



SECURE Act 2.0 and Your 401(k) Plan: Checklist

April 13, 2023

Dear ACEC Retirement Trust Plan Sponsor,

The ACEC Retirement Trust (“**ACEC RT**”) would like to inform you of some upcoming changes affecting your 401(k) Plan as a result of the passage of the SECURE 2.0 Act of 2022 (“**SECURE 2.0**”) on December 29, 2022. Some changes are mandatory while others are optional. These changes also are effective at various dates.

The following checklist will help you be pro-active in considering important changes and ensuring that your plan is in compliance with SECURE 2.0:

1. If your 401(k) plan was first effective **after** December 29, 2022, make sure that you are ready for the new automatic enrollment and automatic escalation rules beginning after December 31, 2024. Note: If your plan has been in effect since before December 29, 2022 and it does not have automatic enrollment and automatic escalation, you could consider adding these features as SECURE 2.0 makes them more common practice.
2. Confirm that the required minimum distribution (“**RMD**”) age has been increased to age 73 under your plan. Excise taxes for failing to take an RMD were also reduced from 50% to 25% and 25% to 10% (if corrected during a two-year window). In addition, effective January 1, 2024, RMDs are not required on pre-death Roth contributions. Note: Excise taxes for failing to take a timely RMD apply to the individual, but the plan must also comply with these rules.
3. Watch for more information from Empower related to setting up a system for reporting participants with wages above \$145,000 (indexed) to ensure any catch-up contributions for these participants are Roth, effective January 1, 2024. You should also contact your payroll provider regarding identifying these participants and getting the manual processes in place to code these contributions. Note: if your plan currently does not allow Roth, this will require adding a Roth feature. You should contact Empower to set this up as soon as possible.
4. If your plan excludes part-time employees (including those labelled as interns, seasonal or other classifications based on the amount of time served), effective January 1, 2025 eligible employees who complete 500 hours of service per year in a consecutive two-year period and are at least age 21 must be permitted to make elective deferrals (though not necessarily required to be eligible for employer contributions). Ensure that you are tracking hours of these employees. Note: You may also consider making part-time employees eligible to avoid the need to track hours.
5. Consider whether to allow participants to receive employer contributions on a Roth-basis. Note: If your plan permits in-plan Roth conversions employees may already be able to convert employer contributions to Roth.

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6. If you do not currently participate in the ACEC RT Student Debt Solution 401(k) Program, you may want to add employer matching contributions based on employees' qualified student loan repayments to your plan. *Note: If your plan already includes this feature, there may be new requirements beginning in 2024.*
7. HR personnel should consider whether small financial incentives (e.g., \$10 gift cards) are appropriate to promote enrollment in your 401(k) plan. *Note: If your 401(k) plan is not a safe harbor plan, this is a helpful way to try to enroll more non-highly compensated employees to pass non-discrimination testing. But remember these financial incentives are still taxable.*
8. In order to clear out small accounts from your plan, consider increasing the automatic cash-out limit from \$5,000 to \$7,000 effective as of January 1, 2024.
9. You may add permanent relief for participants impacted by federally-declared disasters to permit a distribution of up to \$22,000 and increased loan amounts of up to \$100,000 (or 100% of the participant's vested account, if less).
10. You may add certain penalty-free distributions, including those to terminally ill participants, victims of domestic violence, or for emergency expenses. You may also consider adding an Emergency Savings Account of up to \$2,500 into which participants are automatically enrolled and can take penalty-free distributions from, effective January 1, 2024.

Watch for more information from Empower in the coming months and years in order to implement the SECURE 2.0 changes. You will also need to work with Empower to amend your plan document for SECURE 2.0 changes, but a plan amendment is not required until 2025 at the earliest. In addition, implementation of many of these provisions is contingent upon further guidance from the DOL or IRS.

For more information, please see the webinar recording of ***SECURE Act 2.0 and Your 401(k) Plan: What You Need to Know*** hosted by Jeff Holdvogt and Teal Trujillo of McDermott Will & Emery LLP now available at <https://empower.webex.com/empower/ldr.php?RCID=18be743ecdec0b8ba04e7ad7e25ac2fd>.

Questions?

If you have any questions about the ACEC RT or these changes, please contact Deb Stevens, the Executive Director of the ACEC RT, at deb.stevens@acert.com or your regional Trustee.