

# NEWS YOU CAN USE

## for Advisors and CPAs

February 2023

### SECURE 2.0: Highlight on Automatic Enrollment and Automatic Escalation

We continue the series highlighting portions of SECURE 2.0 by examining a provision that both new and existing clients are sure to have questions about: **the new automatic enrollment and automatic escalation requirement.**

**What's the new rule exactly?** 401(k) and 403(b) plans established after December 29, 2022, must automatically enroll employees who satisfy the plan's eligibility criteria. Participants must be automatically enrolled at a contribution rate of at least 3% — but no more than 10% — of their pay. Plans must then provide for automatic escalation of the deferral percentage by one percentage point each year, up to at least 10% and no more than 15%. Employees must be given the opportunity to opt out, of course, and also must be given the ability to withdraw those automatic deferrals in the 90-day period after deferrals begin.

**When does the rule take effect?** Automatic enrollment will be required for these new plans beginning with the 2025 plan year.

**Are there exceptions?** Yes. First, the rule applies only to *new* plans. 401(k) and 403(b) plans established before December 29, 2022, are generally unaffected. Second, the rule does not apply to: (1) businesses with fewer than 10 employees, (2) businesses that are less than three years old, and (3) church and governmental plans.

**What do I do with this information?** You can assure current clients who established a 401(k) or 403(b) plan before SECURE 2.0 that they are not required to change their plan design. When establishing new plans, **(1)** ensure clients know that they will have to add automatic enrollment by 2025, **(2)** consider whether a design that automatically enrolls at 10% to avoid the administrative difficulty of also implementing auto-escalation is appropriate for your client, and **(3)** work with your TPA partner to document the automatic enrollment feature in the plan now to avoid confusion later.



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Kelsey's practice is focused in the areas of Employee Benefits and Executive Compensation. She works with business owners and HR executives to understand and manage employee benefits and executive compensation arrangements. She routinely represents clients before the Internal Revenue Service, Department of Labor, and Pension Benefit Guarantee Corporation and has extensive experience in virtually all aspects of employee benefit plans and executive compensation arrangements.

### Reminders

- **February 28, 2023:** File Form 1099-R in paper with the IRS regarding plan distributions for 2022.
- **Testing Refunds:** If ADP and ACP testing reveals excess contributions to HCEs, plan sponsors can refund those excess contributions without paying excise taxes so long as the correction is made within two-and-a-half months after the end of the plan year (March 15 for calendar year plans).
- **March 15, 2023:** Due date for funding employer contributions for S-Corps and partnerships that have not obtained an extension.