On December 27, 2022, the SECURE 2.0 of 2022, a part of the Consolidated Appropriations Act of 2023, was signed by President Biden and became law. SECURE 2.0 aims to increase retirement savings and expand coverage to employer-sponsored retirement plans, The following briefly highlights many of the provisions (Source: U.S. Senate Committee on Finance)

Title I – Expanding Coverage and Increasing Retirement Savings

SECTION 101	Expanding automatic enrollment in retirement plans.

Effective Date: for plan years beginning after December 31, 2024

- requires 401(k) and 403(b) plans to automatically enroll participants upon becoming eligible (employees may opt out of coverage). The initial automatic enrollment amount is at least 3% not more than 10%.
- each year thereafter that amount is increased by 1% until it reaches at least 10%, but not more than 15%.
- All current 401(k) and 403(b) plans are grandfathered. There is an exception for small businesses with 10 or fewer employees, new businesses (i.e., those that have been in business for less than 3 years), church plans, and governmental plans.

Exception: All current 401(k) and 403(b) plans are grandfathered. There is an exception for small businesses with 10 or fewer employees, new businesses (i.e., those that have been in business for less than 3 years), church plans, and governmental plans.

SECTION 102	Modification of credit for small employer pension plan startup costs.

Effective Date: taxable years beginning after December 31, 2022.

- The 3-year small business startup credit is 100% (currently 50%) of administrative costs, up to an annual cap of $5,000 for employers with up to 50 employees.
- Except in the case of defined benefit plans, an additional credit is provided. The amount of the additional credit generally will be a percentage of the amount contributed by the employer on behalf of employees, up to a per-employee cap of $1,000. This full additional credit is limited to employers with 50 or fewer employees and phased out for employers with between 51 and 100 employees.
- The applicable percentage is

YEAR	Start Up Credit
1 and 2	100%
3	75%
4	50%
5	25%

SECTION 103	Saver's Match.

Effective Date: taxable years beginning after December 31, 2026

- Repeals and replaces the current nonrefundable credit with respect to IRA and retirement plan contributions, and instituting a federal matching contribution that must be deposited into a taxpayer's IRA or retirement plan.
- The match is 50% of IRA or retirement plan contributions up to $2,000 per individual.
- The match phases out between $41,000 and $71,000 in the case of taxpayers filing a joint return ($20,500 to $35,500 for single taxpayers and married filing separate; $30,750 to $53,250 for head of household filers).

SECTION 104	Promotion of Saver's Match.

Effective Date: The Treasury Secretary must report to Congress on the Treasury Department's anticipated promotion efforts no later than July 1, 2026.

- directs the Treasury Department to increase public awareness of the Saver's Match to increase use of the match by low and moderate income taxpayers.
- Saver's Match cannot be withdrawn without incurring penalties, including repayment to the Treasury Department in some cases where the Saver's Match is withdrawn from an individual retirement account before retirement.
- Taxpayers will have an election to designate a retirement account to receive the repaid Saver's Match.

SECTION 105	Pooled employer plan modification.

Effective Date: plan years beginning after December 31, 2022

- clarifies that a pooled employer plan ("PEP") may designate a named fiduciary (other than an employer in the plan) to collect contributions to the plan.
- Such fiduciary would be required to implement written contribution collection procedures that are reasonable, diligent, and systematic.

SECTION 106	Multiple employer 403(b) plans.

Effective Date: for plan years beginning after December 31, 2022.

- allows 403(b) plans, which are generally sponsored by charities, educational institutions, and non-profits, to participate in MEPs and PEPs, including relief from the one bad apple rule so that the violations of one employer do not affect the tax treatment of employees of compliant employers.

SECTION 107	Increase in age for required beginning date for mandatory distributions.

- increases the required minimum distribution age from 72 to 73 starting on January 1, 2023 – and increases the age further to 75 starting on January 1, 2033.

SECTION 108	Indexing IRA catch-up limit.

Effective Date: for taxable years beginning after December 31, 2023.

- Begin indexing the annual increase limits.
- Under current law, the limit on IRA contributions is increased by $1,000 (not indexed) for individuals who have attained age 50

SECTION 109	Higher catch-up limit to apply at age 60, 61, 62, and 63.

Effective Date: for taxable years beginning after December 31, 2024.

- increases catch-up limits to the greater of $10,000 or 50% more than the regular catch-up amount in 2025 for individuals who have attained ages 60, 61, 62 and 63.
- The increased amounts are indexed for inflation after 2025.
- Under current law, employees who have attained age 50 are permitted to make catch-up contributions under a retirement plan in excess of the otherwise applicable limits. The limit on catch-up contributions for 2021 is $6,500,

SECTION 110	Treatment of student loan payments as elective deferrals for purposes of matching contributions.

Effective Date: for contributions made for plan years beginning after December 31, 2023.

- Allows employees who have not saved for retirement due to overwhelming student debt, to receive matching contributions under a 401(k) plan, 403(b) plan, or SIMPLE IRA with respect to “qualified student loan payments.”
- A qualified student loan payment is broadly defined as any indebtedness incurred by the employee solely to pay qualified higher education expenses of the employee.
- Governmental employers are also permitted to make matching contributions in a section 457(b) plan or another plan with respect to such repayments.
- For purposes of the nondiscrimination test applicable to elective contributions, this permits a plan to test separately the employees who receive matching contributions on student loan repayments.

SECTION 111	Application of credit for small employer pension plan startup costs to employers which join an existing plan.

Effective Date: retroactively for taxable years beginning after December 31, 2019.

- ensures the startup tax credit is available for 3 years for employers joining a MEP, regardless of how long the MEP has been in existence.
- employers joining a MEP (which includes PEPs) are eligible for the credit for all 3 years.

SECTION 112	Military spouse retirement plan eligibility credit for small employers.

Effective Date: for taxable years beginning 2023

- Military spouses often do not remain employed long enough to become eligible for their employer's retirement plan or to vest in employer contributions.
- provides small employers a tax credit with respect to their defined contribution plans if they
    1) make military spouses immediately eligible for plan participation within two months of hire,
    2) upon plan eligibility, make the military spouse eligible for any matching or nonelective contribution that they would have been eligible for otherwise at 2 years of service, and
    3) make the military spouse 100% immediately vested in all employer contributions.
- The tax credit equals the sum of
    1) $200 per military spouse, and
    2) 100% of all employer contributions (up to $300) made on behalf of the military spouse, for a maximum tax credit of $500. This credit applies for 3 years with respect to each military spouse – and does not apply to highly compensated employees. An employer may rely on an employee's certification that such employee's spouse is a member of the uniformed services.

SECTION 113	Small immediate financial incentives for contributing to a plan.

Effective Date: for taxable years beginning 2023

- enables employers to offer de minimis financial incentives, not paid for with plan assets, such as low-dollar gift cards, to boost employee participation in workplace retirement plans by exempting de minimis financial incentives from section 401(k)(4)(A) and from the corresponding rule under section 403(b).

SECTION 114	Deferral of tax for certain sales of employer stock to employee stock ownership plan sponsored by S corporation.

Effective Date: for sales made after December 31, 2027.

- Currently, under IRC section 1042, an individual owner of stock in a non-publicly traded C corporation that sponsors an employee stock ownership plan ("ESOP") may elect to defer the recognition of gain from the sale of such stock to the ESOP if the seller reinvests the sales proceeds into qualified replacement property, such as stock or other securities issued by a U.S. operating corporation. After the sale, the ESOP must own at least 30 percent of the employer corporation's stock.
- This Section expands the gain deferral provisions of Code section 1042 with a 10% limit on the deferral to sales of employer stock to S corporation ESOPs.

SECTION 115	Withdrawals for certain emergency expenses.

Effective Date: for distributions made after December 31, 2023.

- Currently, an additional 10% tax applies to early distributions from tax-preferred retirement accounts, such as 401(k) plans and IRAs, unless an exception applies.

- The Section provides an exception for certain distributions used for emergency expenses, which are unforeseeable or immediate financial needs relating to personal or family emergency expenses.
- Only one distribution is permissible per year of up to $1,000, and a taxpayer has the option to repay the distribution within 3-years.
- No further emergency distributions are permissible during the 3-year repayment period unless repayment occurs.
-

SECTION 116	Allow additional nonelective contributions to SIMPLE plans.

Effective Date: for taxable years beginning after December 31, 2023.

- Current law requires employers with SIMPLE plans to make employer contributions to employees of either 2% of compensation or 3% of employee elective deferral contributions.
- This Section permits an employer to make additional contributions to each employee of the plan in a uniform manner, provided that the contribution may not exceed the lesser of up to 10% of compensation or $5,000 (indexed).

SECTION 117	Contribution limit for SIMPLE plans.

Effective Date: for taxable years beginning after December 31, 2023.

- A SIMPLE IRA plan may only be sponsored by a small employer (100 or fewer employees), and the employer is required to either make matching contributions on the first 3% of compensation deferred or an employer contribution of 2% of compensation (regardless of whether the employee elects to make contributions). Under current law, the annual contribution limit for employee elective deferral contributions to a SIMPLE IRA plan is $14,000 (2022) and the catch-up contribution limit beginning at age 50 is $3,000.
- This Section increases the annual deferral limit and the catch-up contribution at age 50 by 10%, as compared to the limit that would otherwise apply in the first year this change is effective, in the case of an employer with no more than 25 employees. An employer with 26 to 100 employees would be permitted to provide higher deferral limits, but only if the employer either provides a 4% matching contribution or a 3% employer contribution.
- Makes similar changes to the contribution limits for SIMPLE 401(k) plans.

SECTION 118	Tax treatment of certain nontrade or business SEP contributions.

Effective Date: for taxable years beginning 2023

- permits employers of domestic employees (e.g., nannies) to provide retirement benefits for such employees under a Simplified Employee Pension ("SEP").

SECTION 119	Application of section 415 limit for certain employees of rural electric cooperatives.

Effective Date: for limitation years ending after 2022

- Under current law, section 415 generally limits the amount that may be paid by a pension plan in annual benefits to a participant to the lesser of $245,000 (2022) or 100% of the participant's average compensation.
- This Section eliminates the compensation-based limit for participants who are non-highly compensated employees and participate in a rural electric cooperative retirement plan.

SECTION 120	Exemption for certain automatic portability transactions.

Effective Date: for transactions occurring on or after January 1, 2024

- Under current law, an employer is permitted to distribute a participant's account balance without participant consent if the balance is under $5,000 and the balance is immediately distributable (e.g., after a termination of employment).
- Current law also requires an employer to roll over this distribution into a default IRA if the account balance is at least $1,000 and the participant does not affirmatively elect otherwise.
- This Section permits a retirement plan service provider to provide employer plans with automatic portability services. Such services involve the automatic transfer of a participant's default IRA (established in connection with a distribution from a former employer's plan) into the participant's new employer's retirement plan, unless the participant affirmatively elects otherwise.

SECTION 121	Starter 401(k) plans for employers with no retirement plan.

Effective Date: for plan years beginning after December 31, 2023.

- Permits an employer that does not sponsor a retirement plan to offer a starter 401(k) plan (or safe harbor 403(b) plan). A starter 401(k) plan (or safe harbor 403(b) plan) would generally require that all employees be default enrolled in the plan at a 3% to 15%of compensation deferral rate.
- The limit on annual deferrals would be the same as the IRA contribution limit, which for 2022 is $6,000 with an additional $1,000 in catch-up contributions beginning at age 50.

SECTION 122	Assist States in locating owners of applicable savings bonds.

Effective Date: Immediate

- facilitate efforts to locate the owners of matured and unredeemed savings bonds.
- requires the Treasury Secretary to share certain relevant information with a state that relates to an applicable savings bond registered to an owner with a last known or registered address in that state.
- The state is permitted to use that information to locate the registered owner in accordance with the state's standards for recovery of abandoned property.

- requires the Treasury Secretary to develop guidance as may be necessary to carry out the proper disclosure and protection of such information.
- The Treasury Secretary also is required to submit to the Senate Appropriations and Finance Committees and House Appropriations and Ways and Means Committees an annual report assessing its efforts to provide states with information on unclaimed savings bonds.

SECTION 123	Certain securities treated as publicly traded in case of employee stock ownership plans.

Effective Date: for plan years beginning after December 31, 2027.

- updates certain ESOP rules related to whether a security is a "publicly traded employer security" and "readily tradeable on an established securities market."
- allows certain non-exchange traded securities to qualify as "publicly traded employer securities" so long as the security is subject to priced quotations by at least four dealers on a Securities and Exchange Commission-regulated interdealer quotation system, is not a penny stock and is not issued by a shell company, and has a public float of at least 10 percent of outstanding shares.
- For securities issued by domestic corporations, the issuer must publish annual audited financial statements.
- Securities issued by foreign corporations are subject to additional depository and reporting requirements.
- The updated definitions in Section 123 will allow highly regulated companies with liquid securities that are quoted on non-exchange markets to treat their stock as "public" for ESOP purposes, thus making it easier for these companies to offer ESOPs to their U.S. employees.

SECTION 124	Modification of age requirement for qualified ABLE programs.

Effective Date: for taxable years beginning after December 31, 2025.

- Current law allows states to create qualified ABLE programs, which are tax-advantaged savings programs for certain people with disabilities.
- Distributions from an ABLE account are tax-free if used for qualified disability expenses of the account's designated beneficiary.
- This Section increases the age by which blindness or disability must occur for an individual to be an eligible individual by reason of such blindness or disability for an ABLE program.

SECTION 125	Improving coverage for part-time workers.

Effective Date: for plan years beginning after December 31, 2024.

- Currently requires employers to allow long-term, part-time workers to participate in the employers' 401(k) plans. The SECURE Act provision provides that – except in the case of collectively bargained plans – employers maintaining a 401(k) plan must have a dual eligibility requirement under which an employee must complete either 1-year of service (with the 1,000-hour rule) or 3 consecutive years of service (where the employee completes at least 500 hours of service).

- This Section reduces the 3-year rule to 2-years,
- This Section also provides that pre-2021 service is disregarded for vesting purposes, just as such service is disregarded for eligibility purposes under current law, effective as if included in the SECURE Act to which the amendment relates. This provision also extends the long-term part-time coverage rules to 403(b) plans that are subject to ERISA.

SECTION 126	Special rules for certain distributions from long-term qualified tuition programs to Roth IRAs.

Effective Date: with respect to distributions after December 31, 2023.

- This Section amends the IRC to allow for tax and penalty free rollovers from 529 accounts to Roth IRAs, under certain conditions.
- Beneficiaries of 529 college savings accounts would be permitted to rollover up to $35,000 over the course of their lifetime from any 529 account in their name to their Roth IRA.
- These rollovers are also subject to Roth IRA annual contribution limits, and the 529 account must have been open for more than 15 years.
- This Section eliminates provides families and students with the option to avoid the penalty, resulting in families putting more into their 529 account.

SECTION 127	Emergency savings accounts linked to individual account plans.

- Provides employers the option to offer to their non-highly compensated employees pension-linked emergency savings accounts.
- Employers may automatically opt employees into these accounts at no more than 3% of their salary, and the portion of an account attributable to the employee's contribution is capped at $2,500 (or lower as set by the employer).
- Once the cap is reached, the additional contributions can be directed to the employee's Roth defined contribution plan (if they have one) or stopped until the balance attributable to contributions falls below the cap.
- Contributions are made on a Roth-like basis and are treated as elective deferrals for purposes of retirement matching contributions with an annual matching cap set at the maximum account balance – i.e., $2,500 or lower as set by the plan sponsor.
- The first four withdrawals from the account each plan year may not be subject to any fees or charges solely on the basis of such withdrawals.
- At separation from service, employees may take their emergency savings accounts as cash or roll it into their Roth defined contribution plan (if they have one) or IRA.

SECTION 128	Enhancement of 403(b) plans.

Effective Date: Immediate

- Under current law, 403(b) plan investments are generally limited to annuity contracts and publicly traded mutual funds.
- This Section permits 403(b) custodial accounts to participate in group trusts with other tax-preferred savings plans and IRAs, and would be

Title II – Preservation of Income

SECTION 201	Remove required minimum distribution barriers of life annuities.

Effective Date: Immediate

- Under current law an actuarial test is needed in the required minimum distribution regulations. The test is intended to limit tax deferral by precluding commercial annuities from providing payments that start out small and increase excessively over time. In operation, however, the test commonly prohibits many important guarantees that provide only modest benefit increases under life annuities.
- This Section removes required minimum distribution.

SECTION 202	Qualifying longevity annuity contracts.

Effective Date: effective for contracts purchased or received in an exchange on the Plan year beginning in 2023

- In 2014, the Treasury Department published final regulations on qualifying longevity annuity contracts ("QLACs"). QLACs are generally deferred annuities that begin payment at the end of an individual's life expectancy.
- The minimum distribution rules were an impediment to the growth of QLACs in defined contribution plans and IRAs because those rules generally require payments to commence at age 72, before QLACs begin payments.
- The 2014 regulations generally exempted QLACs from the minimum distribution rules until payments commence. However, due to a lack of statutory authority to provide a full exemption, the regulations imposed certain limits on the exemption that have prevented QLACs from achieving their intended purpose in providing longevity protection.
- This Section 202 repeals the 25% limit
- Also allowing up to $200,000 (indexed) to be used from an account balance to purchase a QLAC.
- Facilitates the sales of QLACs with spousal survival rights – and clarifies that free-look periods are permitted up to 90-days with respect to contracts purchased or received in an exchange on or after July 2, 2014.

SECTION 203	Insurance-dedicated exchange-traded funds.

Effective Date: for segregated asset account investments made on or after 7 years after 2022

- Directs the Treasury Department to update the regulations to reflect the ETF structure to provide that ownership of an ETF's shares by certain types of institutions that are necessary to the ETF's structure would not preclude look-through treatment for the ETF, as long as it otherwise satisfies the current-law requirements for look-through treatment. This essentially would facilitate the creation of a new type of ETF that is "insurance dedicated."

SECTION 204	Eliminating a penalty on partial annuitization.

Effective Date: Immediate

- Currently, If a tax-preferred retirement account also holds an annuity, the current law requires that the account be bifurcated between the portion of the account holding the annuity and the rest of the account for purposes of applying the required minimum distribution rules. This treatment may result in higher minimum distributions than would have been required if the account did not hold an annuity.
- This Section permits the account owner to elect to aggregate distributions from both portions of the account for purposes of determining minimum distributions

Title III – Simplification and Clarification of Retirement Plan Rules

SECTION 301	Recovery of retirement plan overpayments.

Effective Date: Immediate

- Allows retirement plan fiduciaries the latitude to decide not to recoup overpayments that were mistakenly made to retirees. If plan fiduciaries choose to recoup overpayments, limitations and protections apply to safeguard innocent retirees. This protects both the benefits of future retirees and the benefits of current retirees. Rollovers of the overpayments also remain valid.

SECTION 302	Reduction in excise tax on certain accumulations in qualified retirement plans.

Effective Date: Immediate

- Reduces the penalty for failure to take required minimum distributions from 50% to 25%.
- If a failure to take a required minimum distribution from an IRA is corrected in a timely manner, the excise tax on the failure is further reduced from 25% to 10%.

SECTION 303	Retirement savings lost and found.

Effective Date: creation of the database no later than 2 years after December 27, 2022.

- Creates a national online searchable lost and found database for Americans' retirement plans at the Department of Labor ("DOL"). The database will enable retirement savers, who might have lost track of their pension or 401(k) plan, to search for the contact information of their plan administrator.

SECTION 304	Updating dollar limit for mandatory distributions.

Effective Date: for distributions made after December 31, 2023.

- Currently, employers may transfer former employees' retirement accounts from a workplace retirement plan into an IRA if their balances are between $1,000 and $5,000.
- This Section increases the limit from $5,000 to $7,000,

SECTION 305	Expansion of Employee Plans Compliance Resolution System.

Effective Date: Immediate

- Expands the Employee Plans Compliance Resolution System ("EPCRS") to (1) allow more types of errors to be corrected internally through self-correction, (2) apply to inadvertent IRA errors, and (3) exempt certain failures to make required minimum distributions from the otherwise applicable excise tax.
- For example, this Section allows for correction of many plan loan errors through self-correction, which are a frequent area of error and can be burdensome to correct a single loan error through the IRS.

SECTION 306	Eliminate the "first day of the month" requirement for governmental section 457(b) plans.

Effective Date: beginning 2023

- Currently, participants in a governmental 457(b) plan must request changes in their deferral rate prior to the beginning of the month in which the deferral will be made.
- This Section allows such elections to be made at any time prior to the date that the compensation being deferred is available.

SECTION 307	One-time election for qualified charitable distribution to split-interest entity; increase in qualified charitable distribution limitation.

Effective Date: for distributions made in taxable years beginning after the date of enactment of this Act.

- expands the IRA charitable distribution provision to allow for a one-time, $50,000 distribution to charities through charitable gift annuities, charitable remainder unitrusts, and charitable remainder annuity trusts

Effective Date: for distributions made in taxable years 2023

- indexes for inflation the annual IRA charitable distribution limit of $100,000,

SECTION 308	Distribution to firefighters.

Effective Date: Immediate

- Currently, if an employee terminates employment after age 55 and takes a distribution from a retirement plan, the 10% early distribution tax does not apply. However, there is a special rule for "qualified public safety employees" in governmental plans, under which age 50 is substituted for age 55 for purposes of this exception from the 10% tax. This exemption applies to public sector firefighters, but not private sector firefighters.
- This Section extends the age 50 rule to private sector firefighters,

SECTION 309	Exclusion of certain disability-related first responder treatment payments.

Effective Date: for amounts received in taxable years beginning after December 31, 2026.

- permits first responders to exclude service-connected disability pension payments from gross income after reaching retirement age.

SECTION 310	Application of top heavy rules to defined contribution plans covering excludable employees.

Effective Date: for plan years beginning after December 31, 2023.

- Currently, qualified retirement plans must pass the top-heavy test. Plans that are deemed top-heavy are required to provide employees with a minimum of a 3% of pay nonelective contribution, which is a significant cost to small businesses. Other nondiscrimination tests that apply to 401(k) plans allow an employer to test otherwise excludable employees (e.g., those who are under age 21 and have less than 1 year of service) separately. This was intended to encourage plan sponsors to permit employees to defer earlier than the minimum age and service conditions permitted under the law because it reduces the situations where plans would fail the nondiscrimination tests if these employees were included when performing the test.
- This Section allows an employer to perform the top-heavy test separately on the non-excludable and excludable employees. This removes the financial incentive to exclude employees from the 401(k) plan and increase retirement plan coverage to more workers.

SECTION 311	Repayment of qualified birth or adoption distribution limited to 3 years.

Effective Date: distributions made after the date of the enactment of this Act and retroactively to the 3-year period beginning on the day after the date on which such distribution was received

- Currently qualified birth or adoption distribution, or "QBAD" is available under the SECURE Act which allows individuals to receive distributions from their retirement plan in the case of birth or adoption without paying the 10% additional tax. Distributions can be recontributed to a retirement plan at any time and are treated as rollovers. However, IRC section 6511 prevents a refund from being provided to a taxpayer after the period of limitations for the return has closed, which is generally a 3-year period.
- This Section amends the QBAD provision to restrict the recontribution period to 3 years.

SECTION 312	Employer may rely on employee certifying that deemed hardship distribution conditions are met.

Effective Date: Immediate

- Under certain circumstances, employees are permitted to self-certify that they have had an event that constitutes a hardship for purposes of taking a hardship withdrawal.

SECTION 313	Individual retirement plan statute of limitations for excise tax on excess contributions and certain accumulations.

Effective Date: Immediate

- Currently, the statute of limitations for excise taxes imposed on excess contributions, or required minimum distribution failures start running as of the date that a specific excise tax return (Form 5329) is filed for the violation. Individuals often are not aware of the requirement to file Form 5329, and this can lead to an indefinite period of limitations that can cause hardship for taxpayers due to the accumulation of interest and penalties
- This Section provides that a 3-year period of limitations begins when the taxpayer files an individual tax return (Form 1040) for the year of the violation, except in the case of excess contributions, in which case the period of limitations runs 6-years from the date Form 1040 is filed. There is a further exception from this 6-year rule for taxes that arise out of a bargain sale to the IRA. In general, these changes are intended to ensure that there is a reasonable period of limitations for violations of which taxpayers were not aware and thus did not file an excise tax return, while retaining existing law in fact scenarios that involve a bargain sale.

SECTION 314	Penalty-free withdrawal from retirement plans for individual case of domestic abuse.

Effective Date: for distributions made after December 31, 2023.

- Allows retirement plans to permit participants that self-certify that they experienced domestic abuse to withdraw a small amount of money (the lesser of $10,000, indexed for inflation, or 50% of the participant's account).
- A distribution is not subject to the 10% tax on early distributions.
- A participant has the opportunity to repay the withdrawn money from the retirement plan over 3-years and will be refunded for income taxes on money that is repaid.

SECTION 315	Reform of family attribution rule.

Effective Date: plan years beginning after December 31, 2023

- Currently under the IRC, certain related businesses must be aggregated when performing the coverage and nondiscrimination tests. The aggregation rules are generally based on the degree of common ownership of the businesses. In determining the level of ownership in a business, the tax laws have certain attribution rules whereby an individual is deemed to own stock held by other individuals or entities.

- This Section updates two stock attribution rules.
    1) update addresses inequities where spouses with separate businesses reside in a community property state when compared to spouses who reside in separate property states.
    2) update modifies the attribution of stock between parents and minor children.

SECTION 316	Amendments to increase benefit accruals under plan for previous plan year allowed until employer tax return due date.

Effective Date: for plan years beginning after December 31, 2023.

- Currently, an employer is permitted to adopt a new retirement plan by the due date of the employer's tax return for the fiscal year in which the plan is effective. However, plan amendments to an existing plan must generally be adopted by the last day of the plan year in which the amendment is effective.
- This Section amends these provisions to allow discretionary amendments that increase participants' benefits to be adopted by the due date of the employer's tax return.

SECTION 317	Retroactive first year elective deferrals for sole proprietors.

Effective Date: plan years beginning after December 31, 2022.

- Currently, an employer may establish a new 401(k) plan after the end of the taxable year, but before the employer's tax filing date and treat the plan as having been established on the last day of the taxable year. Such plans may be funded by employer contributions up to the employer's tax filing date.
- This Section allows these plans, when they are sponsored by sole proprietors or single member LLCs, to receive employee contributions up to the date of the employee's tax return filing date for the initial year.

SECTION 318	Performance benchmarks for asset allocation funds.

Effective Date: The DOL is to update its regulations no later than two years

- The DOL's participant disclosure regulation requires that each designated investment alternative's historical performance be compared to an appropriate broad-based securities market index. However, the rule does not adequately address increasingly popular investments like target date funds that include a mix of asset classes.
- directs the Labor Secretary to update the DOL's regulations so that an investment that uses a mix of asset classes can be benchmarked against a blend of broad-based securities market indices, provided
    a) the index blend reasonably matches the fund's asset allocation over time,
    b) the index blend is reset at least once a year, and
    c) the underlying indices are appropriate for the investment's component asset classes and otherwise meet the rule's conditions for index benchmarks.
- This change in the disclosure rule allows better comparisons and aids participant decision-making.

SECTION 319	Review and report to Congress relating to reporting and disclosure requirements.

Effective Date: no later than 3 years after the date of enactment of this Act.

- Section 319 directs the Treasury Department, DOL, and Pension Benefit Guaranty Corporation to review reporting and disclosure requirements for pension plans as soon as practicable after enactment of this Act. Section 319 further directs the agencies to make recommendations to Congress to consolidate, simplify, standardize, and improve such requirements

SECTION 320	Eliminating unnecessary plan requirements related to unenrolled participants.

Effective Date: no later than 3 years after the date of enactment of this

- Currently, employees eligible to participate in a retirement plan are required to receive a broad array of notices that are intended to inform them of their various options and rights under the plan. In the case of eligible employees who have not elected to participate in the plan, these notices are generally unnecessary, and can even have adverse effects on savings and coverage.
- This Section waives employers to provide certain intermittent ERISA or IRC notices to unenrolled participants in a workplace retirement plan.
- However, the plan is required to send:
    1) an annual reminder notice of the participant's eligibility to participate in the plan and any applicable election deadlines, and
    2) any otherwise required document requested at any time by the participant.
- This applies only with respect to an unenrolled participant who received the summary plan description, in connection with initial eligibility under the plan, and any other notices related to eligibility under the plan required to be furnished.

SECTION 321	Review of pension risk transfer interpretive bulletin.

Effective Date: no later than 1 year after enactment of this Act.

- requires the DOL to review the current interpretive bulletin governing pension risk transfers to determine whether amendments are warranted and to report to Congress its finding, including an assessment of any risk to participant,

SECTION 322	Tax treatment of IRA involved in a prohibited transaction.

Effective Date: taxable years beginning after the date of enactment of this Act.

- When an individual engages in a prohibited transaction with respect to their IRA, the IRA is disqualified and treated as distributed to the individual, irrespective of the size of the prohibited transaction.
- This Section clarifies that if an individual has multiple IRAs, only the IRA with respect to which the prohibited transaction occurred will be disqualified.

SECTION 323	Clarification of substantially equal periodic payment rule.

Effective Date: after December 31, 2023, and effective for annuity distributions on or after the date of enactment

- Currently, a 10% additional tax is imposed on early distributions from tax-preferred retirement accounts, but an exception applies to substantially equal periodic payments that are made over the account owner's life expectancy.
- This Section provides that the exception continues to apply in the case of a rollover of the account, an exchange of an annuity providing the payments, or an annuity that satisfies the required minimum distribution rules.

SECTION 324	Treasury guidance on rollovers.

Effective Date: Development and release of the sample forms must be completed no later than January 1, 2025.

- requires the Treasury Secretary to simplify and standardize the rollover process by issuing sample forms for direct rollovers that may be used by both the incoming and outgoing retirement plan or IRA.

SECTION 325	Roth plan distribution rules.

Effective Date: effective for taxable years beginning after December 31, 2023. Does not apply to distributions which are required with respect to years beginning before January 1, 2024, but are permitted to be paid on or after such date.

- Currently required minimum distributions are not required to begin prior to the death of the owner of a Roth IRA. However, pre-death distributions are required in the case of the owner of a Roth designated account in an employer retirement plan (e.g., 401(k) plan).
- This Section eliminates the pre-death distribution requirement for Roth accounts in employer plans,

SECTION 326	Exception to penalty on early distributions from qualified plans for individuals with a terminal illness.

Effective Date: immediate

- Under current law, an additional 10%tax applies to early distributions from tax-preferred retirement accounts.
- This Section provides an exception to the tax in the case of a distribution to a terminally ill individual

SECTION 327	Surviving spouse election to be treated as employee.

Effective Date: calendar years beginning after December 31, 2023

- allows a surviving spouse to elect to be treated as the deceased employee for purposes of the required minimum distribution rules.

SECTION 328	Repeal of direct payment requirement on exclusion from gross income of distributions from governmental plans for health and long-term care insurance.

Effective Date: immediate

- Current law provides an exclusion from gross income ($3,000) for a distribution from a governmental retirement plan to a public safety officer to pay for their health insurance premiums. The exclusion requires that the plan directly pay the insurance premiums.
- This Section repeals the direct payment requirement

SECTION 329	Modification of eligible age for exemption from early withdrawal penalty.

Effective Date: immediate

- The 10% additional tax on early distributions from tax preferred retirement savings plans does not apply to a distribution from a governmental plan to a public safety officer who is at least age 50.
- This Section extends the exception to public safety officers with at least 25-years of service with the employer sponsoring the plan.

SECTION 330	Exemption from early withdrawal penalty for certain State and local government corrections employees.

Effective Date: immediate

- extends the public safety officer exception to the 10% early distribution tax to corrections officers who are employees of state and local governments.

SECTION 331	Special rules for use of retirement funds in connection with qualified federally declared disasters.

Effective Date: for disasters occurring on or after January 26, 2021.

- provides permanent rules relating to the use of retirement funds in the case of a federally declared disaster.
- The permanent rules allow up to $22,000 to be distributed from employer retirement plans or IRAs for affected individuals.
- Such distributions are not subject to the 10% additional tax and are taken into account as gross income over 3-years.
- Distributions can be repaid to a tax preferred retirement account. Additionally, amounts distributed prior to the disaster to purchase a home can be recontributed, and an

employer is permitted to provide for a larger amount to be borrowed from a plan by affected individuals and for additional time for repayment of plan loans owed by affected individuals.

SECTION 332	Employers allowed to replace SIMPLE retirement accounts with safe harbor 401(k) plans during a year.

Effective Date: for plan years beginning after December 31, 2023.

- allows an employer to replace a SIMPLE IRA plan with a SIMPLE 401(k) plan or other 401(k) plan that requires mandatory employer contributions during a plan year, and is effective

SECTION 333	Elimination of additional tax on corrective distributions of excess contributions.

Effective Date: for any determination of, or affecting, liability for taxes, interest, or penalties without regard to whether the act (or failure to act) upon which the determination is based occurred before such date of enactment.

- Current law requires a distribution if too much is contributed to an IRA. The corrective distribution includes the excessive contribution and any earnings allocable to that contribution.
- This Section exempts the excess contribution and earnings allocable to the excess contribution from the 10% additional tax on early distributions,

SECTION 334	Long-term care contracts purchased with retirement plan distributions.

Effective Date: 3 years after date of enactment of this Act.

- permits retirement plans to distribute up to $2,500 per year for the payment of premiums for certain specified long term care insurance contracts. Distributions from plans to pay such premiums are exempt from the additional 10% tax on early distributions.
- Only a policy that provides for high quality coverage is eligible for early distribution and waiver of the 10% tax.

SECTION 335	Corrections of mortality tables.

Effective Date: The Treasury Secretary shall amend the relevant regulation on the matter within 18 months, though 3 years after date of enactment of this Act.

- generally requires that for purposes of the minimum funding rules, a pension plan is not required to assume beyond the plan's valuation date future mortality improvements at any age greater than 0.78 percent.

SECTION 336	Report to Congress on section 402(f) notices.

Effective Date: within 18 months after the date of enactment of this Act.

- Section 402(f) notices are given by employer retirement plans in the case of a distribution to a participant that is eligible for rollover to another tax preferred retirement account and describes distribution options and tax consequences.
- This Section requires the Government Accountability Office to issue a report to Congress on the effectiveness of section 402(f) notices

SECTION 337	Modification of required minimum distribution rules for special needs trust.

Effective Date: calendar years beginning 2023

- Currently places limits are placed on the ability of beneficiaries of defined contribution retirement plans and IRAs to receive lifetime distributions after the account owner's death. Special rules apply in the case of certain beneficiaries, such as those with a disability.
- This Section clarifies that, in the case of a special needs trust established for a beneficiary with a disability, the trust may provide for a charitable organization as the remainder beneficiary.

SECTION 338	Requirement to provider paper statements in certain cases.

Effective Date: The Labor Secretary must update the relevant sections of their regulations and corresponding guidance by December 31, 2024, and the annual paper statement is effective for plan years beginning after December 31, 2025.

- amends ERISA to generally provide that, with respect to defined contribution plans, unless a participant elects otherwise, the plan is required to provide a paper benefit statement at least once annually. The other three quarterly statements required under ERISA are not subject to this rule (i.e., they can be provided electronically). For defined benefit plans, unless a participant elects otherwise, the statement that must be provided once every 3 years under ERISA must be a paper statement.

SECTION 339	Recognition of tribal government domestic relations orders.

Effective Date: after December 31, 2022

- adds Tribal courts to the list of courts authorized under federal law to issue qualified domestic relations orders.

SECTION 340	Defined contribution plan fee disclosure improvements.

Effective Date: A report must be submitted by DOL to Congress within 3 years on findings, including recommendations for legislative changes after December 31, 2022

- requires the DOL to review its fiduciary disclosure requirements in participant-directed individual account plan regulations.

SECTION 341	Defined contribution plan fee disclosure improvements.

Effective Date: within 2 years

- directs the Treasury and DOL Secretaries to amend regulations to permit a plan to consolidate certain required plan notices.

SECTION 342	Information needed for financial options risk mitigation act.

Effective Date: The DOL Secretary must issue regulations implementing this provision not earlier 1 year after enactment. Such regulations must be applicable not earlier than the issuance of a final rule and not later than 1 year after issuance of a final rule.

- requires pension plan administrators to provide plan participants and retirees with critical information that would allow people considering what is best for their financial futures to compare between benefits offered under the plan and the lump sum, and would explain how the lump sum was calculated, the ramifications of accepting a lump sum, such as the loss of certain federal protections, details about the election period, where to follow up with questions, and other information.

SECTION 343	Defined benefit annual funding notices.

Effective Date: for plan years beginning after December 31, 2023.

- aims to identify defined benefit pension plan funding issues more clearly on a plan's annual funding notice.

SECTION 344	Report on pooled employer plans.

Effective Date: A report on the findings of the study must be completed within 5 years, with subsequent reports completed every 5 years thereafter.

- requires the DOL Secretary to conduct a study on the new and growing pooled employer plan industry.

SECTION 345	Annual audits for group of plans.

Effective Date: Immediate

- Currently, a Form 5500 for a defined contribution plan must contain an opinion from an independent qualified public accountant as to whether the plan's financial statements and schedules are fairly presented. However, no such opinion is required with respect to a plan covering fewer than 100 participants.
- This Section clarifies that plans filing under a Group of Plans need only to submit an audit opinion if they have 100 participants or more.

SECTION 346	Worker Ownership, Readiness, and Knowledge (WORK) Act.

Effective Date: fiscal years 2025 to 2029.

- boosts employee ownership programs through the DOL, which may make grants to promote employee ownership through existing and new programs.
- Funds are authorized to be appropriated for the purpose of making grants

SECTION 347	Report by the Secretary of Labor in the impact of inflation on retirement savings.

Effective Date: within 90 days

- Section 347 directs the DOL Secretary, in consultation with the Treasury Secretary, to study the impact of inflation on retirement savings and submit a report to Congress on the findings of the study.

SECTION 348	Cash balance.

Effective Date: for plan years beginning after the date of enactment of this Act.

- Clarifies, for purposes of the applicable Code and ERISA rules, the interest crediting rate that is treated as in effect and as the projected interest crediting rate is a reasonable projection of such variable interest rate, subject to a maximum of 6%.
- This clarification will allow plan sponsors to provide larger pay credits for older, longer service workers. Section 346 is effective

SECTION 349	Termination of variable rate premium indexing.

Effective Date: Immediate

- removes the “applicable dollar amount” language in the rules for determining the premium fund target for purposes of unfunded vested benefits and replaces it with a flat \$52 for each \$1,000 of unfunded vested benefits.

SECTION 350	Safe harbor for corrections of employee elective deferral failures.

Effective Date: after December 31, 2023.

- Currently, employers that adopt a retirement plan with automatic enrollment and automatic escalation features could be subject to significant penalties if even honest mistakes are made. The Internal Revenue Service has issued guidance on the correction of failures relating to default enrollment of employees into retirement plans. This guidance includes a safe harbor, which expires December 31, 2023, that permits correction if notice is given to the affected employee, correct deferrals commence within certain specified time periods, and the employer provides the employee with any matching contributions that would have been made if the failure had not occurred. Employers are concerned about the lapse of the safe harbor at the end of 2023.

- This Section eases these concerns by allowing for a grace period to correct, without penalty, reasonable errors in administering these automatic enrollment and automatic escalation features. Errors must be corrected prior to 9 ½ months after the end of the plan year in which the mistakes were made.

Title IV – Technical Amendments

SECTION 401	Amendments relating to Setting Every Community Up for Retirement Enhancement Act of 2019.

- includes three technical and five clerical amendments to the SECURE Act. These amendments are effective as if included in the section of the SECURE Act to which the amendment relates.

Title V – Administrative Provisions

SECTION 501	Provisions relating to plan amendments.

- allows plan amendments made pursuant to this Act to be made on or before the last day of the first plan year beginning on or after January 1, 2025 (2027 in the case of governmental plans) as long as the plan operates in accordance with such amendments as of the effective date of a bill requirement or amendment.
- This Section also conforms the plan amendment dates under the SECURE Act, the CARES Act, and the Taxpayer Certainty and Disaster Tax Relief Act of 2020 to these new dates (instead of 2022 and 2025).

Title VI – Revenue Provisions

SECTION 601	SIMPLE and SEP Roth IRAs.

Effective Date: for taxable years beginning after December 31, 2022.

- Generally, all plans that allow pre-tax employee contributions are permitted to accept Roth contributions with one exception – SIMPLE IRAs. 401(k), 403(b), and governmental 457(b) plans are allowed to accept Roth employee contributions.
- This Section allows SIMPLE IRAs to accept Roth contributions too. In addition, aside from grandfathered salaried reduction simplified employee pension plans, under current law, simplified employee pension plans ("SEPs") can only accept employer money and not on a Roth basis.
- This Section allows employers to offer employees the ability to treat employee and employer SEP contributions as Roth (in whole or in part).

SECTION 602	Hardship withdrawal rules for 403(b) plans.

Effective Date: for plan years beginning after December 31, 2023.

- Currently, the distribution rules for 401(k) and 403(b) are different in certain ways that are historical anomalies for varied reasons. For example, for 401(k) plans, all amounts are available for a hardship distribution.
- This Section conforms the 403(b) rules to the 401(k) rules, effective for

SECTION 603	Elective deferrals generally limited to regular contribution limit.

Effective Date: taxable years beginning after December 31, 2023.

- Currently, catch-up contributions to a qualified retirement plan can be made on a pre-tax or Roth basis (if permitted by the plan sponsor).
- This Section provides all catch-up contributions to qualified retirement plans are subject to Roth tax treatment,
- An exception is provided for employees with compensation of $145,000 or less (indexed).

SECTION 604	Optional treatment of employer matching or nonelective contributions as Roth contributions.

Effective Date: immediate

- Currently, plan sponsors are not permitted to provide employer matching contributions in their 401(k), 403(b), and governmental 457(b) plans on a Roth basis. Matching contributions must be on a pre-tax basis only.
- This Section allows defined contribution plans to provide participants with the option of receiving matching contributions on a Roth basis,

SECTION 605	Charitable conservation easements.

Effective Date: for contributions made after the date of enactment

- The tax deduction for charitable contributions of conservation easements has long played a crucial role in incentivizing the preservation of critical habitat, open spaces, and historically important areas and structures. However, since 2016 IRS has identified certain syndicated conservation easement transactions involving pass-through entities as “listed transactions” carrying a high potential for abusive tax avoidance.
- This Section disallows a charitable deduction for a qualified conservation contribution if the deduction claimed exceeds 2 1/2 times the sum of each partner’s relevant basis in the contributing partnership, unless the contribution meets a 3-year holding period test, substantially all of the contributing partnership is owned by members of a family, or the contribution relates to the preservation of a certified historic structure. In the case of a contribution for the preservation of a certified historic structure, a new reporting requirement applies.

- This Section also provides taxpayers the opportunity to correct certain defects in an easement deed (excluding easements involved in abusive transactions) and makes certain changes to statute of limitations and penalty provisions.

SECTION 606	Enhancing retiree health benefits in pension plans.

Effective Date: for transfers made on or after the date of enactment of this Act.

- Currently, an employer may use assets from an overfunded pension plan to pay retiree health and life insurance benefits. These rules sunset at the end of 2025.
- This Section extends the sunset date to the end of 2032 and would permit transfers to pay retiree health and life insurance benefits provided the transfer is no more than 1.75% of plan assets and the plan is at least 110% funded.

Title VII – Tax Court Retirement Provisions

SECTION 701	Provisions relating to judges of the Tax Court.

Effective Date: on the date of enactment of this Act, unless otherwise stated.

- Currently, Tax Court judges are allowed to contribute to the Thrift Savings Plan ("TSP"), but Tax Court judges are prevented from receiving TSP automatic or matching contributions. Other federal judges, in contrast, may receive automatic and matching contributions if they are not covered by a judicial retirement plan. If those judges later elect to receive judicial retirement benefits, their retired pay is offset by an amount designed to recapture those TSP automatic and matching contributions.
- This Section provides parity between other federal judges and Tax Court judges by extending the same TSP matching contributions policy to Tax Court judges. Additionally, Tax Court judges may elect to participate in a plan providing benefits for the judge's surviving spouse and dependent children. Benefits currently vest only after the judge has performed at least 5 years of service and made contributions for at least 5 years of service. In contrast, other federal judges vest after 18 months of service, and the 18-month period is waived if the judge is assassinated. This Section
- Provides parity between other federal judges and Tax Court judges by applying the 18-month vesting period and assassination waiver to Tax Court judges. Lastly, Section 701 provides that compensation earned by retired Tax Court judges (i.e., those who are disabled or meet the recall requirements) for teaching is not treated as outside earned income for purposes of limitations under the Ethics in Government Act of 1978, and makes technical amendments to coordinate Tax Court judicial retirement with the Federal Employees Retirement System ("FERS") and the retirement and survivors' annuities plans.

SECTION 702	Provisions relating to special trial judges of the Tax Court..

- Special trial judges of the Tax Court are the only judicial officers who do not have an option to participate in a judicial retirement program. This Section establishes a retirement plan under which a special trial judge may elect to receive retired pay in a manner and under rules similar to the regular judges of the Court. The provision provides parity between special trial judges of the Tax Court and other federal judges. Eligible special trial judges are permitted to elect to receive retired pay 180 days after enactment of this Act, including special trial judges who retire on or after the date of enactment and before the date that is 180 days afterwards

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