



SECURE Act 2.0

Legislative Overview & Update

1/31/2023



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SECURE 2.0 Background



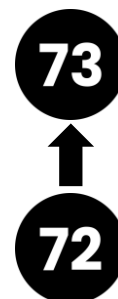
- Included in the Consolidated Appropriations Act of 2023
- Passed by Congress on December 23, 2022
- Signed into law by President Biden on December 29, 2022
- 94 distinct provisions related to retirement
- Many provisions go into effect in 2023-2024



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Increased RMD Age

- RMD age changes from age 72 to age 73, beginning in 2023 (changes again to age 75 in 2033)
- Individuals turning age 72 in 2023 have no RMD until they turn age 73 in 2024
- Required beginning date (RBD) to take first RMD is still April 1 of following year
- Individuals who turned age 72 in 2022 not affected by this change and still required to take their RMD



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- 5498s produced by Superior were updated to reflect the RMD age change, along with other references to the age 72 within the site. As of January 31, there are still minor instances to update, but we are almost complete.
- Age 73 RMD notification letters will not go out this year, because it will affect owners turning age 73 in 2024.
- Superior will only send RMD notification letters in February to owners who turned age 72 in 2022 or earlier and do not have a scheduled payment election within our site.

Reduced Excess Accumulation Penalty



- Penalty for missing an RMD reduces from 50% to 25%
- 25% penalty can be further reduced by taking the missed RMD in a “correction window” that ends the earlier of the:
 - mailing of the delinquency notice
 - date on which the penalty tax is assessed
 - the last day of the second taxable year following the year in which the penalty was imposed



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Qualified Charitable Distributions (QCDs)

- One-time option for IRA owner to make a QCD to a “split interest” entity
 - Life-time maximum amount is \$50,000 (included in the \$100,000 annual total)
- Qualifying “split interest” entities include:
 - Charitable remainder annuity trusts (funded exclusively with QCDs)
 - Charitable remainder unitrusts (funded exclusively with QCDs)
 - Charitable gift annuities (fixed payments of 5% or greater within 1 year)
 - Additional requirements/restrictions apply, but it is the owner’s responsibility to confirm if entity is qualified
- These QCDs are reported the same; however, the check is made payable to the “split-interest” entity



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Financial organizations should be aware of this change, so they know that they can issue the checks payable to a “split-interest” entity for a QCD. But this is the only change that they will need to know. Reporting and everything else for a QCD remains the same from the organization’s perspective.

10% Tax Penalty Exception for Terminal Illness



- Exception applies to early distributions after a physician's certification of the individual's terminal illness
- Terminal illness is defined in IRC Section 101(g)(4)(A) (substituting 84 months for 24 months)
- Distributions are eligible for repayment to the IRA within three years



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The IRS has not advised if special coding will be used to report these distributions, so continue to use code "1" until/unless further guidance is provided.

Roth Option for SEP & SIMPLE IRAs

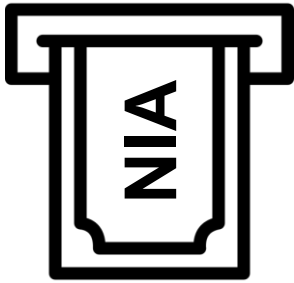
- SEP Roth Option
 - Employer contributions can be made
 - Deferrals under grandfathered SAR-SEP deferrals can be made
- SIMPLE Roth Option
 - Employee deferrals allowed
 - Statute is unclear if employer match/nonelective contributions are allowed
- We advise to not accept these contributions pending further guidance



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- Prior rules allowed only pretax contributions.
- The statute is unclear if employer match/nonelective contributions are allowed—but it is assumed that they will be.
- Superior advises to not accept these contributions until further guidance is provided, as IRS model documents are not yet updated to reflect these changes.

Removal of Early Withdrawal Penalty on NIA



10% early withdrawal penalty for Net Income Attributable (NIA) has been removed for distributions made by an IRA owner under the age of 59½



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- In 2022 and earlier years, NIA was subject to income tax and the 10% early withdrawal penalty (if under age 59.5); applicable to excess contributions or recharacterizations.
- In 2023 and later years, NIA will still be subject to income tax regardless of age, but the 10% early withdrawal penalty will no longer be assessed if the owner is under age 59.5.

Repayment Deadline for Qualified Birth or Adoption Distributions

- IRA owners have three years to repay any distributions taken due to a qualified birth or adoption
- Any distributions taken prior to this enactment must be repaid by 12/31/2025



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Permanent Rule for Qualified Disaster Recovery Distributions



- Up to \$22,000 may be removed and may be exempt from 10% early withdrawal penalty
- Amount taken may be included in taxable income ratably for three years
- Amount taken may be repaid to the IRA within three years
- Repayment of certain first-time homebuyer IRA distributions allowed in disaster situations



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- Previously, there was no limit to the amount that may be removed, so this statute made the rule more formalized. This way the process can be permanent and more automated.
- For example, when FEMA declares an area as a major disaster, this rule will be triggered to cover the distributions that may need to be taken for hardships, loans, etc.

Updated Guidance for Special Needs Trusts Beneficiary Distributions

- Definition of “Applicable Multi-Beneficiary Trusts” (AMBT) is expanded
- Type II AMBT is now defined to accommodate special needs trusts that include qualifying charitable organizations, whereas the original definition only covered “individuals”



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SECURE Change Highlights for 2024 & Beyond

- Increased IRA catch-up contribution limits, indexed for inflation in \$100 increments (2024)
- Increased contribution limits for SIMPLE IRAs (2024)
- Penalty-free “emergency” IRA distributions of up to \$1,000 per year, repayable within 3 years (2024)
- 529 plan rollovers to Roth IRAs allowed if certain conditions met and limited to \$35,000 during lifetime (2024)
- Rollovers allowed while taking substantially equal periodic payments (SIMPLE IRA, 401(k), 403(b), and governmental 457(b) plans) (2024)



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SECURE Change Highlights for 2024 & Beyond

- Employer matching contributions for qualified student loan repayments (2024)
- Increased dollar limit for forced cash outs—from \$5,000 to \$7,000 (2024)
- Retirement savings lost & found (2024)
- Increased catch-up contribution to SAR-SEP and SIMPLE plan for those age 60–63 (2025)
- Enhanced Saver's Credit (2027)
- RMD age change from 73 to 75 (2033)



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Question & answer session



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