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Senate Proposes Secure 2.0 Act

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On December 19, 2022, the Senate Appropriations Committee released the 2023 Consolidated Appropriations Act ("Act"), which includes retirement legislation called the "Secure 2.0 Act." This proposed bill is very similar to other retirement legislation introduced this year, including the Securing a Strong Retirement Act of 2022 (which the House passed on March 29, 2022), the Retirement Improvement and Savings Enhancement to Supplement Healthy Investments for the Nest Egg Act (approved by the Senate, Health, Education, Labor & Pensions Committee on June 14, 2022), and the Enhancing American Retirement Now Act (approved by the Senate Finance Committee on June 22, 2022).

Similar to these previously proposed bills, the Secure 2.0 Act contains provisions on mandatory automatic enrollment of new 401(k) and 403(b) Plans, the increase of RMD age to 75, ability for retirement plans to make Roth employer contributions, requirement of catch-up contributions to be made on a Roth basis (except for employees with prior year wages of $145,000 or less), allowance of matching contributions on employee's student loan payments, and allowance of an emergency savings account for participants. We previously published a legal alert recapping these provisions and many other provisions that are proposed in the Secure 2.0 Act.

The Secure 2.0 Act contains some new provisions, including the following:

- **Saver's Match:** The Secure 2.0 Act provides a matching credit of up to 50% of a participant's IRA or retirement plan contributions, up to a limit of $2,000 per individual, effective for tax years beginning after December 31, 2026. This credit replaces the current refundable income tax credit and instead requires the refund from the Treasury Department to be deposited into a participant's IRA or retirement plan. Participants begin to phase out of this credit at incomes of $20,500 for single taxpayers and $41,000 for married taxpayers.

- **Starter 401(k) Plan:** The Secure 2.0 Act adds a starter 401(k) plan (or safe harbor 403(b)), which is set up as a deferral-only arrangement, effective for plan years after December 31, 2023. This starter plan would require employees to be automatically enrolled at a rate of 3 to 15 percent. In addition, participants are generally limited to deferrals based on the IRA contribution limits ($6,500 in 2023), including catch-up contribution limits ($1,000 in 2023).

Since these provisions are in the omnibus spending bill that must be passed in order to avoid a government shutdown, it appears that the Secure 2.0 Act provisions will be enacted as long as the Act is enacted.