement plan contributions,
- Changing it from a credit paid in cash as part of a tax refund into a federal matching contribution that must be deposited into a taxpayer's IRA or retirement plan.
- The match is 50 percent of IRA or retirement plan contributions up to \$2,000 per individual.
- The match phases out
 - Married filing jointly (\$41,000 and \$71,000
 - Single filers (\$20,500 to \$35,500
- Section 103 is effective for taxable years beginning after December 31, 2026.

Changes Coming 2026



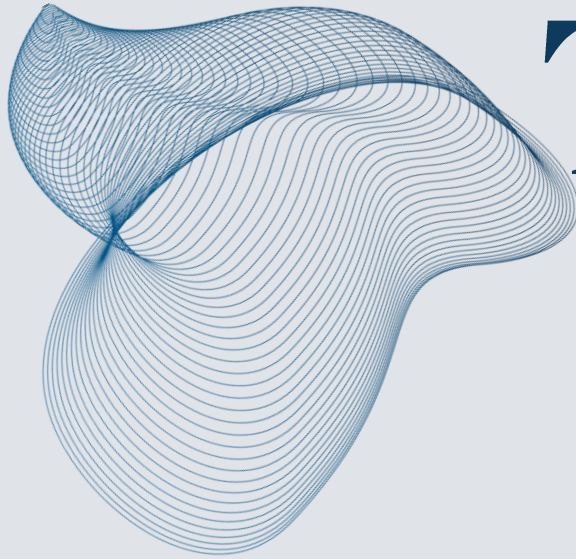
- General Amendment Deadlines December 31
- The Tax Cuts and Jobs Act of 2017 (TCJA)
 - Lowered marginal tax rates will sunset January 1, 2026 unless Congress acts to extend them.
 - Tax rates are 10%, 12%, 22%, 24%, 32%, 35%, and 37%.
 - January 1, 2026 will be 10%, 15%, 25%, 28%, 33%, 35%, and 39.6%.

Changes Coming 2026



- Also impacts
 - Standard Deduction
 - Personal Exemptions
 - Child Tax Credit will expire
 - Charitable Contribution Deduction reverts to 50%
 - Deduction for Pass-through Business Income (IRC Section 199A) expires
 - Estate and Gift Tax decreased to \$5 million (may be \$6.4 million indexed)





Thank You



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