

Dallas Estate Planning Council
November 2, 2023

NOT THIS AGAIN!
SECURE 2.0:
What You Need to Know

Presented By:

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Overview of Today's Presentation

- I. Review of changes encompassed in the SECURE Act
- II. Clarifications to SECURE provided by the Proposed Regulations
- III. Outline of provisions of SECURE 2.0

CAVEAT: *This presentation considers global and generally applicable changes introduced by these Acts and the Proposed Regulations under the SECURE Act as presently understood. Because these rules are highly fact specific, the speaker encouraged practitioners to closely consider all facts and circumstances before reaching a conclusion. Additionally, interpretation and, therefore, application of SECURE 2.0 is currently in a state of flux. The content of this presentation may require alteration in the future as Congress, Treasury, and/or the IRS provides further guidance.*

Retirement in America: By the Numbers

- The median retirement savings total for individuals ages 55 to 64 is \$120,000, and \$37,000 for those 35 to 44 years old.¹
- In 2022 there were 60 million active 401(k) participants, while the workforce included 160 million people; in other words, roughly 38% of individuals are actively participating in a 401(k).²
- Every day between now and the end of the next decade, another 10,000 baby boomers are expected to turn 65. That's roughly one person every eight seconds.³
- There were 92,000 centenarians in 2020 but, by 2060, this number is expected to increase to 589,000.⁴

¹ PricewaterhouseCoopers, "[Retirement in America: Time to Rethink and Retool](#)".

² Investment Company Institute. "[401\(k\) Resource Center](#)." U.S. Bureau of Labor Statistics. "[Table A-1. Employment Status of the Civilian Population by Sex and Age](#)."

³ Genworth.com, 2022.

⁴ U.S. Bureau of Labor Statistics, BLS.gov, 2022.

SECURE Act

- Setting Every Community Up for Retirement Enhancement Act (SECURE Act) passed on December 20, 2019, effective January 1, 2020.
- First major retirement related legislation since the passage of the Pension Protection Act of 2006.
- Major changes included the following:
 - Increased tax credits to encourage establishment of retirement plans
 - Expand use of multiple-employer plans to unrelated businesses
 - Expand plan eligibility to long-term part-time employees that worked at least 500 hours for three consecutive years
 - Repeal age limitations for IRA contributions
 - Modify “Stretch” rules for most non-spousal beneficiaries requiring a 10-year payout
 - Streamlined “See-Through” trust drafting

SECURE Act

- Specific notable changes to prior laws applicable to qualified accounts I.R.C. § 401(a):
 - Raised Required Beginning Date (“RBD”) to age 72;
 - Limited payouts to Designated Beneficiaries (“DB”) to 10 years, except for “Eligible Designated Beneficiaries” (“EDBs”); and
 - Introduced and defined EDB as:
 - ❖ Surviving Spouse,
 - ❖ Child under the age of majority,
 - ❖ Beneficiary not more than 10 years younger,
 - ❖ Disabled or chronically ill, and
 - ❖ Certain See-Through Trusts.
- Unchanged: rules for Non-Designated Beneficiaries such as estates and charities (generally, 5 years).

Pre-SECURE Beneficiary Categories

- Pre-SECURE Beneficiaries – could “stretch” distributions
 - Nondesignated Beneficiary
 - ❖ If participant died before RBD: 5-year rule
 - ❖ If participant died after RBD: participant’s life expectancy
 - Designated Beneficiary (generally, an individual)
 - ❖ If participant died before RBD: could be 5-year rule or beneficiary’s life expectancy
 - ❖ If participant died after RBD: longer of participant’s or beneficiary’s life expectancy
 - Surviving Spouse – longer of participant's or spouse’s life expectancy, or could rollover to own account

SECURE Act: Beneficiary Categories

<u>Non-Designated Beneficiary</u>	<u>Designated Beneficiary</u>	<u>Eligible Designated Beneficiary</u>
Any beneficiary that is not designated, or a DB or EDB. Most often trusts that do not qualify as see-through trusts, estates, or charities.	Any individual (or certain trusts) named on beneficiary designation form or, as of Sept. 30 of year following death, determined to be beneficiary under terms of plan.	<ol style="list-style-type: none">1. Surviving spouse of participant2. Child of participant who has not reached age of majority (21 years of age)3. An individual who is not more than 10 years younger than participant4. Disabled or chronically ill beneficiary5. Certain Trusts

Proposed Regulations under SECURE Act

- Introduced February 24, 2022
- Issued to replace current RMD regulations and, in general,
 - Clarifies age of majority for minor beneficiary,
 - Clarifies rules for distributions to “see through” trust, and
 - If a participant was subject to RMDs during life, minimum distributions must continue for the beneficiary during 10-year payout period.

Proposed Regulations under SECURE Act

- Contains many important definitional clarifications, including:
 - Minor: Individual reaches the age of majority at 21, regardless of the definition under state law. (Prop. Treas. Reg. § 1.401(a)(9)-4(e)(3))
 - NMTTY: Regulations clarify that “not more than 10 years younger” than the participant must be calculated to the birthdates, not birth years. (Prop. Treas. Reg. § 1.401(a)(9)-4(e)(6))
 - Beneficiary Finalization Date: Instructs how to determine who is/are the participant’s identifiable beneficiary(ies). (Prop. Treas. Reg. § 1.401(a)(9)-4)
 - Chronically ill / Disabled beneficiary (EDB to stretch distributions): must be disabled (within the meaning of I.R.C. § 72(m)(7)) or chronically ill as of participant’s death or deemed disabled by the Social Security Administration as of participant’s death. (Prop. Treas. Reg. § 1.401(a)(9)-4(e)(4))
 - ALAR: Regulations appear to maintain the “at least as rapidly” rules. (Prop. Treas. Reg. § 1.401(a)(9)-5(d))
 - Several clarifications applicable to See-Through trust drafting.

Proposed Regulations under SECURE Act: Distribution Options

General summary of the Proposed Regulation distribution schedule by type of beneficiary:

	Participant Died <u>Before RBD</u>	Participant Died <u>On or After RBD</u>¹
Designated Beneficiary	10-year rule, <i>with no RMDs</i>	RMDs based on the greater of (1) beneficiary's life expectancy or participant's life expectancy, with balance taken by 10th anniversary of participant's death, or (2) the final year of the beneficiary's life expectancy.
Eligible Designated Beneficiary	Beneficiary's life expectancy (or 10-year rule ² , <i>with no RMDs</i>)	RMDs based on beneficiary's life expectancy, <i>then 10-year rule at beneficiary's death or when ceases to be EDB</i>
Non-Designated Beneficiary	5-year rule, <i>with no RMDs</i>	RMDs based on participant's (decedent) life expectancy from year of death ³

¹ The year of death RMD must be taken by the beneficiary if not taken by the participant!

² 10-year election is available only when the participant died before his or her RBD.

³ The "ghost" life expectancy rule can result in payout schedule in excess of 5 years.

IRS Notices Regarding Final Regulations

- Relief for Missed Beneficiary RMDs: Notice 2022-53, issued October 7, 2022
 - Application limited to 2021 and 2022 (and now, 2023, by virtue of Notice 23-54, discussed on next slide) “specified” Required Minimum Distributions (“RMDs”),” which are those that would have been required for 2021 or 2022 under the proposed regulations’ interpretation of I.R.C. § 401(a)(9)(H).
 - Effect of waiving the excise penalty for failure to take RMDs if:
 - ❖ A 2021, 2022, *and/or* 2023 RMD, was not taken under new 10-year payout scheme, and
 - ❖ Participant died in 2020, 2021, *or* 2023 on or after RBD.
 - ❖ NOTE: relief extended to only those beneficiaries subject to new RMD rules!

IRS Notices Regarding Final Regulations

- Application of Final Regulations: Notice 2023-54, issued July 14, 2023
 - Final Regulations for RMDs under I.R.C. § 401(a)(9) will be effective *not earlier than* the 2024 distribution year.
 - ❖ Extends Notice 22-53 excise tax waiver for Designated Beneficiaries to 2023 RMDs.
 - ❖ Provides a RMD reprieve to participants born in 1951; may treat 2022 RMD as a rollover outside of the usual 60-day window (if completed before October 2023) and once-per-year rule .

Planning Under SECURE and Proposed Regulations: Charitable Planning and CRTs

- Retirement plans have always been a good choice for charitable planning because distributions paid directly to charity can (largely) avoid tax.
- With the elimination of the beneficiary “stretch” in many cases, benefits associated with qualified plan charitable gifting, either outright or by utilizing charitable remainder trusts (“CRTs”), become more noteworthy.
- CRTs *can* provide an effective “work around” to regain *a portion* of the term of the historic stretch distribution scheme.
- *BUT* ... CRTs are **NOT** an exact stretch equivalent! Contrary to popular belief, these are rarely superior from a wealth transfer perspective.

Planning Under SECURE and Proposed Regulations: Charitable Planning and CRTs

- A few critical CRUT rules (see I.R.C. § 664(d)(2)):
 - Future value of charitable remaining must be at least 10% of the value of the trust at inception.
 - Unitrusts can last for up to 20 years.
 - ❖ *NOTE:* CRUTs gain only 10 years as compared to a DB distribution term.
 - Unitrusts must pay 5%–50% annually to beneficiaries.
 - ❖ *But compare:* a hypothetical 35 year old beneficiary:
 - RMD under the old stretch rules would have been about 2% of the account balance at age 35.
 - A 5% RMD would not have been applicable for almost 30 years! And, a larger RMD typically means a larger income tax liability.
 - I.R.C. § 7520 rate is used to calculate actuarial value of remainder.

Planning Under SECURE and Proposed Regulations: Roth IRAs

- Prior to SECURE 2.0, RMD rules applied to Roth 401(k) accounts but not to Roth IRAs while the participant was alive. Regardless, traditional accounts are more prevalent (having existed almost 2½ decades longer).
- Because Roth accounts have no RMDs during owner's life, the owner is deemed to have died *before* RBD, regardless of the Roth IRA owner's age at death. Meaning, for a DB, the 10-year rule will apply *without* RMDs.
- Potential Traditional-to-Roth conversions garnering increased consideration.

Planning Under SECURE and Proposed Regulations: Estate Planning and Administration

- Named beneficiary options:
 - Spouse,
 - EDBs or DBs, outright,
 - Trust for EDB, or
 - Trust for DBs (provided it qualifies as See-Through trust).
- Year of death RMD
 - If participant dies on or after RBD without taking full RMD in year of death, then year of death RMD must be distributed to the beneficiary by 12/31 of year of participant's death.
- Exercise caution when distributing balance of account to Estate.

SECURE Act 2.0 of 2022

- Consolidated Appropriations Act, 2023, Public Law No: 117-328
 - Division T of the legislation contains the SECURE 2.0 Act of 2022, which can be found at <https://www.congress.gov/117/bills/hr2617/BILLS-117hr2617enr.pdf> and a detailed summary can be found at https://www.finance.senate.gov/imo/media/doc/Secure%202.0_Section%20by%20Section%20Summary%2012-19-22%20FINAL.pdf.
 - Signed by President Biden on December 29, 2022, as part of the 2023 Consolidated Appropriations Act.

SECURE Act 2.0 of 2022

- The Bill began as three separate legislative proposals, being:
 - House bill: Securing a Strong Retirement Act of 2022, passed March 29, 2022
 - Senate bills, both passed in June 2022:
 - ❖ The Enhancing American Retirement Now (EARN) Act
 - ❖ The Retirement Improvement and Savings Enhancement to Supplement Healthy Investments for the Nest Egg (RISE & SHINE) Act

SECURE Act 2.0 of 2022

- Objectives
 - Broad legislation that impacts practically all types of retirement plans.
 - Picks up where SECURE left off in terms of further expanding access to workplace retirement plans.
 - Intended to encourage sound savings and retirement preparation habits.
 - Clearly shows the government's aspiration to increase access to, participation in, and protections of retirement savings plans and reduce administrative burdens of such plans.

SECURE Act 2.0: Overview

- Summary of major provisions:
 - Increase RMD Age and Catch-Up Contributions
 - Expand Roth contributions and eliminate RMDs for Roth 401(k) accounts
 - Added 529 Plan Rollovers to Roth IRAs and Student-Loan Matching Program
 - Indexed for inflation many existing limitations
 - Addressed 401(k) Automatic Enrollment
 - Implemented Emergency Savings Account provisions and modified the Saver's Credit
 - Reduced penalties for missed RMDs

Errors and Issues

- Tax and labor laws are ... complex. Once enacted by Congress, if errors or ambiguity are identified, most require Congressional correction.
- Notable errors and/or unintended consequences that may require attention (a non-exhaustive list), according to the American Retirement Association Government Affairs Committee:
 - Starter 401(k)/Safe Harbor 403(b) plans *should* have the same employee contributions limits as IRAs but, as drafted, these have a \$6,000 (indexed) contribution limit.
 - Ambiguity regarding Roth employer contributions.
 - Apparent inability to make Roth catch-up contributions and disparate applicability of \$145,000 income threshold to sole proprietors/partners as opposed to employees.
 - Addition of exception to 10% early withdrawal penalty for terminal illness may not apply to qualified or 403(b) plans.
 - Is the higher catch-up limit for ages 60–63 150% of the 2024 (as referenced for qualified and 403(b) plans) or 2025 (as referenced for SIMPLE Plans) regular catch-up limit (and then adjusted for COLAs)?
- Do these (or other) vague, ambiguous, or confusing provisions require a technical corrections Bill or can they be administered as written with ordinary regulatory flexibility?
Remember, the IRS can only interpret what is written, not what is purportedly intended.

Corrections and Guidance

- Treasury grab-bag guidance is “imminent” – William Evans, US Treasury Department attorney-adviser.
 - Expected inclusions are participation cash incentives and employer tax credits (specifically addressing only a few provisions that have already taken, or shortly will take, effect).
 - Expected exclusions are, basically, everything else such as 401(k) contributions tied to student loan repayments, pension-backed emergency savings, automatic enrollment rules, and Savers Match.
- Per May 23, 2023, letter from four Congressmen to Treasury Secretary Yellen and IRS Commissioner Werfel, Congress is planning technical corrections legislation specifically noting attention to §§ 102, 107, 601, and 603 (referred to in this presentation as the Congressional “Letter”).
- No news on when to expect a proposed technical corrections Bill, the extent of inclusion, nor any idea of a path to enactment.

Required Beginning Date

- Required beginning date (“RBD”). (§ 107)

- Historical ages:

- ❖ **70.5** until January 1, 2020
- ❖ **72** for participants reaching age 72 between January 1, 2020, and December 31, 2022

- SECURE 2.0 RBD changes:

- ❖ Increased to **73** as for participants reaching (72 after December 31, 2022, and) **73** before January 1, 2033
- ❖ Will increase to **75** for participants reaching **73** after December 31, 2032.

Birth Year	RMD Age
Before 1950	70.5
1950	72
1951–59	73
1960 or later	75

- Potential Clarification:

- ❖ Language outlining age advancements could be understood disparately.
- ❖ The Letter states that “... with respect to the increase from age 73 to age 75, the provision could be read to apply such [an] increase to individuals who turn 74 (rather than 73) after December 31, 2032, which is inconsistent with Congressional intent... .”

Opt-Out Enrollment

- Opt-out Enrollment. (§ 101)
 - Current law: Participants can opt-*in* to employer-sponsored plans.
 - January 1, 2025: Required automatic enrollment of employees in newly-created 401(k) and 403(b) plans (which *does not include* “any [plan or] arrangement established before” December 29, 2022).
 - ❖ Also provides for automatic escalation, beginning with 3% of salary, increasing by 1% annually until a goal of 10% is reached, not to exceed 15%.
 - ❖ Exceptions for certain small (fewer than 10 employees) or new businesses (first 3 years), and church and governmental plans.
 - ❖ Participants will be able to opt-out of participation.

Catch-Up Contributions

- Indexing IRA catch-up limits. (§ 108)
 - Current law: IRA plan participants aged 50 or older can contribute an extra \$1,000 per year in excess of the regular limit.
 - January 1, 2024: Catch-up contribution limit is indexed for inflation.
- New employer-sponsored plan catch-up category. (§ 109)
 - Current law: Employer-sponsored plan participants can make catch-up contributions of \$7,500 (\$3,500 for SIMPLE plans) at and after age 50.
 - January 1, 2025: Participants aged 60-63 (participants “attain[ing] age 60 but ... not attain[ing] aged 64 before close of taxable year”) may make catch-up contributions of *the greater of* \$10,000 (\$5,000 for SIMPLE plans) (adjusted annually for inflation) or 150% of the regular catch-up contribution amount. Participants can take advantage of this Section for each of years in which they are age 60, 61, 62, and 63.

Catch-Up Contributions

- Catch-up contributions (for workers aged 50 and over) for earners of \$145,000 or greater. (§ 603)
 - Current law: No substantially similar rule.
 - January 1, 2026: For participants with wages over \$145,000 in the preceding year (indexed for inflation), all catch-up contributions must be deposited into a Roth account.
 - ❖ As initially drafted, this implementation date was January 1, 2024.
 - Potential Clarification:
 - ❖ The Letter indicates that this provision could be read to disallow catch-up contributions entirely beginning in 2024, which was not Congress's intent.
 - ❖ Instead of relying on Congressional clarification, *Notice 2023-62, Guidance on Section 603 of the SECURE 2.0 Act with Respect to Catch-Up Contributions*, provides a two-year delay on implementation of § 603 (a two-year “administrative transition period”).

Roth Accounts

- Roth RMDs. (§ 325)
 - Current law:
 - ❖ Roth designated employer plans (such as 401(k)) do require RMDs during participant's life.
 - ❖ Roth IRAs do not require RMDs during participant's life.
 - January 1, 2024: Roth accounts in employer-sponsored retirement plans will be exempt from RMD requirements.
- Rollovers from 529 plans to Roth IRAs. (§ 126)
 - Current law: Leftover funds in 529 accounts are subject to non-qualified withdrawal rules.
 - January 1, 2024: Beneficiaries of 529 college savings plans (that have been open for more than 15 years) can roll over up to \$35,000 from the 529 plan to a Roth IRA during their lifetime (subject to annual Roth IRA contribution rules).

Roth Accounts

- SIMPLE and SEP Roth. (§ 601)
 - Current law: SIMPLE IRAs and SEPs did not permit Roth contributions.
 - January 1, 2023: SIMPLE IRAs and SEPs accept Roth contributions.
 - Potential Clarification:
 - ❖ This Provision might be read to require SEP and SIMPLE contributions to be included in determining an individual has exceeded the contribution limit to a Roth IRA, whether or not
 - ❖ The Letter indicates that “... Congress intended that no contributions to a SIMPLE IRA or SEP plan (including Roth contributions) be taken into account for purposes of the otherwise applicable Roth IRA contribution limit... .”

Roth Accounts

- Optional treatment of employer match as Roth. (§ 604)
 - Current law: Employer match to 401(k), 403(b), and governmental 457(b) plans not allowed on Roth basis.
 - Contributions made after Act enactment (December 29, 2022): Defined contribution plans allow matching or nonelective contributions on a Roth basis.

Employer Match

- Treatment of student loan payments as elective deferrals for matching purposes. (§ 110)
 - Current law: No substantially similar provision.
 - January 1, 2024: Employers with 401(k) plans, 403(b) plans, SIMPLE IRAs and governmental 457(b) plans may make matching contributions to a participant's account when the participant makes a "qualified student loan" payment.

Employer Match

- Saver's Credit now a Saver's Match. (§ 103, 104)
 - Current law: Cash credit (as part of tax refund) available for certain individuals who make contributions to IRAs, employer retirement plans (such as 401(k) plans), and ABLE accounts.
 - January 1, 2027: Credit is now a matching contribution deposited into the saver's retirement account.
 - ❖ Federally funded credit on savings of 50% of retirement contributions in IRA or other retirement plan, up to \$2,000 per individual.
 - ❖ Subject to phasing out at certain income levels (\$71,000 for married filing jointly).
 - ❖ Treasury must promote awareness of the Saver's Match.

Penalties

- Reduces the penalty for failure to take an RMD. (§ 302)
 - Current law: 50% excise tax for missed RMDs (*but see* [prior] instructions to Form 5329).
 - January 1, 2023: Reduces penalty for an RMD shortfall to 25%, or 10% if timely corrected, as defined under the SECURE 2.0.
- Statute of Limitations for Excise Tax. (§ 313)
 - Current law: Under current law, the 3-year statute of limitations for excise taxes related to excess contributions or RMD errors commences as of the date that a specific excise tax return (Form 5329) is filed for the respective violation. [**NOTE:** *Many individuals are unaware of this filing requirement!*]
 - January 1, 2023: For RMD errors, the 3-year period begins when the taxpayer files an individual tax return (Form 1040) for the year of the violation, and for excess contributions, a 6-year statute of limitations commences on the date the relevant Form 1040 is filed (certain exceptions apply).

QCDs

- Qualified charitable distributions (“QCD”). (§ 307)
 - Current law: Individuals aged 70-1/2 or older can transfer up to \$100,000 per year directly from one or more IRAs to one or more public charities and/or private operating foundations.
 - New laws:
 - ❖ January 1, 2023: Taxpayers may make a 50,000 (adjusted for inflation) distribution (counts toward your annual \$100,000 QCD limit) directly from an IRA to a split-interest entity (e.g., charitable remainder unitrust, charitable remainder annuity trust, or charitable gift annuity) and treat as if made to charity for income tax purposes under I.R.C. § 170.
 - ❖ January 1, 2024: \$100,000 annual limit indexed for inflation.

Emergency Savings

- Emergency savings accounts. (§ 127)
 - Current law: No applicable provision.
 - By January 1, 2024: Employers may establish emergency savings account in which non-highly compensated employees can save up to \$2,500 in a Roth-style account.
 - ❖ Distribution treated like a qualified distribution from a Roth account (tax-free if requirements are met) and are treated as elective deferrals for purposes of retirement matching contributions.
 - ❖ Employers may automatically opt employees into these accounts at no more than 3 percent of their salary, and the portion of an account attributable to the employee's contribution is capped at \$2,500.

Emergency Withdrawals

- Withdrawals for emergencies. (§ 115)
 - Current law: 10% penalty generally applies to early withdrawals from tax-preferred accounts like IRAs and 401(k)s.
 - By January 1, 2024: Up to \$1,000 may be withdrawn annually, penalty free, from a 401(k) or IRA in the event of a financial hardship.
 - ❖ May be repaid within 3 years.
 - ❖ Further distributions will not be permitted during the repayment period unless distribution is paid in full.
- Under § 312, as of January 1, 2023, Employees may self-certify conditions of hardship in order to meet hardship withdrawal rules.

Spousal Beneficiary

- Spousal RMD Deferral. (§ 327)
 - Current Law: A surviving spouse could roll IRA into his or her own name, with RMDs then based on the spouse's age.
 - January 1, 2024: A surviving spouse can now elect to be treated as the deceased employee for purposes of RMDs within the employer plan, allowing the surviving spouse to defer RMDs until the deceased spouse would have reached the RMD age.
 - ❖ Spouses now have even more options:
 - Participant-spouse died before RBD: treat as inherited (e.g., (i) delay until participant's RBD, (ii) take RMDs based on spouse's own life expectancy, (iii) apply 10-year rule) or rollover to spouse's own IRA.
 - Participant-spouse died on or after RBD: treat as inherited (take RMDs based on spouse's own life expectancy), or rollover to spouse's own IRA.

Expanded Access for Part-Time Employees

- Improving access for part-time workers. (§ 125)
 - Current Law: Plan eligibility requires either one year of service/1,000 hours worked or three consecutive years of service/500 hours of service.
 - January 1, 2025: Requirement will be either one year/1,000 hours or two years/500 hours.

Plan “Lost & Found”

- Lost & Found national databased. (§ 303)
 - Current law: No applicable provision.
 - By January 1, 2025: DOL must create a national online searchable lost and found database for retirement plans.
 - ❖ While retirement plan sponsors will be required to provide the DOL with the information to help support the database, it is still unclear when and how plans.
 - ❖ Information to be provided to the DOL overlaps information required to be reported on Form 8955-SSA (Annual Registration Statement Identifying Separated Participants with Deferred Vested Benefits).

Other Notable Provisions

- Modest immediate financial incentives (such as gift cards) allowed to promote participation in employer-sponsored plans. (see §§ 113)
- SECURE 2.0 generally expanded contribution limits and access to SEP and SIMPLE plans. (see §§ 116–18)
- Broadens contribution rules and access to certain investment types. (see §§ 201–04, 128)

These provisions vary as to effective dates.

Other Notable Provisions

- Modest immediate financial incentives (such as gift cards) allowed to promote participation in employer-sponsored plans. (see §§ 113)
- SECURE 2.0 generally expanded contribution limits and access to SEP and SIMPLE plans. (see §§ 116-18)
- Encourages startups and businesses without existing employer plans to offer employer-sponsored plans via various credits and safe-harbor participation rules. (see §§ 102, 121)
 - § 102 increased the tax credit (or added a new credit) to start an employer-based plan.
 - Potential Clarification:
 - ❖ The Letter states: “The provision could be read to subject the additional credit for employer contributions to the dollar limit that otherwise applies to the startup credit.”
 - ❖ Although unclear from the language, apparently, Congress intended the new credit for employer contributions to be in addition to the startup credit otherwise available to the employer.
- Broadens contribution rules and access to certain investment types. (see §§ 201-04, 128)

These provisions vary as to effective dates.

Other Notable Provisions

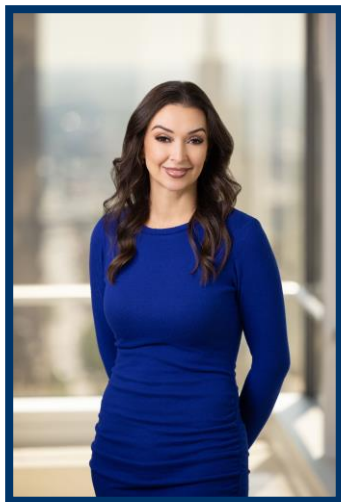
- Title III generally relaxes administrative criteria, compliance, and timelines; for example:
 - Expansion of EPCRS, which allows self-correction of inadvertent employer-sponsored plan errors. (§ 305, see *also* IRS Notice 2023-43)
 - ❖ Guidance is an IRS priority.
 - ❖ Significant issues exist regarding when self-correction of plan errors should begin.
 - Long-term care contracts premiums may be made with retirement plan funds and exempt from the additional 10% tax on early distributions. (§ 334)
 - Fiduciaries may forego recouping mistaken overpayments made to retirees. (§ 301).
 - Clarity and/or flexibility provided to:
 - ❖ Plan amendment timelines. (§ 316)
 - ❖ Withdrawals for first responders. (§ 308-09)
 - ❖ Family attribution rules. (§ 315)

These provisions vary as to effective dates.

What's NOT in SECURE Act 2.0

- Elimination of or restriction on back-door Roth IRA.
- Restrictions on Roth conversions for high-income taxpayers.
- Increase in RMDs for high-income taxpayers with large retirement account balances.
- Change to the age at which qualified charitable distributions from an IRA can be made (remains age 70 1/2).

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Jana represents individuals and multi-generational families. She primarily focuses on tax planning, drafting complex wills and trusts, implementing wealth preservation strategies, and charitable giving. Jana emphasizes helping clients achieve their objectives by designing creative and functional solutions tailored to their specific goals—whether it involves business establishment or reorganization or facilitating the administration of a trust or estate.

Jana draws from a vast breadth of experience in her law practice. Prior to joining the firm, she managed a large horse ranch and cultivated successful real estate and insurance practices. Jana’s business-focused background allows her to understand her clients’ concerns and employ a practical approach to tax, estate, and business planning issues.

She holds an LL.M. in Taxation from Georgetown University Law Center with an academic concentration in Estate Planning. During her time at Georgetown, Jana served as an extern for the United States Department of Justice, Tax Division. While working on her J.D., Jana completed her Master’s degree in Personal Financial Planning, represented pro bono clients in tax controversy matters with the IRS, served as a Peer Financial Counselor, and clerked for the Honorable Robert L. Jones, United States Bankruptcy Court, Northern District of Texas.

Jana is admitted to practice in Texas and maintains her qualification as a Certified Financial Planner, CFP®.

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