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February 2023

Retirement Planning

SECURE Act 2.0: RMD Changes for 2023 and Beyond

Here's how required minimum distributions are changing under the new law.

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Last time, we covered the salient provisions of the SECURE Act 2.0 legislation that President Biden signed into law on December 29, 2022. SECURE 2.0 includes a wide range of changes geared toward expanding retirement plan coverage and encouraging more retirement savings, puts a renewed focus on Roth accounts, and makes several changes to rules regarding required minimum distributions (RMDs), all while building on the provisions of the SECURE Act of 2019.

SECURE 2.0 contains several changes affecting RMDs:

- SECURE 2.0 increases the age for required minimum distributions (RMDs) to 73 and as late as age 75.
- Participants in Roth employer plans (i.e., 401(k)) no longer have to take lifetime RMDs from these accounts.
- The new legislation also reduces the penalty tax for not taking, or taking less than, your RMD due for the year.
- SECURE 2.0 also streamlines the statute of limitation rules for certain errors related to your IRA.

We cover these changes below.

WEBINAR – February 16, 2023

Key Features of Secure Act 2.0 and What They Mean for Retirement Investors

Required minimum distributions pushed to age 73

The SECURE Act of 2019 changed the age at which RMDs begin from 70½ to 72. Secure 2.0 increases the age at which RMDs begin to age 73 for those individuals who turn 72 on or after January 1, 2023. Notably, an individual who attains age 72 in 2023 is not required to take an RMD for 2023. The RMD age changes again in 2033 from 73 to 75.

SECURE 2.0, effective for distributions made after December 31, 2022, increases the RMD age to 73 for those IRA owners (including SEP and SIMPLE, but not Roth IRAs) who turn 72 after December 31, 2022. In other words, if you turn age 72 in in 2023 or later, a minimum distribution is not required until the year you turn age 73. However, if you turned age 72 in 2022 or earlier, you are required to continue taking your minimum distributions as before; there are no changes impacting individuals who reached RMD age prior to 2023.

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For those individuals turning age 72 this year (2023), you will not have to begin taking RMDs from your IRA until next year, 2024, when you reach age 73. Therefore, a person's first RMD is due for the year he or she turns 73, in 2024. There is no RMD for 2023. Thus, the deadline for taking your first (initial) RMD would be April 1, 2025.

Example: Anthony will be celebrating his 72nd birthday on April 2, 2023, and has a traditional IRA. Due to SECURE 2.0 pushing the RMD age to 73, he can delay his RMD from his IRA for another year (2024). Anthony will now have to begin taking RMDs for 2024 when he reaches age 73. Anthony's first RMD, for 2024, can be delayed until April 1, 2025, but then he will need to take two RMDs in 2025—both the (delayed) 2024 RMD and the 2025 RMD, which is due by December 31, 2025.

New Age Requirements for RMDs		
Age 70 ½	For Births on June 30, 1949, or Earlier	Anyone born on June 30, 1949, or earlier should have already started lifetime IRA RMDs and is bound by the original age 70 ½ RMD rule. Nothing changes with the original SECURE or SECURE 2.0. Continue to take your annual RMDs as normal.
Age 72	For Births on July 1, 1949, through and including December 31, 1950	Anyone born on July 1, 1949, through & including December 31, 1950, should have already started lifetime IRA RMDs & is bound by original SECURE RMD age change to 72. Nothing changes with SECURE 2.0. Continue with your existing RMD schedule.
Age 73	For Births on January 1, 1951, through and including December 31, 1959	Anyone born on January 1, 1951, through & including December 31, 1959, will use age 73 as their IRA RMD age. Note: We need a year to adjust to the new age, and 2023 is that adjustment year. People born in 1951 will all turn 72 this year. No RMD is required for these folks in 2023 because the rule is now age 73, and they won't hit 73 until next year. Accordingly, no one will have their very first IRA RMD in 2023, because this year we are transitioning to the new age.
Age 75	For Births on January 1, 1960, or Later	Doesn't begin for another 10 years (2033).

Source: Slott Report; IRA RMD Age Made Easy.

No RMDs for Roth employer plan accounts

Under prior law, a Roth IRA account owner did not have to take lifetime RMDs, but no such exception existed for Roth accounts under employer-sponsored retirement plans. SECURE 2.0 ends lifetime RMDs for Roth designated accounts in an employer-sponsored plan, effective for taxable years beginning after December 31, 2023. However, for retirees who attain age 73 in 2023, Roth account RMDs must still be made by April 1, 2024.

With the elimination of Roth employer plan (i.e., 401(k), 403(b), governmental 457(b) RMDs), effective 2024, owners of all Roth accounts (employer plans and IRAs), will not have to take lifetime RMDs!

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Reducing the 50% excise tax (on failing to take RMDs or distributing too little)

Mistakes are a part of life. However, making a mistake such as forgetting (skipping) your RMD, or taking too little, previously subjected the account owner to a whopping 50% penalty tax on the amount that was supposed to be taken but wasn't. SECURE 2.0, effective in 2023, decreases the penalty tax for missed RMDs (or simply taking too little) to 25%, and if the mistake is corrected during a two-year "correction window" the penalty is further reduced to 10%. The new legislation also includes a three-year statute of limitations for assessing the RMD penalty tax, which we'll cover in the next section.

Statute of limitations for missed RMDs

Unknown to many retirement account owners, for the purposes of assessing IRA penalties, the statute of limitations does not begin until IRS Form 5329 "Additional Taxes on Qualified Plans (Including IRAs) and Other Tax-Favored Accounts" is filed (by the account owner). The 5329 is used when the IRA owner owes a penalty on a matter relating to their IRA. For example, the account owner would use Form 5329 to report the penalty for an RMD that was not taken timely, the 10% early distribution penalty (most pre-age 59 ½ distributions), and the 6% penalty on an excess IRA contribution.

When the 5329 is not filed, the statute of limitations period does not start. Therefore, the penalty continues—forever—unless the error is corrected. This creates a conundrum for the account owner. Why would they file the 5329 if they didn't know an error was made (such as forgetting to take their RMD)?

In an effort to make the process more transparent for those IRA owners who have made certain errors (even those made unwittingly), effective immediately, SECURE 2.0 states that the statute of limitations for a missed RMD (or taking too little), as well as for most excess IRA contributions, starts with the filing of Form 1040 for the year in which the error was made (as opposed to Form 5329). Moreover, for those taxpayers who are not required to file Form 1040, the statute of limitations for such penalties will begin upon their tax filing deadline.

SECURE 2.0 also states for purposes of assessing the penalty for a missed RMD or shortfall that the statute of limitations is three years and for excess IRA contributions it's six years.

Advisors, if you have additional questions, please contact your Lord Abbett representative at 888-522-2388.

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A **401(k)** plan is a qualified plan that includes a feature allowing an employee to elect to have the employer contribute a portion of the employee's wages to an individual account under the plan. The underlying plan can be a profit-sharing, stock bonus, pre-ERISA money purchase pension, or a rural cooperative plan. Generally, deferred wages (elective deferrals) are not subject to federal income tax withholding at the time of deferral, and they are not reported as taxable income on the employee's individual income tax return.

A **403(b) plan**, also known as a tax-sheltered annuity plan, is a retirement plan for certain employees of public schools, employees of certain Code Section 501(c)(3) tax-exempt organizations and certain ministers. A 403(b) plan allows employees to contribute some of their salary to the plan. The employer may also contribute to the plan for employees.

Plans of deferred compensation described in IRC section 457 are available for certain state and local governments and non-governmental entities tax exempt under IRC Section 501. They can be either eligible plans under IRC 457(b) or ineligible plans under IRC 457(f). Plans eligible under 457(b) allow employees of sponsoring organizations to defer income taxation on retirement savings into future years.

A **Traditional IRA** is an individual retirement account (IRA) that allows individuals to direct income, up to specific annual limits, toward investments that accumulate tax-deferred. Contributions to the traditional IRA may be tax-deductible depending on the taxpayer's income, tax-filing status, and other factors.

A **SIMPLE IRA** is a retirement plan that may be established by employers, including self-employed individuals. The employer is allowed a tax deduction for contributions made to the SIMPLE. The employer makes either matching or nonelective contributions to each eligible employee's SIMPLE IRA, and employees may make salary deferral contributions.

A **Roth IRA** is a tax-deferred and potentially tax-free savings plan available to all working individuals and their spouses who meet the IRS income requirements. Distributions, including accumulated earnings, may be made tax-free if the account has been held at least five years, and the individual is at least 59½, or if any of the IRS exceptions apply. Contributions to a Roth IRA are not tax-deductible, but withdrawals during retirement are generally tax-free.

A **Roth 401(k)** is an employer-sponsored savings plan that gives employees the option of investing after-tax dollars for retirement. Although you pay taxes on your contributions, withdrawals that you take after age 59½ will be tax-free if the account has been funded for at least five years.

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02/23

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