Secure Act 2.0 Reference Guide

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Happy New Year and welcome to 2023! While we were all enjoying time with family and friends, our federal government passed a massive piece of legislation at the 11th hour of the lame duck congress. On December 22nd and 23rd, Congress passed the "Consolidated Appropriations Act, 2023". Why is this significant? Well, there was a package called SECURE 2.0 that was included in the massive bill that is a continuation of "The Secure Act" passed in 2019. SECURE 2.0 expanded on many favorable provisions for plan sponsors that have been in the works for several years. There are 92 provisions in SECURE 2.0 and most are positives for plan sponsors and participants. I have categorized the most impactful provision as the Good, Bad and the Ugly.

THE GOOD…

- "Mostly free" plan startup costs due to large increase in tax credits. These start up credits will also apply to joining a Pooled Employer Plan (PEP) and a Multiple Employer Plan (MEP). This was unclear in the original Secure Act.
- "Starter 401(k)" or 403(b)—a simple, deferral-only safe harbor design which will require auto-enrollment but there will be no testing required. Limits are based on IRA limits. This provision is essentially an employer sponsored auto-IRA.
- Mandatory auto-enrollment and auto-escalation for new plans starting in 2025. FinDec is a proponent of auto enrollment, and this is welcomed news that it will become standard. Plans in existence are grandfathered but there are some tax credits available to add auto enrollment to an existing plan.
- "Saver's match" deposited by Treasury into workers' accounts instead of given as a tax credit. While there will be more information to come on this since it starts in 2026, effective shifts giving tax credits back to lower income savers to depositing the credits in their retirement accounts.
- 403(b) pooled employer plans (PEPs) similar to 401(k) PEPs already in existence. FinDec has a PEP plan option for those wanting a basic 401k to offer their employees.
- Increasing the Required Minimum Distribution (RMD) Age to 73 starting in 2023 and 75 in 2033. Individuals already in RMD status will not be able to stop until later age.
- Student loan matching without hurting nondiscrimination testing. Plan sponsors will be able to match payments made in a 401k without impacting plan testing.
- Higher catch-up contribution limits for ages 60-63. Scheduled to increase to $10,000 (currently $7,500 for 2023) pending cost of living adjustments. Could end up being higher.
- A long list of simplifiers for things like notices, top heavy, and corrections which are welcome changes for our industry.

THE BAD...

- Catch-up contributions must be Roth if income is above $145,000 which will impact tax deductions for individuals. This is known as a "pay for", the bill must be paid for on the revenue side.
- Long-term, part-time employees eligible for deferrals in two years, not three which may create issues for plan sponsors with systemic part time employees who have never been eligible in the past.

THE UGLY...

- Massive updates to industry systems will be required which may impact speed at which some provisions are available to plan sponsors.
- Paper Statement Requirement for each participant to receive at least once per year for 401(k) and other Defined Contribution Plans. FinDec was opposed to this provision but some groups with heavy influence were able to keep it in the bill.

For the most part this was a substantial win for our plan sponsor clients and plan participants. Hopefully this will be the last major legislation for the next couple years, so we have time to read and catch up on rolling out many of these new features.