The SECURE 2.0 Act of 2022

Nationwide Retirement Solutions

Nationwide®

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NRM-22187AO (6/23)

Current as of June 2023

This material can be used externally. Market section slides and/or provisional sections may be used independently and shared with financial professionals, consultants and plan sponsors.

Key

Legislative guidance is still needed:

Guidance still needed –

No guidance needed –

Required = The provision is designed to require all plans within the reflected tax code to comply with the provision

Optional = SECURE 2.0 makes the provision available to plan sponsors but it is at their discretion whether they adopt the feature

General Overview

SECURE 2.0 is new legislation impacting our industry

The Legislation

The Setting Every Community Up for Retirement Enhancement (SECURE) 2.0 Act of 2022 was passed on December 23, 2022 and enacted on Dec. 29, 2022

The Goals

Encourage more employers to offer a qualified retirement plan

Encourage employees to save more for retirement

Increase access

Boost savings

Expand coverage with group plan options

Extend required access time

Preserve retirement income

SECURE 2.0 milestones and Nationwide implementation processes are ongoing

Industry Milestones

- 1st version of the Bill, expanding on Dec. 2019 SECURE Act
- House passes SSRA
- HELP committee adds Rise & Shine draft
- Finance committee approves EARN Act
- Congress passes the SECURE 2.0 Act of 2022 on Dec. 23, enacted on Dec. 29
- The industry seeks technical corrections on key provisions
- Industry conferences take place, legal and regulatory specialists contribute

2021 / 2022 | **2023** | **2024 / 2025+**

Nationwide Activities

Nationwide lobbies on the Hill
- Emergency svgs.
- CITs in 403(b)
- Auto enroll

Begins operational analysis to prepare, listens and lobbies while Congress continues to shape the bill(s)

Leaders build and amplify support in the industry, continue to draft provisions

Creates cross-functional working team, anticipates IT and operational needs

Reviews and unpacks the details of 92 provisions, seeks technical guidance for key provisions

Prioritizes mandatory and high-demand provisions
- Assess features
- Consider system impacts

Begins outreach process with plans with steps for implementation
- RMDs
- 1st of the month rule

Continues outreach
- Develop forms for plans to sign
- Opt in/opt out options presented

Implements final provisions needed for 2023, continue with provisional planning for 2024 and beyond

Begins outreach process to plans for optional provisions in 2024 and beyond

Builds implementation steps for required and optional provisions in 2024 and beyond

Follows up with plans for feedback on all SECURE 2.0 provisional implementations

Promotional Activities

- Hosts webinar about pending legislation
- Notifies clients of SECURE 2.0 passage
- Produces white papers, podcasts
- Speaks at industry conferences
- Hosts deep-dive webinar #2
- Develops detailed review of 2023

The SECURE 2.0 Act of 2022

Setting **E**very **C**ommunity **U**p for **R**etirement **E**nhancement to increase the number of plans offered and participation within them

*There are **92 provisions** that impact multiple audiences and markets across the retirement planning industry*

Top Operations, Compliance and Implementation Provisions*

Immediate 2023

- RMD required beginning date change from 72 to 73
- Modified start-up tax credit and new match tax credit
- Eliminate the first day of the month requirement for governmental 457(b)
- Hardship self-certification
- 403(b) MEPs/PEPs
- Qualified federally declared disasters
- IRS charitable distribution
- Optional treatment of employer matching/non-elective contributions as Roth contributions
- Small, immediate financial incentives for plan contributions

2024

- Roth catch-up contribution rules for over $145k salary
- Emergency savings withdrawal options
- Student loan matching contributions
- Domestic abuse distribution
- RMD Roth distribution rules
- RMD surviving spouse election to be treated as employee
- Hardship withdrawal rules for 403(b) plans

2025+

- Expanding auto enrollment in 401(k) and 403(b) retirement plans (2025)
- Higher catch-up limit to apply at age 60, 61, 62 and 63 (2025)
- Improving coverage for part-time workers (2025)
- Saver's match (2027)

Market Opportunities

- Emergency savings
- Student loan match
- 401(k) for startup plans
- Long-term, part-time workers
- Military spouse eligibility credit
- Small employer start-up credit

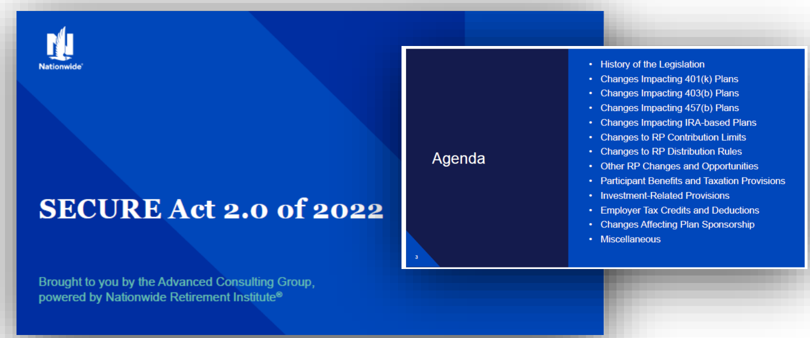
* Not all provisions are listed

Financial Professionals | Consultants | Plan Sponsors | Third-Party Administrators | Payroll Providers | Participants

Client materials are available in a variety of mediums

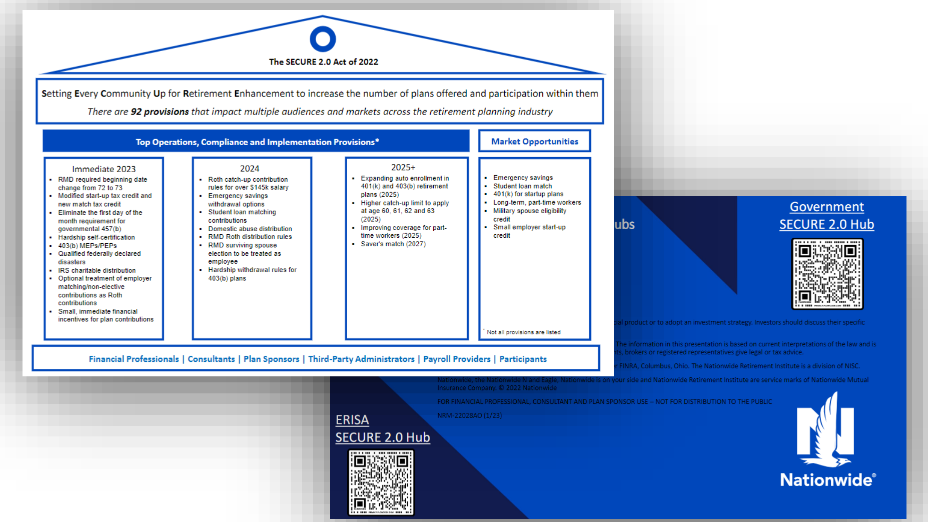
Everyone learns differently, so whether our clients prefer a simplified overview, a detailed legislative review, or a video podcast conversation to learn about SECURE 2.0, Nationwide has all available

ACG full legislative overview

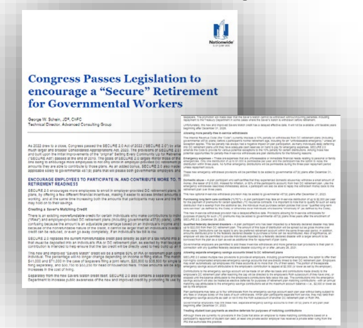


Plan Sponsor SECURE 2.0 Hubs

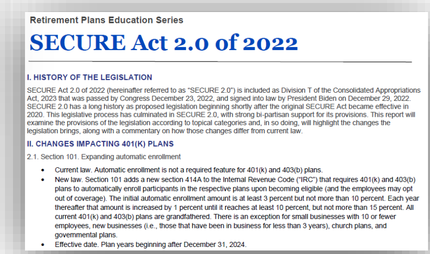
SECURE 2.0 Simplified



SECURE 2.0 Governmental White Paper



'Then and Now' ACG material



[SECURE 2.0 Video Podcast](#)

Social cards and 15-sec. cut

Advisor Blog, Eric Stevenson reacting to Congress passage

Nationwide has teams in place working towards key provision implementation

Nationwide Retirement Solutions has established a core SECURE 2.0 Program Team, including breakout teams for key provisions. In some instances, technical and/or legislative guidance is needed with certain provisions, which the industry is seeking.

In tandem, Nationwide is managing a detailed plan as we move through the implementation process for key provisions, including:

1) Prioritizing all provisions by need and/or timeline
2) Identifying the greatest operational and technical changes needed
3) Designing a seamless process for connecting with plan sponsors to opt-in to optional provisions

We will continue to be in contact with clients as we move towards next steps.

Market Breakout

Government

Certain 2023 provisions have driven the most conversation in the government market

Required Provisions^

Immediate 2023

- RMD required beginning date change from 72 to 73
- Extend Early Withdrawal Penalty Exemption for Public Safety Officers with 25 Years of Service
- Exemption from Early Withdrawal Penalty for Certain State and Local Government Corrections Employees

Optional Provisions^

May adopt in 2023

- Hardship and Unforeseeable Emergency Self-Certification
- First Day of the Month Rule
- Qualified Federally Declared Disasters, Distributions and Loans
- Employer Matching Contributions as Roth
- Distributions from Governmental Plans for Health and Long-Term Care Insurance Paid Directly to Participant

^ Not all provisions are listed

Contributions — Mandatory Provisions

Provision	Description	Impacts we're considering	Guidance is still needed	Some employer considerations*
Section 107 Increase in Age for Required Beginning Date for Mandatory Distributions	Increases the RMD age to: (i) 73 for a person who attains age 72 after December 31, 2022, and age 73 before January 1, 2033, and (ii) 75 for an individual who attains age 74 after December 31, 2032.	• Updates to letters, websites and forms with new RMD age		• Plans and participants should note that if a participant turned 72 in 2022,they are required to continue taking their RMD in 2023
	Commentary **Participants were previously required to begin taking distributions from their retirement plans at age 72 and the new law increases the distribution age to 73 for someone who attains age 72 after December 31, 2022 and age 73 before January 1, 2033. For someone who attains age 74 after December 31, 2032, the applicable age will be 75. Nationwide has updated IT systems to reflect the 2023 age change. Additional efforts are underway to the participant website experience and RMD letters. Guidance is still needed, as there is a technical glitch that impacts individuals born in 1959. It appears that they have an RMD age of both 73 and 75 and a correction is needed.**			
	Status / timeline Planning → Building → Launching → Live			
Section 302 RMD Excise Tax	Reduces the excise tax for failure to take RMDs from 50% of the shortfall to 25%. Further reduces the excise tax to 10% if the individual corrects the shortfall during a two-year correction window.	• Internal service center (RSC)	—	• Penalty tax can still be forgiven under EPCRS and possibly IRS form 5329
	Commentary **The previous law provided for a 50% excise tax for failures to take RMDs from a retirement plan, and the new law reduces the penalty to 25%. The new law also allows for a reduction of the 25% excise to 10% if it is corrected within a correction window. From an implementation perspective, efforts are currently underway to make changes to the participant website as well as content changes to the participant RMD letters.**			
	Status / timeline Planning → Building → Launching → Live			

* Employer considerations are not exhaustive and should not constitute advice

Government Provisions – Effective Immediately

Contributions — Mandatory Provisions

Provision	Description	Impacts we're considering	Guidance is still needed	Some employer considerations*
Section 337 RMD Rules for Special Needs Trust	Clarifies that in the case of a special needs trust established for certain beneficiaries (e.g., a beneficiary with a disability), the trust may provide for a charitable organization as the remainder beneficiary. **Commentary** **In the case of a special needs trust established for a beneficiary with a disability, the trust may provide for a charitable organization as the remainder of the beneficiary. Beneficiary trust documents will be reviewed, and beneficiary designation determination will be made by legal, compliance and the beneficiary team.** **Status / timeline** Planning › Building › Launching › Live	• Internal review of trust documents on a case-by-case basis		
Section 329 Modification of Eligible Age for Exemption from Early Withdrawal Penalty	Extends the age 50 exception to the 10% early withdrawal penalty to those qualified public safety employees who have separated from service and have attained age 50 or 25 years of service, whichever comes first. **Commentary** **The 10% additional tax on early distributions previously did not apply to a public safety officer who is at least age 50, and the requirement now is age 50 or 25 years of service under the plan, whichever is earlier. Participants may technically be younger than 50 yet have 25 years of service. IT modifications have been identified and are slotted to move to development.** **Status / timeline** Planning › Building › Launching › Live	• Remove age condition from IT logic, forms and marketing material • Forms • Marketing material		• Determine impacts to employee demographics and identify who is impacted • Consider a notification to impacted employees

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Government Provisions – Effective Immediately

Contributions | Mandatory Provisions

Provision	Description	Impacts we're considering	Guidance is still needed	Some employer considerations
Section 311 Repayment of Qualified Birth or Adoption Distribution (QBAD) Limited to 3 Years	Requires qualified birth or adoption distributions to be recontributed beginning three years on the day after the QBAD was received in order to qualify as a rollover contribution. This aligns the rule with similar disaster relief provisions and simplifies plan administration.	• Add repayment information to forms	—	• Consider a notification to participants who may have taken this distribution type in the past

Commentary

While the original SECURE Act included a provision that avoids the 10 percent additional tax when taking a distribution for a birth or adoption, it also allowed for recontributions at any time. The new law applies a three-year period for repayment beginning on the day after the date the distribution was received. Nationwide does not need to make system changes so, with a few updates to forms, this can be supported today.

Status / timeline

Planning | Building | Launching | Live

Provision	Description	Impacts we're considering	Guidance is still needed	Some employer considerations
Section 330 Exemption from Early Withdrawal Penalty for Certain State and Local Government Corrections Employees	Expands the definition of qualified public safety employee to include certain corrections officers and forensic security employees, thus making them eligible for the age 50 exception to the 10% early withdrawal penalty.	• Expand definition on impacted systems, forms and marketing material • Forms • Marketing material		• Determine impacts to employee demographics and identify who is impacted • Consider a notification to impacted employees

Commentary

The original law allowed for an exception to a 10% early distribution tax for public safety officers, which has now been extended to certain corrections officers who are employees of state and local governments. IT modifications have been identified and is slotted to move to building/development.

Status / timeline

Planning | Building | Launching | Live

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Government Provisions – Effective Immediately

Contributions — Optional Provisions

Provision	Description	Impacts we're considering	Guidance is still needed	Some employer considerations*
Section 604 Optional Treatment of Employer Matching or Nonelective Contributions as Roth Contributions	Allows a Section 401(a) qualified plan, a Section 403(b) plan, or a governmental 457(b) plan to permit employees to designate employer matching or nonelective contributions as Roth contributions. Student loan matching contributions may also be designated as Roth contributions. Matching and nonelective contributions designated as Roth contributions are not excludable from the employee's income and must be 100% vested when made.	• Participant must make election • Separate RK source needed • Plan amendments		• Impact to payroll processes and procedures • Impact to participants with W2 or 1099-R

Commentary

Roth employer matching was not an elective option with any prior law so with SECURE 2.0, plans have the option of adopting a provision that would allow their participant the option of electing that their employer matching or nonelective contributions be treated as Roth. Guidance is still needed on whether this feature is available to partially vested participants, and how this will be tax reported (W-2 or 1099-R). To implement, a new source is required to support the provision.

Status / timeline

Planning → Building → Launching → Live

Provision	Description	Impacts we're considering	Guidance is still needed	Some employer considerations*
Section 306 Eliminate the "First Day of the Month" Requirement for Governmental Section 457(b) Plans	Conforms rule for governmental 457(b) plans to rule for 401(k) and 403(b) plans by allowing participants of governmental 457(b) plans to change their deferral rate at any time before the compensation is available to the individual. The provision does not modify the deferral timing rules for 457(b) plans of non-governmental tax-exempt entities.	• Plan amendments • Plan election default • IT updates • Form updates (participation / enrollment)		• Impact to payroll processes and procedures

Commentary

Previously, a participant's deferral rate change needed to be made prior to the beginning of a month to take effect. With this new provision, the rate change can occur at any time prior to availability of compensation being deferred. This provision has been highly discussed in the industry. Nationwide will support this provision in 2023 and IT updates are currently in development.

Status / timeline

Planning → Building → Launching → Live

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Distributions — Optional Provisions

Provision	Description	Impacts we're considering	Guidance is still needed	Some employer considerations*
Section 312 Employer May Rely on Employee Certifying that Deemed Hardship Distribution Conditions are Met	Allows a plan administrator to rely on an employee's self-certification that they have had a safe harbor event that constitutes a deemed hardship for purposes of taking a hardship withdrawal from a 401(k) plan or a 403(b) plan. The administrator can also rely on the employee's certification that the distribution is not in excess of the amount required to satisfy the financial need and that the employee has no alternative means reasonably available to satisfy the financial need. A similar rule applies for purposes of unforeseeable emergency distributions from governmental Section 457(b) plans.	• Plan amendments • Distribution requests that fall outside of hardship safe harbor or UE treasury regulations • IT updates		• Consider plan leakage if allowing self-certification • Consider dollar thresholds and/or number of hardships allowed within a year
	Commentary **Under certain conditions, employees are permitted to self-certify that they have had an event that constitutes a hardship for the purposes of taking a hardship withdrawal. Guidance is still needed for plan sponsors if they have information that is contrary to the hardship or request. Guidance is also needed on procedures to address misrepresentation. Plan sponsors will want to fully consider all factors before implementing this feature for their plan. Nationwide is preparing IT estimates to be able to support the provision.**			
	Status / timeline Planning → Building → Launching → Live			
Section 331 Special Rules for Use of Retirement Funds in Connection with Qualified Federally Declared Disasters	Provides permanent special rules governing plan distributions and loans in cases of qualified federally declared disasters. Up to $22,000 may be distributed to a participant per disaster; amount is exempt from the 10% early withdrawal fee; inclusion in gross income may be spread over 3-year period; amounts may be recontributed to a plan or account during the 3-year period beginning on the day after the date of the distribution; allows certain home purchase distributions to be recontributed to a plan or account if those funds were to be used to purchase a home in a disaster area and were not so used because of the disaster; and extends the repayment period.	• Plan amendments • How to manage multiple disasters within a specific time frame		• Consider distribution types that should be made available to participants within the plan
	Commentary **The rules allow up to $22,000 to be distributed from employer retirement plans or IRAs for affected individuals. Such distributions are not subject to the 10 percent additional tax and are taken into account as gross income over 3 years. Distributions can be repaid to a tax preferred retirement account. Guidance is still needed for the timing of the disaster window, whether it allows self-certification of the participant's principal residence, whether the dollar limit is per disaster or per lifetime, and for clarification on the loan repayment extension.**			
	Status / timeline Planning → Building → Launching → Live			

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Government Provisions – Effective Immediately

Distributions

Optional Provisions

Provision	Description	Impacts we're considering	Guidance is still needed	Some employer considerations*
Section 326 Exception to Penalty on Early Distributions From Qualified Plans for Individuals with a Terminal Illness	Creates an exception to the 10% early withdrawal penalty for distributions to individuals whose physician certifies that they have an illness or condition that is reasonably expected to result in death in 84 months or less. The employee also must furnish sufficient evidence to the plan administrator in such form and manner determined by the Secretary of the Treasury.	• Coding for 1099-R • Plan amendments		• Depending on the guidance received, consider the distribution type classification that will be offered • Consider adopting after guidance is provided
	Commentary **Under the previous law, an additional 10 percent tax was applied to early distributions from tax-preferred retirement accounts with only limited exceptions. This provision now allow an exception to the tax in the case of a distribution to a terminally ill individual. This provision does not appear to create a new in-service distribution requirement as drafted, so a participant would only be eligible for the 10% penalty exception if they were otherwise eligible to receive a distribution. If so, it is not clear why participants are required to furnish evidence to the plan administrator. Additional guidance is needed for clarity.**			
	Progress / timeline Planning → Building → Launching → Live			
Section 328 Repeal of Direct Payment Requirement on Exclusion from Gross Income of Distributions from Governmental Plans for Health and Long-Term Care Insurance	Allows the plan to distribute funds to pay for qualified health insurance premiums (1) directly to the insurer or (2) directly to the participant (but the participant must include a self-certification that such funds did not exceed the amount paid for premiums in the year of the distribution when filing the tax return for that year).	• Popularity among plans • Plan amendments • Forms • Functionality of paying insurer vs participant		• Decide if this option is easier to manage and more beneficial to participants
	Commentary **Previously, if a participant received an exclusion from gross income for a distribution from a governmental retirement plan to a public safety officer to pay for their health insurance premiums, the exclusion required that the plan directly pay the insurance premiums. With this new provision, the plan will be able to decide if they want to allow payments to the participant.**			
	Progress / timeline Planning → Building → Launching → Live			

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Distributions

Optional Provisions

Provision	Description	Impacts we're considering	Guidance is still needed	Some employer considerations*
Section 308 Distribution to Firefighters after attaining age 50	Extends the age 50 early withdrawal exception for qualified public safety employees to also apply to private sector firefighters receiving distributions from a qualified retirement plan or 403(b) plan after the employee separates from service upon attaining age 50.	• Plan amendments		• Consider the employees who may fit into this category

Commentary

An original age 50 exception to the 10% early distribution tax that applied to "qualified public safety employees" now also applies to private sector firefighters. Guidance is needed on the definition of a private sector firefighter.

Progress / timeline

Planning → Building → Launching → Live

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General | **Optional Provisions**

Provision	Description	Impacts we're considering	Guidance is still needed	Some employer considerations
Section 120 Automatic Portability Transactions	Permits a retirement plan service provider to provide employer plans with automatic portability services. Such services involve the automatic transfer of a participant's default IRA (established in connection with a distribution from a former employer's plan) into the participant's new employer's retirement plan, unless the participant affirmatively elects otherwise.	• Impact to established process (Millennium Trust does this already for Nationwide) • Plan amendments		

Commentary

A retirement plan service provider may provide employer plans with automatic portability services, to include the automatic transfer of a participant's default IRA (established in connection with a distribution from a former employer's plan) into the participant's new employer's retirement plan, unless the participant affirmatively elects otherwise. The relief is subject to several conditions. The DOL is directed to issue certain guidance and studies related to the exemption, as is the Treasury.

Progress / timeline

Planning → Building → Launching → Live

Market Breakout

Institutional

Certain provisions have driven the most conversation in the institutional market

Required Provisions^

Immediate 2023

- RMD required beginning date change from 72 to 73

Effective in 2025

- Auto enrollment for certain 401(k) and 403(b) plans

Optional Provisions^

May adopt in 2023

- Employer Match and Non-Elective Roth Contributions
- Hardship and Unforeseeable Emergency Self-Certification
- Qualified Federally Declared Disasters, Distributions and Loans

^ Not all provisions are listed

Contributions

Mandatory Provisions

Provision	Description	Impacts we're considering	Guidance is still needed	Some employer considerations*
Section 311 Repayment of Qualified Birth or Adoption Distribution (QBAD) Limited to 3 Years	Requires qualified birth or adoption distributions to be recontributed beginning three years on the day after the QBAD was received in order to qualify as a rollover contribution. This aligns the rule with similar disaster relief provisions and simplifies plan administration.	• Add repayment information to forms	—	• Think about a notification to participants who may have taken this distribution type in the past
	Commentary **While the original SECURE Act included a provision that avoids the 10 percent additional tax when taking a distribution for a birth or adoption, it also allowed for recontributions at any time. The new law applies a three-year period for repayment beginning on the day after the date the distribution was received. Nationwide does not need to make system changes so, with a few updates to forms, this can be supported today.**			
	Status / timeline Planning › Building › Launching › Live			
Section 101 Expanding Auto Enrollment and Auto Escalation in Retirement Plans (effective in 2025)	Certain new 401(k) & 403(b) plans must meet the requirements for an eligible automatic contribution arrangement (EACA), including automatic enrollment for certain plans with a default rate of between 3% and 10% with a 90-day unwind feature, as well as automatic escalation of 1% per year up to at least 10%, but no more than 15%.	• Add inform language to proposals to help plans prepare		• Impacted employers should discuss plan design with their administrative provider
	Commentary **Previously, auto enrollment was not required for 401(k) and 403(b) plans. This provision requires auto enrollment for certain plans to start at a minimum of 3% but not more than 10% of compensation and one percentage point yearly increases up to a max of 15% of compensation. Plans established before 12/29/2022 are grandfathered and this provision is not mandatory. Plans excluded from this requirement are small businesses with 10 or fewer employees, new businesses (i.e., those that have been in business for less than 3 years), church plans, SIMPLE plans and governmental plans. While the provision is not required to go into effect until 2025, Nationwide will be adding the disclosure to all proposals and bundled legal documents. PPA/TPAAs are responsible for additional notifications and for tracking impacted unbundled plans. Guidance is still needed for the definition of an established plan, how to treat mergers and spinoffs, and merging with a MEP/PEP.**			
	Status / timeline Planning › Building › Launching › Live			

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Institutional Provisions – Effective Immediately

Distributions

Mandatory Provisions

Provision	Description	Impacts we're considering	Guidance is still needed	Some employer considerations*
Section 107 Increase in Age for Required Beginning Date for Mandatory Distributions	Increases the RMD age to: (i) 73 for a person who attains age 72 after December 31, 2022, and age 73 before January 1, 2033, and (ii) 75 for an individual who attains age 74 after December 31, 2032.	• Updates to letters, websites and forms with new RMD age		• Plans and participants should note that if a participant turned 72 in 2022,they are required to continue taking their RMD in 2023
	Commentary **Participants were previously required to begin taking distributions from their retirement plans at age 72 and the new law increases the distribution age to 73 for someone who attains age 72 after December 31, 2022 and age 73 before January 1, 2033. For someone who attains age 74 after December 31, 2032, the applicable age will be 75. Nationwide has updated IT systems to reflect the 2023 age change. Additional efforts are underway to the participant website experience and RMD letters. Guidance is still needed, as there is a technical glitch that impacts individuals born in 1959. It appears that they have an RMD age of both 73 and 75 and a correction is needed.**			
	Commentary Planning › Building › Launching › Live			
Section 302 RMD Excise Tax	Reduces the excise tax for failure to take RMDs from 50% of the shortfall to 25%. Further reduces the excise tax to 10% if the individual corrects the shortfall during a two-year correction window.	• Internal service center (RSC)		• Penalty tax can still be forgiven under EPCRS and possibly IRS form 5329
	Commentary **The previous law provided for a 50% excise tax for failures to take RMDs from a retirement plan, and the new law reduces the penalty to 25%. The new law also allows for a reduction of the 25% excise to 10% if it is corrected within a correction window. From an implementation perspective, efforts are currently underway to make changes to the participant website as well as content changes to the participant RMD letters.**			
	Commentary Planning › Building › Launching › Live			

Distributions

Mandatory Provisions

<table>
<tr><th>Provision</th><th>Description</th><th>Impacts we're considering</th><th>Guidance is still needed</th><th>Some employer considerations</th></tr>
<tr><td rowspan="3">Section 337

RMD Rules for Special Needs Trust</td><td>Clarifies that in the case of a special needs trust established for certain beneficiaries (e.g., a beneficiary with a disability), the trust may provide for a charitable organization as the remainder beneficiary.</td><td>• Internal review of trust documents on a case-by-case basis</td><td>—</td><td></td></tr>
<tr><td colspan="4">Commentary
In the case of a special needs trust established for a beneficiary with a disability, the trust may provide for a charitable organization as the remainder of the beneficiary. Beneficiary trust documents will be reviewed, and beneficiary designation determination will be made by legal, compliance and the beneficiary team.</td></tr>
<tr><td colspan="4">Status / timeline

Planning → Building → Launching → Live</td></tr>
</table>

Administrative | **Mandatory Provisions**

<table>
<tr><th>Provision</th><th>Description</th><th>Impacts we're considering</th><th>Guidance is still needed</th><th>Some employer considerations*</th></tr>
<tr><td rowspan="3">Section 320

Eliminating Unnecessary Plan Requirements Related to Unenrolled Participants</td><td>The provision generally exempts defined contribution plans from furnishing disclosures and notices that are otherwise required to be furnished to “unenrolled participants,” if certain conditions are satisfied.</td><td>• Separate participants by enrolled and unenrolled
• Prepare separate notices to the two different groups</td><td></td><td>• Consider participant usage of email
• Consider keeping current disclosure process</td></tr>
<tr><td colspan="4">Commentary
Previously, employees eligible to participate in a retirement plan are required to receive a broad array of notices to inform them of their various options and rights under the plan. For employees who have not elected to participate in the plan, these notices are generally unnecessary and can even have adverse effects on savings and coverage. This new provision adds a redesignated ERISA section 111 that no longer requires employers these notices. Guidance is still needed for the notice requirement and if model language will be issued. Nationwide will need to parse out enrolled and eligible unenrolled participants.</td></tr>
<tr><td colspan="4">Status / timeline
Planning → Building → Launching → Live</td></tr>
</table>

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Contributions

Optional Provisions

<table>
<tr><th>Provision</th><th>Description</th><th>Impacts we're considering</th><th>Guidance is still needed</th><th>Some employer considerations*</th></tr>
<tr><td rowspan="3">Section 604

Optional Treatment of Employer Matching or Nonelective Contributions as Roth Contributions</td><td>Allows a Section 401(a) qualified plan, a Section 403(b) plan, or a governmental 457(b) plan to permit employees to designate employer matching or nonelective contributions as Roth contributions. Student loan matching contributions may also be designated as Roth contributions. Matching and nonelective contributions designated as Roth contributions are not excludable from the employee’s income and must be 100% vested when made.</td><td>• Participant must make election
• Separate RK source needed
• Plan amendments</td><td></td><td>• Impact to payroll processes and procedures
• Impact to participants with W-2 or 1099-R</td></tr>
<tr><td colspan="4">Commentary
Roth employer matching was not an elective option with any prior law so with SECURE 2.0, plans have the option of adopting a provision that would allow their participant the option of electing that their employer matching or nonelective contributions be treated as Roth. Guidance is still needed on whether this feature is available to partially vested participants, and how this will be tax reported (W-2 or 1099-R). To implement, a new source is required to support the provision.</td></tr>
<tr><td colspan="4">Status / timeline

Planning → Building → Launching → Live</td></tr>
</table>

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Institutional Provisions – Effective Immediately

Distributions

Optional Provisions

Provision	Description	Impacts we're considering	Guidance is still needed	Some employer considerations*
Section 312 Employer May Rely on Employee Certifying that Deemed Hardship Distribution Conditions are Met	Allows a plan administrator to rely on an employee's self- certification that they have had a safe harbor event that constitutes a deemed hardship for purposes of taking a hardship withdrawal from a 401(k) plan or a 403(b) plan. The administrator can also rely on the employee's certification that the distribution is not in excess of the amount required to satisfy the financial need and that the employee has no alternative means reasonably available to satisfy the financial need. A similar rule applies for purposes of unforeseeable emergency distributions from governmental Section 457(b) plans. **Commentary** **Under certain conditions, employees are permitted to self-certify that they have had an event that constitutes a hardship for the purposes of taking a hardship withdrawal. Guidance is still needed for plan sponsors if they have information that is contrary to the hardship or request. Guidance is also needed on procedures to address misrepresentation. Plan sponsors will want to fully consider all factors before implementing this feature for their plan. Nationwide is preparing IT estimates to be able to support the provision and the amount of outflow of assets the plan could incur.** **Status / timeline** Planning → Building → Launching → Live	• Plan amendments • Distribution requests that fall outside of hardship safe harbor or UE treasury regulations • IT updates		• Consider plan leakage if allowing self-certification • Consider dollar thresholds and/or number of hardships allowed within a year
Section 331 Special Rules for Use of Retirement Funds in Connection with Qualified Federally Declared Disasters	Provides permanent special rules governing plan distributions and loans in cases of qualified federally declared disasters. Up to $22,000 may be distributed to a participant per disaster; the amount is exempt from the 10% early withdrawal fee; inclusion in gross income may be spread over 3-year period; amounts may be recontributed to a plan or account during the 3-year period beginning on the day after the date of the distribution; allows certain home purchase distributions to be recontributed to a plan or account if those funds were to be used to purchase a home in a disaster area and were not so used because of the disaster; and increases the max. loan amount for qualified individuals and extends the repayment period. **Commentary** **The rules allow up to $22,000 to be distributed from employer retirement plans or IRAs for affected individuals. Such distributions are not subject to the 10 percent additional tax and are taken into account as gross income over 3 years. Distributions can be repaid to a tax preferred retirement account. Guidance is still needed for the timing of the disaster window, whether it allows self-certification of the participant's principal residence, whether the dollar limit is per disaster or per lifetime, and for clarification on the loan repayment extension.** **Status / timeline** Planning → Building → Launching → Live	• Plan amendments • How to manage multiple disasters within a specific time frame		• Consider distribution types that should be made available to participants within the plan

* Employer considerations are not exhaustive and should not constitute advice

Distributions

Optional Provisions

Provision	Description	Impacts we're considering	Guidance is still needed	Some employer considerations*
Section 326 Exception to Penalty on Early Distributions From Qualified Plans for Individuals with a Terminal Illness	Creates an exception to the 10% early withdrawal penalty for distributions to individuals whose physician certifies that they have an illness or condition that is reasonably expected to result in death in 84 months or less. The employee also must furnish sufficient evidence to the plan administrator in such form and manner determined by the Secretary of the Treasury.	• Coding for 1099-R • Plan amendments		• Depending on the guidance received, consider the distribution type classification that will be offered • Consider adopting after guidance is provided
	Commentary **Under the previous law, an additional 10 percent tax was applied to early distributions from tax-preferred retirement accounts with only limited exceptions. This provision now allow an exception to the tax in the case of a distribution to a terminally ill individual. This provision does not appear to create a new in-service distribution requirement as drafted, so a participant would only be eligible for the 10% penalty exception if they were otherwise eligible to receive a distribution. If so, it is not clear why participants are required to furnish evidence to the plan administrator. Additional guidance is needed for clarity.**			
	Progress / timeline Planning → Building → Launching → Live			

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General | **Optional Provisions**

Provision	Description	Impacts we're considering	Guidance is still needed	Some employer considerations*
Section 120 Automatic Portability Transactions	Permits a retirement plan service provider to provide employer plans with automatic portability services. Such services involve the automatic transfer of a participant's default IRA (established in connection with a distribution from a former employer's plan) into the participant's new employer's retirement plan, unless the participant affirmatively elects otherwise.	• Impact to established process (Millennium Trust does this already for us) • Plan amendments		
	Commentary **A retirement plan service provider may provide employer plans with automatic portability services, to include the automatic transfer of a participant's default IRA (established in connection with a distribution from a former employer's plan) into the participant's new employer's retirement plan, unless the participant affirmatively elects otherwise. The relief is subject to several conditions. The DOL is directed to issue certain guidance and studies related to the exemption, as is the Treasury.**			
	Progress / timeline Planning › Building › Launching › Live			
Section 128 CITs in 403(b) Plans	Amends the Code to explicitly allow 403(b) plans with custodial accounts to invest in collective investment trusts; however, the legislation does not address the securities law issues that prohibit such investments in most cases.			• Discuss investment options with your Financial Advisor or Consultant to consider if this investment type is a good choice for your plan.
	Commentary **Previously, laws regulating 403(b) plans limited investments to annuity contracts and publicly traded mutual funds. This provision allows custodial accounts to participate in group trusts (including collective investment trusts) and other plans and IRAs; however, because the provision did not amend the securities registration exemptions necessary to allow 403(b) plans to invest in unregistered collective trust funds or unregistered insurance company separate accounts, it is currently unusable as a means of adding a new investment options. The SEC is working to make this technical correction and Nationwide is closely monitoring.**			
	Progress / timeline **(no planning can occur without new legislation)** Planning › Building › Launching › Live			

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Market Breakout

Emerging

Certain provisions have driven the most conversation in the ERISA market

Required Provisions^	Optional Provisions^
Immediate 2023 ▪ RMD required beginning date change from 72 to 73 **Effective in 2024** • Certain deferrals must be Roth contributions **Effective in 2025** • Expanding automatic enrollment	**May adopt in 2023** ▪ Optional treatment of employer matching as Roth **May adopt in 2024** ▪ Treatment of student loan payments as elective deferrals for matching contributions (detailed in next edition)

^ Not all provisions are listed

Contributions

Mandatory Provisions

Provision	Description	Impacts we're considering	Guidance is still needed	Some employer considerations*
Section 311 Repayment of Qualified Birth or Adoption Distribution (QBAD) Limited to 3 Years	Requires qualified birth or adoption distributions to be recontributed beginning three years on the day after the QBAD was received in order to qualify as a rollover contribution. This aligns the rule with similar disaster relief provisions and simplifies plan administration.	• Add repayment information to forms	—	• Think about a notification to participants who may have taken this distribution type in the past
	Commentary **While the original SECURE Act included a provision that avoids the 10 percent additional tax when taking a distribution for a birth or adoption, it also allowed for recontributions at any time. The new law applies a three-year period for repayment beginning on the day after the date the distribution was received. Nationwide does not need to make system changes so, with a few updates to forms, this can be supported today.**			
	Status / timeline Planning → Building → Launching → Live			
Section 101 Expanding Auto Enrollment and Auto Escalation in Retirement Plans (effective in 2025)	Certain new 401(k) & 403(b) plans must meet the requirements for an eligible automatic contribution arrangement (EACA), including automatic enrollment with a default rate of between 3% and 10% with a 90-day unwind feature, as well as automatic escalation of 1% per year up to at least 10%, but no more than 15%.	• Add inform language to proposals to help plans prepare	●	• Impacted employers should discuss plan design with their administrative provider
	Commentary **Previously, auto enrollment was not required for 401(k) and 403(b) plans. This provision requires auto enrollment for certain plans to start at a minimum of 3% but not more than 10% of compensation and one percentage point yearly increases up to a max of 15% of compensation. Plans established before 12/29/2022 are grandfathered and this provision is not mandatory. Plans excluded from this requirement are small businesses with 10 or fewer employees, new businesses (i.e., those that have been in business for less than 3 years), church plans, SIMPLE plans and governmental plans. While the provision is not required to go into effect until 2025, Nationwide will be adding the disclosure to all proposals and bundled legal documents. PPA/TPAAs are responsible for additional notifications and for tracking impacted unbundled plans. Guidance is still needed for the definition of an established plan, how to treat mergers and spinoffs, and merging with a MEP/PEP.**			
	Status / timeline Planning → Building → Launching → Live			

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Provision	Description	Impacts we're considering	Guidance is still needed	Some employer considerations*
Section 107 Increase in Age for Required Beginning Date for Mandatory Distributions	Increases the RMD age to: (i) 73 for a person who attains age 72 after December 31, 2022, and age 73 before January 1, 2033, and (ii) 75 for an individual who attains age 74 after December 31, 2032.	• Updates to letters, websites and forms with new RMD age		• Plans and participants should note that if a participant turned 72 in 2022,they are required to continue taking their RMD in 2023
	Commentary **Participants were previously required to begin taking distributions from their retirement plans at age 72 and the new law increases the distribution age to 73 for someone who attains age 72 after December 31, 2022 and age 73 before January 1, 2033. For someone who attains age 74 after December 31, 2032, the applicable age will be 75. Nationwide has updated IT systems to reflect the 2023 age change. Additional efforts are underway to the participant website experience and RMD letters. Guidance is still needed, as there is a technical glitch that impacts individuals born in 1959. It appears that they have an RMD age of both 73 and 75 and a correction is needed.**			
	Status / timeline Planning › Building › Launching › Live			
Section 302 RMD Excise Tax	Reduces the excise tax for failure to take RMDs from 50% of the shortfall to 25%. Further reduces the excise tax to 10% if the individual corrects the shortfall during a two-year correction window.	• Internal service center (RSC)		• Penalty tax can still be forgiven under EPCRS and possibly IRS form 5329
	Commentary **The previous law provided for a 50% excise tax for failures to take RMDs from a retirement plan, and the new law reduces the penalty to 25%. The new law also allows for a reduction of the 25% excise to 10% if it is corrected within a correction window. From an implementation perspective, efforts are currently underway to make changes to the participant website as well as content changes to the participant RMD letters.**			
	Status / timeline Planning › Building › Launching › Live			

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Distributions

Mandatory Provisions

<table>
<tr><th>Provision</th><th>Description</th><th>Impacts we're considering</th><th>Guidance is still needed</th><th>Some employer considerations</th></tr>
<tr><td rowspan="3">Section 337

RMD Rules for Special Needs Trust</td><td>Clarifies that in the case of a special needs trust established for certain beneficiaries (e.g., a beneficiary with a disability), the trust may provide for a charitable organization as the remainder beneficiary.</td><td>• Internal review of trust documents on a case-by-case basis</td><td>—</td><td></td></tr>
<tr><td colspan="4">Commentary
In the case of a special needs trust established for a beneficiary with a disability, the trust may provide for a charitable organization as the remainder of the beneficiary. Beneficiary trust documents will be reviewed, and beneficiary designation determination will be made by legal, compliance and the beneficiary team.</td></tr>
<tr><td colspan="4">Status / timeline
Planning → Building → Launching → Live</td></tr>
</table>

Provision	Description	Impacts we're considering	Guidance is still needed	Some employer considerations*
Section 320 Eliminating Unnecessary Plan Requirements Related to Unenrolled Participants	The provision generally exempts defined contribution plans from furnishing disclosures and notices that are otherwise required to be furnished to "unenrolled participants," if certain conditions are satisfied.	• Separate participants by enrolled and unenrolled • Prepare separate notices to the two different groups		• Consider participant usage of email • Consider keeping current disclosure process
	Commentary **Previously, employees eligible to participate in a retirement plan are required to receive a broad array of notices to inform them of their various options and rights under the plan. For employees who have not elected to participate in the plan, these notices are generally unnecessary and can even have adverse effects on savings and coverage. This new provision adds a redesignated ERISA section 111 that no longer requires employers these notices. Guidance is still needed for the notice requirement and if model language will be issued. Nationwide will need to parse out enrolled and eligible unenrolled participants.**			
	Status / timeline Planning → Building → Launching → Live			

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Emerging Provisions – Effective Immediately

Contributions

Optional Provisions

Provision	Description	Impacts we're considering	Guidance is still needed	Some employer considerations*
Section 604 Optional Treatment of Employer Matching or Nonelective Contributions as Roth Contributions	Allows a Section 401(a) qualified plan, a Section 403(b) plan, or a governmental 457(b) plan to permit employees to designate employer matching or nonelective contributions as Roth contributions. Student loan matching contributions may also be designated as Roth contributions. Matching and nonelective contributions designated as Roth contributions are not excludable from the employee's income and must be 100% vested when made.	• Participant must make election • Separate RK source needed • Plan amendments		• Impact to payroll processes and procedures • Impact to participants with W2 or 1099-R

Commentary

Roth employer matching was not an elective option with any prior law so with SECURE 2.0, plans have the option of adopting a provision that would allow their participant the option of electing that their employer matching or nonelective contributions be treated as Roth. Guidance is still needed on whether this feature is available to partially vested participants, and how this will be tax reported (W-2 or 1099-R). To implement, a new source is required to support the provision.

Status / timeline

Planning → Building → Launching → Live

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Emerging Provisions – Effective Immediately

Distributions

Optional Provisions

Provision	Description	Impacts we're considering	Guidance is still needed	Some employer considerations*
Section 312 Employer May Rely on Employee Certifying that Deemed Hardship Distribution Conditions are Met	Allows a plan administrator to rely on an employee's self- certification that they have had a safe harbor event that constitutes a deemed hardship for purposes of taking a hardship withdrawal from a 401(k) plan or a 403(b) plan. The administrator can also rely on the employee's certification that the distribution is not in excess of the amount required to satisfy the financial need and that the employee has no alternative means reasonably available to satisfy the financial need. A similar rule applies for purposes of unforeseeable emergency distributions from governmental Section 457(b) plans.	• Plan amendments • Distribution requests that fall outside of hardship safe harbor or UE treasury regulations • IT updates		• Consider plan leakage if allowing self-certification • Consider dollar thresholds and/or number of hardships allowed within a year
	Commentary **Under certain conditions, employees are permitted to self-certify that they have had an event that constitutes a hardship for the purposes of taking a hardship withdrawal. Guidance is still needed for plan sponsors if they have information that is contrary to the hardship or request. Guidance is also needed on procedures to address misrepresentation. Plan sponsors will want to fully consider all factors before implementing this feature for their plan. Nationwide is preparing IT estimates to be able to support the provision and the amount of outflow of assets the plan could incur.**			
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	Commentary **The rules allow up to $22,000 to be distributed from employer retirement plans or IRAs for affected individuals. Such distributions are not subject to the 10 percent additional tax and are taken into account as gross income over 3 years. Distributions can be repaid to a tax preferred retirement account. Guidance is still needed for the timing of the disaster window, whether it allows self-certification of the participant's principal residence, whether the dollar limit is per disaster or per lifetime, and for clarification on the loan repayment extension.**			
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Distributions

Optional Provisions

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	Commentary **Under the previous law, an additional 10 percent tax was applied to early distributions from tax-preferred retirement accounts with only limited exceptions. This provision now allow an exception to the tax in the case of a distribution to a terminally ill individual. This provision does not appear to create a new in-service distribution requirement as drafted, so a participant would only be eligible for the 10% penalty exception if they were otherwise eligible to receive a distribution. If so, it is not clear why participants are required to furnish evidence to the plan administrator. Additional guidance is needed for clarity.**			
	Progress / timeline Planning → Building → Launching → Live			
Section 308 Distribution to Firefighters after attaining age 50	Extends the age 50 early withdrawal exception for qualified public safety employees to also apply to private sector firefighters receiving distributions from a qualified retirement plan or 403(b) plan after the employee separates from service upon attaining age 50.	• Plan amendments		• Consider the employees who may fit into this category
	Commentary **An original age 50 exception to the 10% early distribution tax that applied to "qualified public safety employees" now also applies to private sector firefighters. Guidance is needed on the definition of a private sector firefighter.**			
	Progress / timeline Planning → Building → Launching → Live			

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Emerging Provisions – Effective Immediately

General — Optional Provisions

Provision	Description	Impacts we're considering	Guidance is still needed	Some employer considerations*
Section 120 Automatic Portability Transactions	Permits a retirement plan service provider to provide employer plans with automatic portability services. Such services involve the automatic transfer of a participant's default IRA (established in connection with a distribution from a former employer's plan) into the participant's new employer's retirement plan, unless the participant affirmatively elects otherwise.	• Impact to established process (Millennium Trust does this already for us) • Plan amendments		
	Commentary **A retirement plan service provider may provide employer plans with automatic portability services, to include the automatic transfer of a participant's default IRA (established in connection with a distribution from a former employer's plan) into the participant's new employer's retirement plan, unless the participant affirmatively elects otherwise. The relief is subject to several conditions. The DOL is directed to issue certain guidance and studies related to the exemption, as is the Treasury.**			
	Progress / timeline Planning → Building → Launching → Live			
Section 128 CITs in 403(b) Plans	Amends the Code to explicitly allow 403(b) plans with custodial accounts to invest in collective investment trusts; however, the legislation does not address the securities law issues that prohibit such investments in most cases.			• Discuss investment options with your Financial Advisor or Consultant to consider if this investment type is a good choice for your plan.
	Commentary **Previously, laws regulating 403(b) plans limited investments to annuity contracts and publicly traded mutual funds. This provision allows custodial accounts to participate in group trusts (including collective investment trusts) and other plans and IRAs; however, because the provision did not amend the securities registration exemptions necessary to allow 403(b) plans to invest in unregistered collective trust funds or unregistered insurance company separate accounts, it is currently unusable as a means of adding a new investment options. The SEC is working to make this technical correction and Nationwide is closely monitoring.**			
	Progress / timeline (no planning can occur without new legislation) Planning → Building → Launching → Live			

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General | Optional Provisions

Provision	Description	Impacts we're considering	Guidance is still needed	Some employer considerations*
Section 112 Military Spouse Retirement Plan Eligibility Credit for Small Employers	Creates a new, nonrefundable income tax credit for eligible small employers that employ military spouses and allow them to participate in the employer's defined contribution plan, subject to special eligibility and vesting requirements. The tax credit is $200 per participating non-highly compensated military spouse plus 100% of employer contributions, up to an additional $300 per employee, for up to three years.	• SS&C timeline • Plan amendments		
	Commentary **There is no previous law, so this new provision provides small employers with a tax credit if they 1) make military spouses immediately eligible for plan participation within two months of hire, 2) upon plan eligibility, make the military spouse eligible for matching they would have been otherwise eligible for, and 3) make the military spouse 100% vested in all employer contributions. This provision is specific to small employers and will be built on our SS&C platform. They are determining the timeline.**			
	Progress / timeline Planning → Building → Launching → Live			

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Thank you!

Nationwide®