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SECURE 2.0 Client Alert Memo

On December 29, 2022, the SECURE 2.0 Act of 2022 was signed into law by President Biden. This law represents the most significant piece of retirement plan legislation in over 20 years. The law contains almost 100 provisions, some of which are optional (in terms of adopting), and others which will have no operative impact on most of our client's Plans. But there are provisions which demand attention, and some sooner versus later. Below are several provisions of this new law to be aware of……………..

Considerations for 2023:

Optional Roth treatment of Employer contributions to Plans. Effective now, this provision allows Plans to offer the option for employees to choose to treat fully vested Employer contributions as Roth (after tax). While this provision is effective now (per the terms of the law), this option will need to wait for IRS regulatory guidance to implement. The many operational questions of exactly how to do this will come from IRS. When available, we will communicate this option further with clients who are interested.

Increase in RMD (Required Minimum Distribution) start to age 73. Required minimum distributions now will begin (with some exceptions) for those turning age 73 after 12/31/2022. This age will increase to 75 effective in 2033. For those receiving RMD's prior to 2023, their current RMD routine will continue unchanged.

Excise taxes for missed RMD's are reduced – for corrections made as specified under the law.

Self-certification allowed for hardship withdrawals from 401(k) Plans. Documentation to be collected by Employers specific to employee hardship withdrawal requests has changed over time with differing IRS regulatory guidance. Law now allows for employee self-certification of hardship withdrawal need without the need for collecting documentation to support the request. This provision is optional but one which will be universally applied to Tiger's Eye clients.

Qualified Charitable Distribution limit indexed. Beginning for 2023 tax years, the $ 100,000 limit on these distributions will be indexed for inflation. This impacts Individual Retirement Accounts (IRA's) only.

SEP-IRA & SIMPLE IRA contributions can be designated as Roth in 2023. This is another provision which will require IRS regulatory guidance to implement.

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Provisions effective in 2024:

Roth tax treatment of 401(k) catch-up contributions by certain individuals. Effective in 2024, individuals who earned $ 145,000 or more in the previous year **must** treat (age 50) catch-up contributions as Roth versus Pre-Tax. This provision will also require regulatory guidance from IRS, and there have already been calls to extend the implementation of this provision to give Employers, payroll providers and 401(k) recordkeepers time to update systems to deal with this. More details to come as this develops.

The **Roth requirement** for certain catch-up contributions will require Plans that do not currently have a Roth (employee) contribution option to add that. We will work with our clients who do not yet have Roth provisions to add to Plans as needed.

Optional Emergency Distributions can be allowed from 401(k) Plans. Starting in 2024, optional provisions for distributions beyond currently allowed "proven financial hardship" circumstances can be added. These withdrawals are limited to $ 1,000, exempt from the 10% early withdrawal tax, can be repaid to the Plan, and are subject to other limitations. We will confer with our clients whose Plans already contain hardship withdrawal language about adding this option also.

Emergency Savings Accounts. A new option for additional accounts which can be added to 401(k) Plans. Many rules and limitations may make this new optional provision unattractive to most Employers.

SIMPLE-IRA changes allowed mid-year. Until 2024, an Employer's ability to change from a SIMPLE-IRA to a 401(k) Plan during the year was not allowed. Allowed going forward with a host of limitations and coordination requirements. Additional Employer contributions to SIMPLE-IRA Plans are also allowed along with higher Employee limits for some Plans (based on employee numbers).

More changes are included in the law, and we will monitor and report on those in future client communications. Call or email our offices with questions any time.