



BENEFITS & COMPENSATION UPDATE

ROTH 401(k) LIFETIME DISTRIBUTION REQUIREMENTS ELIMINATED UNDER SECURE ACT 2.0

Recent changes under the SECURE 2.0 Act of 2022 (“SECURE Act 2.0”) have eliminated the requirement that a participant receive pre-death required minimum distributions (“RMDs”) from a designated Roth account under a 401(k) plan, effective beginning in 2024.

Background.

Under the tax code, a participant generally must begin receiving a minimum distribution of their account (RMDs) by a “required beginning date”. Following changes under the SECURE Act 2.0, the required beginning date for a participant’s RMDs is generally the later of (i) the participant’s retirement and (ii) the calendar year in which the participant attains the following applicable age:

- age 70^{1/2}, for participants born before July 1, 1949
- age 72, for participants born on or after July 1, 1949, but before January 1 1951;
- age 73, for participants born on or after January 1, 1951, but before January 1, 1960; and
- age 75, for participants born on or after January 1, 1960.

Employers may offer 401(k) participants the ability to designate deferrals and certain other plan contributions (including, at the option of the employer under SECURE Act 2.0, employer matching contributions and other employer (e.g., profit sharing) contributions) be made to a designated Roth account on an after-tax basis. Roth contributions are included in the participant’s taxable

income when made, but qualifying distributions (including earnings) are not taxed at retirement. Prior to 2024, pre-death RMDs were required for both designated Roth accounts and traditional non-Roth (e.g. pre-tax) accounts under a 401(k) plan.

The SECURE Act 2.0 provides that the rules requiring RMDs during a participant’s lifetime do not apply to designated Roth accounts for taxable years beginning in or after 2024. This change aligns the treatment of Roth 401(k) accounts with the existing treatment of Roth IRA accounts, which have not been subject to pre-death RMD requirements. Thus:

- Under the [IRS rules](#), if a participant has both designated Roth and non-Roth accounts, Roth-designated amounts are not included in the RMD calculation for calendar years up to and including the calendar year of the participant’s death, and no distributions of Roth accounts would be required during the lifetime of the participant.
- Further, under [proposed IRS rules](#), a distribution from a designated Roth account made in a calendar year for which RMDs are required under a plan would not count towards satisfying that RMD requirement. Since such a distribution is not treated as an RMD, the proposed rules provide that such a distribution could be rolled over to a Roth IRA.
- Post-death RMDs are still required in certain instances for designated Roth accounts, and a

deceased participant's RMDs would be calculated including Roth balances in calendar years following the participant's death.

Next Steps

The SECURE Act 2.0 contains many changes to the retirement landscape, some of which immediately impact the administration of retirement plans. You should review the new changes and consult your retirement and tax advisors to discuss implementing the SECURE Act 2.0, including the required and optional operational changes, plan amendments, and participant communications (the key provisions of certain optional and mandatory plan changes under SECURE Act 2.0 are summarized in our previous [update](#) dated January 23, 2023).

PLAN AMENDMENT DEADLINE

Under the SECURE Act 2.0, the deadline for any amendments (including the Roth 401(k) amendment described above) for pre-approved plans is December 31, 2026 (December 31, 2028 for certain collectively bargained plans and December 31, 2029 for governmental plans). However, as many SECURE Act 2.0 provisions are effective immediately, plans must be operated in accordance with the new law before the amendment deadline.

This update is not intended to provide legal advice with respect to any particular situation, and no legal or business decision should be based solely on its content.

If you have any questions about this update, please contact:

Norman J. Misher	212-903-8733	nmisher@rhtax.com
Allen J. Erreich	212-903-8769	aerreich@rhtax.com
Chase B. Steinlauf	212-903-8736	csteinlauf@rhtax.com
Daniel P. Herrmann	212-903-8718	dherrmann@rhtax.com