SECURE 2.0 Guidance and Categorization

This document contains our category guidance as well as examples and illustrations of provisions that fall within each category.

Category 1: Mandatory Provisions

- **Long Term Part Time Employee (LTPT) Rules**
    - Many 401(k) Plans have historically followed the ERISA statutory provision that permits exclusion for employees who work less than 1,000 hours per year (generally 20 hours per week).
    - You can continue using 1,000 hours for employer contribution eligibility (Employer Safe Harbor, Match and Profit Sharing, for example) but beginning in 2024, new eligibility rules for 401(k) enrollment will apply to LTPT employees (defined below).
        - For 2024, the requirement for enrollment is 3 consecutive years of 500 hours or more. The measurement for this requirement begins in 2021.
        - For 2025, the requirement is reduced to 2 consecutive years of 500 hours or more, looking back to 2023.
        - 403(b) Plans are not subject to LTPT rules until January 1, 2025.
    - Unless you elect otherwise:
        - No employer contributions are required to be given to LTPT participants.
        - Employees who are eligible to participate ***solely*** because of the LTPT rules may be excluded from coverage and nondiscrimination testing.
        - Automatic enrollment may apply to LTPT participants but is not required.
        - Collectively bargained employees and non-resident aliens with no United States earned income are excluded from LTPT rules.
- **Mandatory Roth Catch-Up rules for W-2 earners in excess of $145,000**
    - This is a delayed provision from 2024, which will be effective in 2026
    - Participants in this category will no longer be able to make their Catch-up contributions on a pre-tax basis
    - If your Plan currently does not have Roth provisions, you will be required to add Roth provisions in order for participants to continue to make Catch-up contributions
    - If you elect not to add Roth provisions, Catch-up contributions will have to be removed from your plan.
    - The W-2 threshold is based on FICA wages only; it does not include S Corp distributions for owners, nor does it include self-employment income for sole proprietors or partners
    - The $145,000 threshold will be subject to cost-of living adjustments and is separate from the HCE threshold, which is currently $155,000.

- **Required Minimum Distribution (RMD) changes**:
    - The RMD age beginning in 2023 has increased from age 72 to age 73
    - It will remain at 73 until 2033, at which time will be increased to age 75
    - There is a reduction in the excise tax for missed RMDs from 50% to 25% if corrected before the second year after the year in which the excise tax is imposed, provided the taxpayer is not under IRS examination
    - Roth 401(k) Balances will no longer be included for purposes of calculating a participant's RMD beginning in 2024, and now puts Roth 401(k) balances in the same position for RMD purposes as Roth IRA balances, thereby reducing RMD withdrawals from 401(k) plans for anyone with Roth 401(k) plan balances.

Category 2: Recommended Optional Provisions

- **Involuntary Force-Out Limit Increase**
    - This provision allows the plan to distribute (cash out or roll over) vested balances of terminated participants without participant consent if the balance is under a certain dollar limit.
    - The limit has been increased from $5,000 to $7,000 starting in 2024.
- **Hardship Self-Certification**
    - Eliminates the need for documentation in order for the trustee to approve the reason for hardship withdrawals.
    - Allows the participant to self-certify that the request is on account of one of the permitted safe harbor reasons and is not in excess of the amount required to satisfy the hardship need.
    - Applies to both 401(k) and 403(b) plans and extends the same relief for 457(b) plans with respect to unforeseeable emergency withdrawals.
    - Exceptions may apply when the Plan Administrator has actual knowledge that the participant's self-certification is untruthful.
- **403(b) Hardship**
    - Now permits withdrawal from employer contribution accounts and eliminates the need to take an available loan prior to qualifying for a hardship withdrawal (same rules as already permitted under 401(k) plans).
- **Higher Catch-up limits for participants who are age 60 to 63**
    - Effective for 2025, participants in this age window are eligible for increased catch-up limits of 150% of the regular catch-up limit; estimated at $11,250 for 2025 based on the $7,500 catch-up limit.
- **New early withdrawal options permitted as noted below** (updated)
    - Qualified Disaster Distributions & Loans
    - Qualified Birth & Adoption
    - Victims of Domestic Abuse
    - Terminal Illness

- **Top Heavy Contribution exclusions for new hires**
  - Top Heavy Plans may now exclude employees with less than 1 year of service, who are already eligible for the 401(k) component of a plan, to be excluded from the 3% of pay top heavy contribution requirement.
- **Required Minimum Distributions for Surviving Spouse**
  - To allow a spouse who is the sole beneficiary of a participant to make an irrevocable election to be treated as the employee for purposes of RMD calculations. This allows a surviving spouse to receive RMDs for a longer life expectancy period by using the uniform lifetime table factors instead of the single life table factors.

Category 3: Non-Recommended Optional Provisions

- **Employer Matching and Non-Elective Contributions designated directly as Roth Contributions**
  - This provision allows participants who are 100% vested to elect to pay tax on a fully vested employer contribution at the time it is deposited to the plan account and allows the investment growth to accumulate tax-free (under the qualified Roth rules)
  - Applies only to 401(k) and 403(b) plans; not available to profit sharing only plans and defined benefit plans.
  - Would require new payroll system updates, annual elections, and 1099-R reporting (which is still under development, and may be more work than many plan sponsors want considering in-plan Roth conversions could be used instead).
  - Participants who elect may not realize the tax implications of their election and the potential impact on their tax bill.
  - Most plans already have provisions for in-Plan Roth conversions which can be accomplished directly between the participant and the plan's recordkeeper without any administrative burden for the Employer or the TPA. If your plan does not already have an in-Plan Roth conversion provision, consider adding that feature to enable your participants to have more flexibility in managing pre-tax and post-tax Roth options.
- **Employer Matching Contributions for Qualified Student Loan Payments**
  - Although this may be an attractive provision for many plan participants, employers must carefully decide if this provision is one they want to implement. Plan sponsors would be responsible for the collection of participant self-certification of loan repayments, and additional compliance work is involved.
  - IRS guidance was just released on August 19th and are effective for plan years beginning January 1, 2025
  - Recordkeepers will be implementing these changes in the next few months and will hopefully be prepared to accept contributions beginning next year.
  - This provision is not applicable unless the plan already has matching contribution provisions or elects to add them.
- **New early withdrawal options permitted as noted below will not be included in our default recommendations at this time.**
  - Emergency Personal Expense
  - Pension-linked Emergency Savings Accounts
- **Military Spouse Credit**
  - Will allow employers to take a tax credit for adopting accelerated plan eligibility and vesting for inclusion of military spouses that participate in the plan.
  - This provision will have limited applicability to the majority of our clients and will not be included in our defaults.