



# Tax & Business Alert

MARCH 2023

## SECURE 2.0 LAW MAY MAKE YOU MORE SECURE IN RETIREMENT

A new law was recently signed that will help Americans save more for retirement, although many of the provisions don't kick in for a few years. The Setting Every Community Up for Retirement Enhancement 2.0 Act (SECURE 2.0) was signed into law on December 29, 2022. SECURE 2.0 is meant to build on the original SECURE Act of 2019, which made major changes to the required minimum distribution (RMD) rules and other retirement provisions.

Here are some of the significant retirement plan changes and when they'll become effective:

- **The age for beginning RMDs is going up.** Employer-sponsored qualified retirement plans, traditional IRAs and individual retirement annuities are subject to RMD rules. They require that benefits start being distributed by a specific beginning date. Under the new law, the age used to determine distributions increases from age 72 to age 73 starting on January 1, 2023. It will then increase to age 75 starting on January 1, 2033.
- **There will be higher "catch-up" contributions for 401(k) participants ages 60 through 63.** Currently, participants in certain retirement plans can make additional catch-up contributions if they're age 50 and older. The limit on catch-up contributions to 401(k) plans is \$7,500 for 2023. Secure 2.0 will raise the 401(k) plan catch-up contribution limits to the greater of \$10,000 or 150% of the regular catch-up amount for individuals ages 60 through 63. The higher

amounts will be indexed for inflation after 2025. This provision will take effect for taxable years beginning after December 31, 2024. (There will also be increased catch-up amounts for SIMPLE plans.)

- **Tax-free rollovers will be allowed from 529 accounts to Roth IRAs.** SECURE 2.0 will permit beneficiaries of 529 college savings accounts to make direct trustee-to-trustee rollovers from a 529 account in their names to their Roth IRAs without tax or penalty. Several rules apply. This provision is effective for distributions after December 31, 2023.



## NON-RETIREMENT PLAN PROVISION

There are also some parts of the law that aren't related to retirement plans, including a change to Achieving a Better Life Experience (ABLE) accounts. Tax-exempt ABLE programs are established by states to assist individuals with disabilities.

Currently, in order to be the beneficiary of an ABLE account, an individual's disability or blindness must have occurred before age 26. SECURE 2.0 increases this age limit to 46, which will make more people eligible to benefit from an ABLE account. This provision is effective for tax years beginning after December 31, 2025.

### ■ **“Matching” contributions will be permitted for employees with student loan debt.**

The new law will allow an employer to make matching contributions to 401(k) and certain other retirement plans with respect to “qualified student loan payments.” The result of this provision is that employees who can't afford to save money for retirement because they're repaying student loan debt can still receive matching contributions from their

employers into retirement plans. Taxpayers can receive these matching contributions even if they aren't contributing to their own retirement accounts. This will take effect starting after December 31, 2023.

### JUST THE BEGINNING

These are only some of the many provisions in SECURE 2.0. Contact us if you have any questions about your situation. ■

## CAN YOU DEDUCT THE COSTS OF A SPOUSE ON A BUSINESS TRIP?

If you own a company and travel for business, you may wonder whether you can deduct all the costs of having your spouse accompany you on trips. It's possible, but the rules are restrictive.

First, your spouse must be your employee. If that isn't the case, then even if your spouse has a bona fide business purpose for making the trip with you, you won't likely qualify to deduct all of his or her travel costs. In fact, this requirement prevents tax deductibility in most cases.

### A SPOUSE-EMPLOYEE

If your spouse *is* your employee, then you can deduct travel costs if his or her presence on the trip serves a bona fide business purpose. It isn't enough for your spouse to merely be “helpful” in incidental ways, such as by typing your meeting notes. Your spouse's presence must serve a necessary business purpose.

In most cases, a spouse's participation in social functions, for example as a host or hostess, isn't enough to establish a business purpose. That is, if his or her purpose is to establish general goodwill for customers or associates, this is usually insufficient. Further, if there's a vacation element to the trip (for example, if your spouse spends time sightseeing), it will be more difficult to establish a business purpose

for his or her presence on the trip. On the other hand, a bona fide business purpose exists if your spouse's presence is necessary to care for a serious medical condition that you have.



If these tests are satisfied in relation to your spouse, the normal deductions for business travel away from home can be claimed. These include the costs of transportation, meals, lodging, and incidentals such as dry cleaning and phone calls.

### A NON-EMPLOYEE SPOUSE

Suppose your spouse's travel doesn't satisfy these requirements. You may still be able to deduct a

substantial portion of the trip's costs. This is because the rules don't require you to allocate 50% of your travel costs to your spouse, but only any *additional* costs you incur for him or her. For example, in many hotels the cost of a single room isn't that much lower than the cost of a double. If a single would cost you \$150 a night and a double would cost you and your spouse \$200, the disallowed portion of the cost allocable to your spouse would only be \$50. In other words, you can write off the cost of what you would have paid traveling alone.

To prove your deduction, ask the hotel for a room rate schedule showing single rates for the days you're staying.

If you drive your own car or rent one, the whole cost will be fully deductible even if your spouse is along. Of course, if public transportation is used, and for meals, any separate costs incurred by your spouse won't be deductible.

Contact us if you have questions about this or other tax-related topics. ■

## HAVE A FOREIGN ACCOUNT? FILE AN FBAR

Any U.S. person with a financial interest in, or signature or other authority over, any foreign financial accounts must file a Report of Foreign Bank and Financial Accounts (FBAR), subject to conditions. That is, if the aggregate value of the foreign financial accounts exceeds \$10,000 at any time during the calendar year, the individual must file an FBAR by April 15 following the calendar year. Let's explore more of the pertinent details.

### PERSONS AND ACCOUNTS

A "U.S. person" is generally a U.S. citizen, including a child. However, he or she may be an individual who's a resident alien of the United States, District of Columbia, Native American lands (as defined in the Indian Gaming Regulatory Act), or the Territories and Insular Possessions of the United States.

Also qualifying as a U.S. person is an entity — including a corporation, partnership, trust or limited liability company — organized or formed under federal law or the law of any state, the District of Columbia, U.S. Territories and Insular Possessions, and Native American tribes.

A "foreign financial account" is a financial account located outside the United States. This includes the states themselves as well as the District of Columbia, U.S. Territories and Insular Possessions, and Native American land.

Note: An account maintained with a branch of a U.S. bank that's physically located outside of the United States is a foreign financial account. An account maintained with a branch of a foreign bank that's physically located inside of the United States isn't a foreign financial account.



### WHAT DEFINES INTEREST

A U.S. person has a financial interest in a foreign financial account if that person is the owner of record or holder of legal title, regardless of whether the account is maintained for the benefit of the U.S. person or another person.

Financial interest may also exist if the owner of record or holder of legal title is one of several listed entities. These include entities controlled by the U.S. person or an agent, nominee, attorney, or someone acting in another capacity on behalf of the U.S. person.

### PENALTY AMOUNTS

Civil penalties for non-willful violations can exceed \$10,000 per violation, adjusted for inflation. For willful violations, civil penalties can range up to the greater of \$100,000, adjusted for inflation, or 50% of the amount in the account at the time of the violation. Contact us for more information. ■

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## RECONSIDERING YOUR PERSONAL EMERGENCY FUND

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Back in 2020 when the COVID-19 pandemic first hit, many people's emergency funds were suddenly put to the test — assuming there was a fund at all. Now, three years later, and presumably with the benefit of some hindsight, you might want to reconsider your rainy-day savings. You've probably heard that, to guard against an emergency, you need to save enough to cover three to six months of living costs. But this rule isn't as straightforward as it may sound.

An emergency cushion is indeed important — and it's certainly better to be conservative rather than cavalier when estimating your financial requirements. However, believe it or not, there may be a danger to saving too much in certain savings vehicles. For example, if you put away substantially more than you'll reasonably need in a low-interest savings account, you may lose money to inflation over time. Plus, you might miss out on opportunities to invest those funds in tax-advantaged retirement accounts or other assets.

Instead of blindly following a rule of thumb, tailor your emergency savings to your financial situation.



A smaller emergency fund may suffice if, for instance, your spouse has a reasonably secure job, you have relatives who can provide financial assistance in a pinch, or there's reason to believe that you'd be able to find other work quickly if you lost your job. Conversely, if you're the sole breadwinner or you simply have a low tolerance for risk, a bigger emergency fund may be appropriate. Our firm can help you find the right balance. ■